



National Health Service Act 2006

2006 CHAPTER 41

PART 7

PHARMACEUTICAL SERVICES AND LOCAL PHARMACEUTICAL SERVICES

CHAPTER 7

MISCELLANEOUS

Remuneration

164 Remuneration for persons providing pharmaceutical services

- (1) The remuneration to be paid to persons who provide pharmaceutical services under this Part must be determined by determining authorities.
- (2) Determining authorities may also determine the remuneration to be paid to persons who provide those services in respect of the instruction of any person in matters relating to those services.
- (3) For the purposes of this section and section 165 determining authorities are—
 - (a) the Secretary of State, and
 - (b) so far as authorised by him to exercise the functions of determining authorities, [F¹NHS England] or other person appointed by him in an instrument.
- (4) The instrument mentioned in subsection (3)(b) is called in this section an “instrument of appointment”.

[F²(4A) An instrument of appointment—

- (a) must be contained in regulations if it provides for the appointment of [F¹NHS England] or other person as a determining authority in relation to the remuneration to be paid [F³for providing] services under section 126, and
- (b) if paragraph (a) does not apply, may be contained in regulations.]

Status: Point in time view as at 01/07/2022.

Changes to legislation: National Health Service Act 2006, Section 164 is up to date with all changes known to be in force on or before 03 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) An instrument of appointment—
- (a) may contain requirements with which a determining authority appointed by that instrument must comply in making determinations, ^{F4}...
 - ^{F4}(b)
- (6) Subject to this section and section 165, regulations may make provision about determining remuneration under this section and may in particular impose requirements with which determining authorities must comply in making, or in connection with, determinations (including requirements as to consultation and publication).
- (7) Regulations may provide that determinations may be made by reference to any of—
- (a) rates or conditions of remuneration of any persons or any descriptions of persons which are fixed or determined, or will be fixed or determined, otherwise than by way of a determination under this section,
 - (b) scales, indices or other data of any description specified in the regulations.
- (8) Where regulations provide as mentioned in subsection (7)(b), they may provide that any determination which falls to be made by reference to a scale, index or other data may be made by reference to the scale, index or data—
- (a) in the form current at the time of the determination, and
 - (b) in any subsequent form taking effect after that time.
- ^{F5}(8A) Regulations may impose requirements in relation to remuneration in respect of ^{F6}any of the following—
- (a) drugs or medicines used for vaccinating or immunising people against disease,
 - (b) anything used in connection with the supply or administration of drugs or medicines within paragraph (a),
 - (c) drugs or medicines, not within paragraph (a), that are used for preventing or treating a disease that, at the time the regulations are made, the Secretary of State considers to be a pandemic disease or at risk of becoming a pandemic disease,
 - (d) anything used in connection with the supply or administration of drugs or medicines within paragraph (c), or
 - (e) a product which is a special medicinal product for the purposes of regulation 167 of the Human Medicines Regulations 2012 (S.I. 2012/1916).]
- (8B) Such regulations may, for example, require determining authorities to ensure—
- (a) that remuneration is to be calculated by reference to the outcome of prescribed procedures, or
 - (b) that determinations do not provide for or permit remuneration to be paid in prescribed circumstances.
- (8C) Procedures prescribed by virtue of subsection (8B)(a) may include the person to whom remuneration is payable, a health service body or a determining authority—
- (a) carrying out inquiries to ensure that remuneration is reasonable, or
 - (b) estimating an amount of remuneration that is reasonable (whether or not the estimated amount corresponds exactly to expenses in respect of which remuneration is to be paid).

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(8D) Circumstances prescribed by virtue of subsection (8B)(b) may include circumstances in which [^{F7}anything within subsection (8A)(a) to (e) is] made available to persons who provide pharmaceutical services under this Part—

- (a) by a health service body, or
- (b) under an arrangement for the supply of [^{F8}that thing,] to which a health service body is a party.

(8E) In subsections (8A) to (8D)—

“health service body” has the meaning given by section 9(4);

^{F9} ...]

[^{F10}(8F) Where regulations include provision made in reliance on subsection (8A)(c) or (d) and the Secretary of State considers that the disease to which it relates is no longer a pandemic disease or at risk of becoming a pandemic disease, the Secretary of State must revoke that provision within such period as the Secretary of State considers reasonable (taking into account, in particular, the need for any transitional arrangements).]

(9) Regulations may—

- (a) provide that determining authorities may make determinations which have effect in relation to remuneration in respect of a period beginning on or after a date specified in the determination, which may be the date of the determination or an earlier or later date, but may be an earlier date only if, taking the determination as a whole, it is not detrimental to the persons to whose remuneration it relates,
- (b) provide that any determination which does not specify such a date has effect in relation to remuneration in respect of a period beginning—
 - (i) if it is required to be published, on the date of publication,
 - (ii) if it is not so required, on the date on which it is made.

(10) A reference in this section or section 165 to a determination is to a determination of remuneration under this section.

Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F2** S. 164(4A) inserted (1.4.2013) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 141(1)(a), 170(3)(4); S.I. 2013/159, art. 2(a)
- F3** Words in s. 164(4A)(a) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 89\(3\)\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F4** S. 164(5)(b) and word repealed (1.4.2013) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 141(1)(b), 170(3)(4), [Sch. 15 Pt. 4](#); S.I. 2013/159, art. 2(a)(c)
- F5** S. 164(8A)-(8E) inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\)](#), ss. 1, 12(3); S.I. 2017/809, reg. 2(a)
- F6** Words in s. 164(8A) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), ss. 161(1)(a), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F7** Words in s. 164(8D) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), ss. 161(1)(b)(i), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F8** Words in s. 164(8D)(b) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), ss. 161(1)(b)(ii), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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- F9** Words in s. 164(8E) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), **ss. 161(1)(c)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F10** S. 164(8F) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 161(1)(d)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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