



National Health Service Act 2006

2006 CHAPTER 41

PART 13

MISCELLANEOUS

Price of medical supplies

265 Enforcement

- (1) Regulations may provide for a person who contravenes any provision of regulations or directions under sections 261 to 264 to be liable to pay a penalty to the Secretary of State.
- (2) The penalty may be—
 - (a) a single penalty not exceeding £100,000, or
 - (b) a daily penalty not exceeding £10,000 for every day on which the contravention occurs or continues.
- (3) Regulations may provide for any amount required to be paid to the Secretary of State by virtue of section 261(8)(b), 262(1)(b) or 263(4) or (6)(b) to be increased by an amount not exceeding 50 per cent.
- (4) Regulations may provide for any amount payable to the Secretary of State by virtue of provision made under section 261(8)(b), 262(1)(b) or 263(4), (5) or (6)(b) (including such an amount as increased under subsection (3)) to carry interest at a rate specified or referred to in the regulations.
- (5) Provision may be made by regulations for conferring on manufacturers and suppliers a right of appeal against enforcement decisions taken in respect of them in pursuance of sections 261 to 264 and this section.
- (6) The provision which may be made by virtue of subsection (5) includes any provision which may be made by model provisions with respect to appeals under section 6 of the Deregulation and Contracting Out Act 1994 (c. 40), reading—

Status: This is the original version (as it was originally enacted).

- (a) the references in subsections (4) and (5) of that section to enforcement action as references to action taken to implement an enforcement decision,
 - (b) in subsection (5) of that section, the references to interested persons as references to any persons and the reference to any decision to take enforcement action as a reference to any enforcement decision.
- (7) In subsections (5) and (6), “enforcement decision” means a decision of the Secretary of State or any other person to—
- (a) require a specific manufacturer or supplier to provide information to him,
 - (b) limit, in respect of any specific manufacturer or supplier, any price or profit,
 - (c) refuse to give his approval to a price increase made by a specific manufacturer or supplier,
 - (d) require a specific manufacturer or supplier to pay any amount (including an amount by way of penalty) to him,
- and in this subsection “specific” means specified in the decision.
- (8) A requirement or prohibition, or a limit, under sections 261 to 264, may only be enforced under this section and may not be relied on in any proceedings other than proceedings under this section.
- (9) The Secretary of State must consult the industry body before making any regulations under this section.
- (10) The Secretary of State may by order increase (or further increase) either of the sums mentioned in subsection (2).