



# National Health Service Act 2006

## 2006 CHAPTER 41

### PART 14

#### SUPPLEMENTARY

#### **272 Orders, regulations, rules and directions**

- (1) This section does not apply to—
  - (a) Chapter 5 of Part 2 (as to which, see section 64), and
  - (b) Part 10 (as to which, see section 209).
- (2) Subject to subsection (3), any power under this Act to make an order, rules or regulations is exercisable by statutory instrument.
- (3) Subsection (2) does not apply to an order under—
  - (a) section 66(2),
  - (b) section 95(1) or 110(1),
  - (c) section 211(4),
  - (d) paragraph 22, 23, 24 or 26 of Schedule 3,
  - (e) paragraph 9, 27 or 29 of Schedule 4, or
  - (f) paragraph 2 of Schedule 18.
- (4) Subject to subsections (5) <sup>[F1]</sup>, (6) and (6A) , a statutory instrument made by virtue of this Act is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Subsection (4) does not apply to a statutory instrument containing a PCT order, or an order under—
  - (a) section 25,
  - <sup>F2</sup>[<sup>F3</sup>(aa) .....
  - (ab) section 65B(1), <sup>[F4]</sup>65D(2),<sup>[F5]</sup>... 65J(2), <sup>[F6]</sup>65KC(3),<sup>[F7]</sup>65L(2) or (7), 65LA(3) , or 65V(2),]
  - (b) Schedule 4, or

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- (c) paragraph 1(1) of Schedule 5.
- (6) A statutory instrument containing—
- [<sup>F8</sup>(zza) regulations under section 3(1D),]
  - [<sup>F9</sup>(zzb) regulations under section 6C(1) or (2),]
  - [<sup>F10</sup>(zzc) regulations under section 6E, except where they do not include provision by virtue of subsection (7)(c) of that section,]
  - [<sup>F11</sup>(zzd) regulations under section 7(1C),]
  - [<sup>F12</sup>(za) an order under section 12C(8) or (10),]
  - [<sup>F13</sup>(zb) regulations under section 13Z1,]
  - [<sup>F14</sup>(zc) an order under section 28 which varies such an order as mentioned in section 28A(5),]
  - [<sup>F15</sup>(zd) regulations under section 186A(4),]
    - (a) regulations under section 251, except where they are made by virtue of subsection (5)(b) of that section,
    - (b) an order under section 265(10), or
    - (c) an order under section 193(4),
 may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- [<sup>F16</sup>(6ZA) The Statutory Instruments Act 1946 applies in relation to the power of the regulator to make an order under Chapter 5A as if the regulator were a Minister of the Crown.]
- [<sup>F17</sup>(6A) A statutory instrument containing an order under section <sup>F18</sup>... 65B(1), [<sup>F19</sup>65D(2),]<sup>F20</sup>... 65J(2), [<sup>F21</sup>65KC(3),] 65L(2) or [<sup>F22</sup>(7)] [<sup>F23</sup>, 65LA(3)] or 65V(2) must be laid before Parliament after it is made.]
- (7) Any power under this Act to make orders, rules, regulations or schemes, and any power to give directions—
- (a) may be exercised either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case,
  - (b) may be exercised so as to make, as respects the cases in relation to which it is exercised—
    - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),
    - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case, or different provision as respects the same case or class of case for different purposes of this Act,
    - (iii) any such provision either unconditionally or subject to any specified condition, and
  - (c) may, in particular, except where the power is a power to make rules, make different provision for different areas.
- (8) Any such power includes power—
- (a) to make such incidental, supplementary, consequential, saving or transitional provision (including, in the case of a power to make an order or regulations, provision amending, repealing or revoking enactments) as the person or body exercising the power considers to be expedient, and
  - (b) to provide for a person to exercise a discretion in dealing with any matter.

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(9) Subsections (7) and (8) do not apply to an order under section 260 (but this does not affect subsection (1) of that section).

#### Textual Amendments

- F1** Words in s. 272(4) substituted (15.2.2010 for specified purposes) by [Health Act 2009 \(c. 21\), ss. 18\(8\)\(a\), 40\(1\); S.I. 2010/30, art. 3\(b\)](#)
- F2** S. 272(5)(aa) omitted (1.11.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\), ss. 173\(6\)\(a\), 306\(4\); S.I. 2012/2657, art. 2\(2\)](#)
- F3** S. 272(5)(aa)(ab) inserted (15.2.2010 for specified purposes) by [Health Act 2009 \(c. 21\), ss. 18\(8\)\(b\), 40\(1\); S.I. 2010/30, art. 3\(b\)](#)
- F4** Word in s. 272(5)(ab) inserted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 178\(6\)\(a\), 306\(4\); S.I. 2012/2657, art. 2\(2\)](#)
- F5** Word in s. 272(5)(ab) omitted (1.11.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\), ss. 178\(6\)\(b\), 306\(4\); S.I. 2012/2657, art. 2\(2\)](#)
- F6** Word in s. 272(5)(ab) inserted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 178\(6\)\(c\), 306\(4\); S.I. 2012/2657, art. 2\(2\)](#)
- F7** Words in s. 272(5)(ab) substituted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 178\(6\)\(d\), 306\(4\); S.I. 2012/2657, art. 2\(2\)](#)
- F8** S. 272(6)(zza) inserted (27.3.2012 for specified purposes, 1.2.2013 for specified purposes) by [Health and Social Care Act 2012 \(c. 7\), ss. 13\(8\), 306\(1\)\(d\)\(4\); S.I. 2012/2657, art. 2\(4\)](#)
- F9** S. 272(6)(zzb) inserted (27.3.2012 for specified purposes) by [Health and Social Care Act 2012 \(c. 7\), ss. 18\(2\), 306\(1\)\(d\)\(4\)](#)
- F10** S. 272(6)(zxc) inserted (27.3.2012 for specified purposes, 1.2.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 20\(2\), 306\(1\)\(d\)\(4\); S.I. 2012/2657, art. 2\(4\)](#)
- F11** S. 272(6)(zxd) inserted (27.3.2012 for specified purposes, 1.10.2012 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 21\(5\), 306\(1\)\(d\)\(4\); S.I. 2012/1831, art. 2\(2\)](#)
- F12** S. 272(6)(za) inserted (19.1.2010) by [Health Act 2009 \(c. 21\), s. 40\(1\), Sch. 1 para. 10; S.I. 2010/30, art. 2\(b\)](#)
- F13** S. 272(6)(zb) inserted (27.3.2012 for specified purposes) by [Health and Social Care Act 2012 \(c. 7\), ss. 23\(2\), 306\(1\)\(d\)\(4\)](#)
- F14** S. 272(6)(zc) inserted (27.3.2012 for specified purposes) by [Health and Social Care Act 2012 \(c. 7\), ss. 48\(2\), 306\(1\)\(d\)\(4\)](#)
- F15** S. 272(6)(zd) inserted (27.3.2012 for specified purposes) by [Health and Social Care Act 2012 \(c. 7\), ss. 50\(2\), 306\(1\)\(d\)\(4\)](#)
- F16** S. 272(6ZA) inserted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 178\(7\), 306\(4\); S.I. 2012/2657, art. 2\(2\)](#)
- F17** S. 272(6A) inserted (15.2.2010 for specified purposes) by [Health Act 2009 \(c. 21\), ss. 18\(8\)\(c\), 40\(1\); S.I. 2010/30, art. 3\(b\)](#)
- F18** Words in s. 272(6A) omitted (1.11.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\), ss. 173\(6\)\(b\), 306\(4\); S.I. 2012/2657, art. 2\(2\)](#)
- F19** Word in s. 272(6A) inserted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 178\(8\)\(a\), 306\(4\); S.I. 2012/2657, art. 2\(2\)](#)
- F20** Word in s. 272(6A) omitted (1.11.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\), ss. 178\(8\)\(b\), 306\(4\); S.I. 2012/2657, art. 2\(2\)](#)
- F21** Word in s. 272(6A) inserted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 178\(8\)\(c\), 306\(4\); S.I. 2012/2657, art. 2\(2\)](#)
- F22** Word in s. 272(6A) substituted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 178\(8\)\(e\), 306\(4\); S.I. 2012/2657, art. 2\(2\)](#)
- F23** Word in s. 272(6A) inserted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 178\(8\)\(d\), 306\(4\); S.I. 2012/2657, art. 2\(2\)](#)

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**Modifications etc. (not altering text)**

- C1** S. 272 applied (1.3.2007) by [National Health Service \(Wales\) Act 2006 \(c. 42\)](#), ss. 208(1), **209(4)** (with s. 19(3))
- C2** S. 272(7)(8) applied by [2006 c. 28, s. 70\(3\)](#) (as substituted (1.3.2007) by National Health Service (Consequential Provisions) Act (c. 43), Sch. 1 para. 285 (with Sch. 3 Pt. 1))
- C3** S. 272(7) applied by 2007 c. 18, s. 42(5B) (as inserted (27.3.2012 for specified purposes) by [Health and Social Care Act 2012 \(c. 7\)](#), ss. **287(3)**, 306(1)(d)(4))

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