



National Health Service (Wales) Act 2006

2006 CHAPTER 42

PART 7

PHARMACEUTICAL SERVICES AND LOCAL PHARMACEUTICAL SERVICES

CHAPTER 1

PHARMACEUTICAL SERVICES

Provision of pharmaceutical services

80 Arrangements for pharmaceutical services

- (1) Each Local Health Board must, in accordance with regulations, make the arrangements mentioned in subsection (3).
- (2) The Welsh Ministers must make regulations for the purpose of subsection (1).
- (3) The arrangements are arrangements as respects the area of the Local Health Board for the provision to persons who are in that area of—
 - (a) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown,
 - (b) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a dental practitioner in pursuance of—
 - (i) his functions in the health service, the Scottish health service or the Northern Ireland health service (other than functions exercised in pursuance of the provision of services mentioned in paragraph (c)), or
 - (ii) his functions in the armed forces of the Crown,
 - (c) listed drugs and medicines and listed appliances which are ordered for those persons by a dental practitioner in pursuance of the provision of primary dental

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- services or equivalent services in the Scottish health service or the Northern Ireland health service,
- (d) such drugs and medicines and such listed appliances as may be determined by the Welsh Ministers for the purposes of this paragraph and which are ordered for those persons by a prescribed description of person in accordance with such conditions, if any, as may be prescribed, in pursuance of functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown, and
- (e) such other services as may be prescribed.
- (4) The descriptions of persons which may be prescribed for the purposes of subsection (3) (d) are the following, or any sub-category of such a description—
- (a) persons who are registered in the register maintained under article 5 of [^{F1}the Health and Social Work Professions Order 2001],
- (b) persons who are registered pharmacists,
- (c) persons who are registered in the dental care professionals register established under section 36B of the Dentists Act 1984 (c. 24),
- (d) persons who are optometrists,
- (e) persons who are registered osteopaths within the meaning of the Osteopaths Act 1993 (c. 21),
- (f) persons who are registered chiropractors within the meaning of the Chiropractors Act 1994 (c. 17),
- (g) persons who are registered nurses or registered midwives,
- (h) persons not mentioned above who are registered in any register established, continued or maintained under an Order in Council under section 60(1) of the Health Act 1999 (c. 8),
- (i) any other description of persons which appears to the Welsh Ministers to be a description of persons whose profession is regulated by or under a provision of, or made under, an Act of the Scottish Parliament or Northern Ireland legislation and which the Welsh Ministers consider it appropriate to specify.
- [^{F2}(4A) Paragraphs (a) and (h) of subsection (4) do not apply to persons in so far as they are registered as members of the social work profession in England or social care workers in England (each of those expressions having the same meaning as in section 60 of the Health Act 1999).]
- (5) A determination under subsection (3)(d) may—
- (a) make different provision for different cases,
- (b) provide for the circumstances or cases in which a drug, medicine or appliance may be ordered,
- (c) provide that persons falling within a description specified in the determination may exercise discretion in accordance with any provision made by the determination in ordering drugs, medicines and listed appliances.
- (6) The arrangements which may be made by a Local Health Board under subsection (1) include arrangements for the provision of a service by means such that the person receiving it does so otherwise than at the premises from which it is provided.
- (7) Where a person with whom a Local Health Board makes arrangements under subsection (1) wishes to provide services to persons outside the area of the Local Health Board he may, subject to any provision made by regulations in respect of arrangements under this section, provide such services under the arrangements.

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- (8) The services provided under this section are, together with additional pharmaceutical services provided in accordance with a direction under section 81, referred to in this Act as “pharmaceutical services”.
- (9) In this section—
- “armed forces of the Crown” does not include forces of a Commonwealth country or forces raised in a colony,
 - “listed” means included in a list approved by the Welsh Ministers for the purposes of this section,
 - “the Scottish health service” means the health service within the meaning of the National Health Service (Scotland) Act 1978 (c. 29), and
 - “the Northern Ireland health service” means the health service within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I.14)).

Textual Amendments

- F1** Words in s. 80(4)(a) substituted (1.8.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 213(7)(l), 306(4)** (with s. 230(6)); S.I. 2012/1319, art. 2(4)
- F2** S. 80(4A) inserted (1.8.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 220(8), 306(4)**; S.I. 2012/1319, art. 2(4)

Modifications etc. (not altering text)

- C1** Ss. 71, 72, 78, 80, 109, 198, 206 modified (temp.) (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 5, 8(2), **Sch. 3 para. 4** (with Sch. 3 Pt. 1)
- C2** S. 80(1)(3)(6): Functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\)](#), reg. 4, **Sch.**
- C3** S. 80(9) modified (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 4, 8(2), **Sch. 2 para. 9** (with Sch. 3 Pt. 1)

81 Arrangements for additional pharmaceutical services

- (1) The Welsh Ministers may—
- (a) give directions to a Local Health Board requiring it to arrange for the provision to persons within or outside its area of additional pharmaceutical services, or
 - (b) by giving directions to a Local Health Board authorise it to arrange for such provision if it wishes to do so.
- (2) Directions under this section may require or authorise a Local Health Board to arrange for the provision of a service by means such that the person receiving it does so otherwise than at the premises from which it is provided (whether those premises are inside or outside the area of the Local Health Board).
- (3) The Welsh Ministers must publish any directions under this section in the Drug Tariff or in such other manner as they consider appropriate.
- (4) In this section—
- ”additional pharmaceutical services”, in relation to directions, means the services (of a kind that do not fall within section 80) which are specified in the directions, and

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“Drug Tariff” means the Drug Tariff published under regulation 18 of the National Health Service (Pharmaceutical Services) Regulations 1992 (S.I. 1992/662) or under any corresponding provision replacing, or otherwise derived from, that regulation.

82 Terms and conditions, etc

- (1) Directions under section 81 may require the Local Health Board to which they apply, when making arrangements—
 - (a) to include, in the terms on which the arrangements are made, such terms as may be specified in the directions,
 - (b) to impose, on any person providing a service in accordance with the arrangements, such conditions as may be so specified.
- (2) The arrangements must secure that any service to which they apply is provided only by a person—
 - (a) whose name is included in a pharmaceutical list, or
 - (b) who has entered into a pharmaceutical care services contract under section 17Q of the National Health Service (Scotland) Act 1978 (c. 29).
- (3) Different arrangements may be made with respect to—
 - (a) the provision of the same service by the same person but in different circumstances, or
 - (b) the provision of the same service by different persons.
- (4) A Local Health Board must provide details of proposed arrangements (including the remuneration to be offered for the provision of services) to any person who asks for them.
- (5) After making any arrangements, a Local Health Board must publish, in such manner as the Welsh Ministers may direct, such details of the arrangements as they may direct.
- (6) “Pharmaceutical list” includes, subject to any provision of the directions in question, a list published in accordance with regulations made under—
 - (a) section 129(2)(a) of the National Health Service Act 2006 (c. 41), or
 - (b) Article 63(2A)(a) of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I.14)).

Modifications etc. (not altering text)

- C4** S. 82: Functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\)](#), reg. 4, [Sch.](#)

[^{F3}82A Pharmaceutical needs assessments

- (1) A Local Health Board must prepare and publish an assessment of needs for pharmaceutical services in its area.
- (2) A Local Health Board must—
 - (a) keep the assessment most recently published by it under subsection (1) under review, and
 - (b) revise it as appropriate.

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- (3) Regulations must—
- (a) specify a date by which a Local Health Board is to prepare and publish its first assessment under subsection (1);
 - (b) make provision about circumstances in which a Local Health Board is to review and if appropriate revise its assessment (and may make such provision by reference to, among other things, a period within which or following which a Local Health Board is to review and if appropriate revise its assessment);
 - (c) make provision about the way in which an assessment is to be published.
- (4) The regulations may make other provision about the preparation, publication, review and revision of an assessment under subsection (1), including (among other things) about—
- (a) the information to be contained in an assessment (which may include, among other things, information relating to persons with whom a Local Health Board has entered into a general medical services contract);
 - (b) the extent to which an assessment is to take account of likely future needs and of other matters;
 - (c) consultation to be carried out in connection with an assessment;
 - (d) procedural requirements.]

Textual Amendments

F3 S. 82A inserted (1.4.2019) by [Public Health \(Wales\) Act 2017 \(anaw 2\)](#), **ss. 111(1)**, 126(2); [S.I. 2019/829](#), art. 2

83 Regulations as to pharmaceutical services

- (1) Regulations must provide for securing that arrangements made by a Local Health Board under section 80 will—
- (a) enable persons for whom drugs, medicines or appliances mentioned in that section are ordered as there mentioned to receive them from persons with whom such arrangements have been made, and
 - (b) ensure the provision of services prescribed under subsection (3)(e) of that section by persons with whom such arrangements have been made.
- (2) The regulations must include provision—
- (a) for the preparation and publication by a Local Health Board of one or more lists of persons, other than medical practitioners and dental practitioners, who undertake to provide pharmaceutical services from premises in the area of the Local Health Board,
 - (b) that an application to a Local Health Board for inclusion in a pharmaceutical list must be made in the prescribed manner and must state—
 - (i) the services which the applicant will undertake to provide and, if they consist of or include the supply of appliances, which appliances he will undertake to supply, and
 - (ii) the premises from which he will undertake to provide those services,
 - (c) that, except in prescribed cases (which may, in particular, include cases of applications for the provision only of services falling within subsection (7)—

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- (i) an application for inclusion in a pharmaceutical list by a person not already included, and
 - (ii) an application by a person already included in a pharmaceutical list for inclusion also in respect of services or premises other than those already listed in relation to him,
- may be granted only if the Local Health Board is [^{F4}satisfied as mentioned in subsection (2B), and]
- (d) for the removal of an entry in respect of premises from a pharmaceutical list if it has been determined in the prescribed manner that the person to whom the entry relates—
 - (i) has never provided from those premises, or
 - (ii) has ceased to provide from them,
 the services, or any of the services, which he is listed as undertaking to provide from them.

[^{F5}(2A) The regulations may specify persons or descriptions of persons who are not to be included in a list prepared by virtue of subsection (2)(a).

(2B) The Local Health Board is satisfied as mentioned in this subsection if, having regard to the assessment most recently published by it under section 82A and to any matters specified in the regulations, it is satisfied that granting the application would meet a need in its area for the services, or some of the services, specified in the application.

(2C) In relation to cases where the Local Health Board is satisfied as mentioned in subsection (2B), the regulations may make provision as to—

- (a) the procedure for determining whether to grant the application;
- (b) matters to be taken into account for the purpose of determining whether to grant the application.]

(3) The regulations may prescribe the extent to which the provision of LP services (within the meaning given by paragraph 1 of Schedule 7) must be taken into account in determining whether to grant an application for inclusion in a pharmaceutical list.

[^{F6}(3A) The regulations may prescribe circumstances in which two or more applications referred to in subsection (2)(c)(i) or (ii) may or must be considered together by the Local Health Board.]

(4) The regulations may [^{F7}make provision for the Local Health Board to take into account prescribed matters] where—

- ^{F8}(a)
- (b) [^{F9}two or more applications referred to in subsection (2)(c)(i) or (ii)] are considered together by the Local Health Board, and
- (c) the Local Health Board would be satisfied as mentioned in [^{F10}subsection (2B)] in relation to each application taken on its own, but is not so satisfied in relation to all of them taken together.

[^{F11}(4A) The regulations may in particular make the provision mentioned in subsection (5), with or without modifications.]

(5) The provision mentioned in this subsection is provision for the Local Health Board, in determining which application (or applications) to grant, to take into account any proposals specified in the applications in relation to the sale or supply at the premises

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in question, otherwise than by way of pharmaceutical services or in accordance with a private prescription, of—

- (a) drugs and medicines, and
- (b) other products for, or advice in relation to, the prevention, diagnosis, monitoring or treatment of illness or handicap, or the promotion or protection of health.

(6) The regulations may include provision—

- [^{F12}(za) as to circumstances in which the Local Health Board may invite applications for inclusion in a pharmaceutical list,]
 - (a) that an application to a Local Health Board may be granted in respect of some only of the services specified in it,
 - (b) that an application to a Local Health Board relating to services of a prescribed description may be granted only if it appears to the Local Health Board that the applicant has satisfied such conditions with regard to the provision of those services as may be prescribed,
 - (c) that an application to a Local Health Board by a person who qualified to have his name registered [^{F13}as a pharmacist in the Register maintained under article 19 of the Pharmacy Order 2010 by virtue of a qualification in pharmacy awarded in an EEA State other than the United Kingdom, or in Switzerland,] may not be granted unless the applicant satisfies the Local Health Board that he has the knowledge of English which, in the interest of himself and persons making use of the services to which the application relates, is necessary for the provision of pharmaceutical services in the area of the Local Health Board,
 - (d) that the inclusion of a person in a pharmaceutical list in pursuance of such an application may be for a fixed period,
 - (e) that, where the premises from which an application states that the applicant will undertake to provide services are in an area of a prescribed description, the applicant may not be included in the pharmaceutical list unless his inclusion is approved by reference to prescribed criteria by the Local Health Board in whose area those premises are situated,
 - (f) that that Local Health Board may give its approval subject to conditions,
- [^{F14}(fa) about the timescale for dealing with an application,]
 - (g) as to other grounds on which [^{F15}or circumstances in which] a Local Health Board may, or must, refuse to grant an application (including grounds corresponding to the conditions referred to in section 107(2), (3) or (4) as read with section 109),
 - (h) as to information which must be supplied to a Local Health Board by a person included, or seeking inclusion, in a pharmaceutical list (or by arrangement with him),
 - (i) for the supply to a Local Health Board by an individual—
 - (i) who is included, or seeking inclusion, in a pharmaceutical list, or
 - (ii) who is a member of the body of persons controlling a body corporate included, or seeking inclusion, in a pharmaceutical list,of a criminal conviction certificate under section 112 of the Police Act 1997 (c. 50), a criminal record certificate under [^{F16}section 113A of that Act, an enhanced criminal record certificate under section 113B of that Act or up-date information within the meaning given by section 116A of that Act,]
 - (j) for grounds on which a Local Health Board may defer a decision whether or not to grant an application,

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- (k) for the disclosure by a Local Health Board, to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about applicants for inclusion in a pharmaceutical list, and refusals by the Local Health Board to grant such applications,
- (l) as to criteria to be applied in making decisions under the regulations (other than decisions required by virtue of paragraph (e)),
- (m) as to the making of declarations about—
 - (i) financial interests,
 - (ii) gifts above a prescribed value, and
 - (iii) other benefits received.
- [^{F17}(n) as to circumstances in which a Local Health Board may, or must, remove a person or an entry in respect of premises from the pharmaceutical list for breach of a term or condition of arrangements made with the Local Health Board for the provision of pharmaceutical services.]
- [^{F18}(6A) The regulations, if they make provision within subsection (6)(n), must specify that a person or entry is not to be removed by a Local Health Board unless—
 - (a) the Local Health Board has given notice under section 106A (notice in relation to breach of arrangements) in respect of the breach, and
 - (b) the person in respect of whom the notice was given has failed to comply with a requirement of that notice.]
- (7) A service falls within this subsection if the means of providing it is such that the person receiving it does so otherwise than at the premises from which it is provided.
- (8) The regulations may, in respect of services falling within subsection (7), include provision—
 - (a) requiring persons to be approved for the purposes of providing such services, or
 - (b) requiring the Local Health Board to make the grant of an application subject to prescribed conditions.
- (9) The approval mentioned in subsection (8)(a) is approval by the Welsh Ministers or such other person as may be specified in the regulations, in accordance with criteria to be specified in or determined under the regulations (whether by the Welsh Ministers or by another person so specified).
- (10) Before making regulations by virtue of subsection (6)(m), the Welsh Ministers must consult such organisations as they consider appropriate appearing to them to represent persons providing pharmaceutical services.
- [^{F19}(10A) The regulations may make provision for a Local Health Board to give reasons for decisions made by virtue of this section.]
- (11) In this Act a “pharmaceutical list” means a list published in accordance with regulations made under subsection (2)(a).

Textual Amendments

- F4** Words in s. 83(2)(c) substituted (1.4.2019) by [Public Health \(Wales\) Act 2017 \(anaw 2\)](#), **ss. 112(2), 126(2)**; [S.I. 2019/829](#), art. 2
- F5** S. 83(2A)-(2C) inserted (1.4.2019) by [Public Health \(Wales\) Act 2017 \(anaw 2\)](#), **ss. 112(3), 126(2)**; [S.I. 2019/829](#), art. 2

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- F6** S. 83(3A) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(4)**, 126(2); S.I. 2019/829, art. 2
- F7** Words in s. 83(4) substituted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(5)(a)**, 126(2); S.I. 2019/829, art. 2
- F8** S. 83(4)(a) omitted (1.4.2019) by virtue of Public Health (Wales) Act 2017 (anaw 2), **ss. 112(5)(b)**, 126(2); S.I. 2019/829, art. 2
- F9** Words in s. 83(4)(b) substituted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(5)(c)**, 126(2); S.I. 2019/829, art. 2
- F10** Words in s. 83(4)(c) substituted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(5)(d)**, 126(2); S.I. 2019/829, art. 2
- F11** S. 83(4A) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(6)**, 126(2); S.I. 2019/829, art. 2
- F12** S. 83(6)(za) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(7)(a)**, 126(2); S.I. 2019/829, art. 2
- F13** Words in s. 83(6)(c) substituted (27.9.2010) by The Pharmacy Order 2010 (S.I. 2010/231), arts. 1, 68, **Sch. 4 para. 14(2)**; S.I. 2010/1621, art. 2(1), Sch.
- F14** S. 83(6)(fa) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(7)(b)**, 126(2); S.I. 2019/829, art. 2
- F15** Words in s. 83(6)(g) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(7)(c)**, 126(2); S.I. 2019/829, art. 2
- F16** Words in s. 83(6)(i) substituted (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 126** (with s. 97); S.I. 2013/1180, art. 2(e)(v)
- F17** S. 83(6)(n) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(7)(d)**, 126(2); S.I. 2019/829, art. 2
- F18** S. 83(6A) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(8)**, 126(2); S.I. 2019/829, art. 2
- F19** S. 83(10A) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(9)**, 126(2); S.I. 2019/829, art. 2

Modifications etc. (not altering text)

- C5** S. 83 modified (temp.) (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 5, 8(2), **Sch. 3 para. 6** (with Sch. 3 Pt. 1)

84 Regulations under section 83: appeals, etc

- (1) Regulations under section 83 must include provision conferring on such persons as may be prescribed rights of appeal from decisions made by virtue of that section.
- (2) If regulations made by virtue of section 83(6)(g) provide that a Local Health Board may refuse to grant an application [^{F20}on grounds corresponding to the conditions referred to in section 107(2), (3) or (4) as read with section 109], they must also provide for an appeal^{F21} ... to the [^{F22}First-tier Tribunal] against the decision of the Local Health Board.
- (3) Regulations under section 83 must be so framed as to preclude—
- (a) a person included in a pharmaceutical list, and
 - (b) an employee of such a person,
- from taking part in the decision whether an application such as is mentioned in section 83(2)(c) should be granted or an appeal against such a decision brought by virtue of subsection (1) of this section should be allowed.

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- [^{F23}(4) If regulations made under section 83 include provision for a Local Health Board to remove a person or an entry in respect of premises from a pharmaceutical list, the regulations must also make provision —
- (a) requiring the Local Health Board to give notice of its intention to remove the person or entry (including provision requiring the notice to give reasons for the intended removal);
 - (b) about making representations.]

Textual Amendments

- F20** Words in s. 84(2) inserted (1.4.2019) by [Public Health \(Wales\) Act 2017 \(anaw 2\)](#), **ss. 112(10)(a)**, 126(2); S.I. 2019/829, art. 2
- F21** Words in s. 84(2) omitted (1.4.2019) by virtue of [Public Health \(Wales\) Act 2017 \(anaw 2\)](#), **ss. 112(10)(b)**, 126(2); S.I. 2019/829, art. 2
- F22** Words in s. 84(2) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(1), 5(1), **Sch. 2 para. 131**
- F23** S. 84(4) inserted (1.4.2019) by [Public Health \(Wales\) Act 2017 \(anaw 2\)](#), **ss. 112(11)**, 126(2); S.I. 2019/829, art. 2

85 Power to charge

- (1) The Welsh Ministers may give directions to a Local Health Board requiring it to charge a fee in cases or descriptions of case specified in the directions to persons who make an application referred to in section 83(2)(c)(i) or (ii).
- (2) The Welsh Ministers may in the directions—
 - (a) specify the fee themselves, or
 - (b) require the Local Health Board to determine the amount of the fee in accordance with any requirements set out in the directions.
- (3) Before determining the amount of the fee—
 - (a) in a subsection (2)(a) case, the Welsh Ministers must consult such organisations as they consider appropriate that appear to them to represent persons providing pharmaceutical services and such organisations as they consider appropriate that appear to them to represent Local Health Boards,
 - (b) in a subsection (2)(b) case, the Local Health Board must undertake any consultation required by the directions.
- (4) The Welsh Ministers must publish in such manner as they consider appropriate any directions they give under this section.
- (5) In a subsection (2)(b) case, the Local Health Board must publish in such manner as it considers appropriate the fee which it determines.

86 Persons authorised to provide pharmaceutical services

- (1) Except as may be provided for by or under regulations, no arrangements may be made by a Local Health Board with a medical practitioner or dental practitioner under which he is required or agrees to provide pharmaceutical services to any person to whom he is rendering primary medical services or primary dental services.

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- (2) Except as may be provided for by or under regulations, no arrangements for the dispensing of medicines may be made under this Chapter with persons other than persons who—
 - (a) are registered pharmacists or persons lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968 (c. 67), and
 - (b) undertake that all medicines supplied by them under the arrangements will be dispensed either by or under the supervision of a registered pharmacist.
- (3) Regulations must provide for the preparation and publication by each Local Health Board of one or more lists of medical practitioners who undertake to provide drugs, medicines or listed appliances (within the meaning given by section 80) under arrangements with the Local Health Board.
- (4) The regulations may, in particular, include provision—
 - (a) as to grounds on which a Local Health Board may, or must, refuse to grant an application for inclusion in a list of medical practitioners referred to in subsection (3) (including grounds corresponding to the conditions referred to in section 107(2), (3) or (4) as read with section 109(2)),
 - (b) as to information which must be supplied to a Local Health Board by a medical practitioner included, or seeking inclusion, in such a list (or by arrangement with him),
 - (c) for the supply to a Local Health Board by a medical practitioner who is included, or seeking inclusion, in such a list of a criminal conviction certificate under section 112 of the Police Act 1997 (c. 50), a criminal record certificate under [F24]section 113A of that Act, an enhanced criminal record certificate under section 113B of that Act or up-date information within the meaning given by section 116A of that Act,]
 - (d) for grounds on which a Local Health Board may defer a decision whether or not to grant an application for inclusion in such a list,
 - (e) for the disclosure by a Local Health Board to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about applicants for inclusion in such a list, and refusals by the Local Health Board to grant such applications,
 - (f) as to criteria to be applied in making decisions under the regulations.
- (5) If regulations made by virtue of subsection (4)(a) provide that a Local Health Board may refuse to grant an application for inclusion in such a list, they must also provide for an appeal (by way of redetermination) to the [F25]First-tier Tribunal] against the decision of the Local Health Board.
- (6) The regulations must include provision for the removal of an entry from a list in prescribed circumstances.
- (7) No arrangements for the provision of—
 - (a) pharmaceutical services falling within section 80(3)(e), or
 - (b) additional pharmaceutical services provided in accordance with a direction under section 81,may be made with persons other than those who are registered pharmacists or are of a prescribed description.
- (8) Where—

Status: Point in time view as at 01/04/2019.

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- (a) arrangements for the provision of pharmaceutical services have been made with a registered pharmacist, and
- [^{F26}(b) his registration is suspended by virtue of any direction or order under the Pharmacy Order 2010,]
- he may not provide pharmaceutical services in person during the period of suspension.
- (9) ^{F27}

Textual Amendments

- F24** Words in s. 86(4)(c) substituted (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 127](#) (with s. 97); S.I. 2013/1180, art. 2(e)(v)
- F25** Words in s. 86(5) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), arts. 1\(1\), 5\(1\), Sch. 2 para. 132](#)
- F26** S. 86(8)(b) substituted (27.9.2010) by [The Pharmacy Order 2010 \(S.I. 2010/231\), arts. 1, 68, Sch. 4 para. 14\(3\)](#); S.I. 2010/1621, art. 2(1), Sch.
- F27** S. 86(9) omitted (in accordance with art. 1(2)(3) of the amending S.I.) by virtue of [The Pharmacists and Pharmacy Technicians Order 2007 \(S.I. 2007/289\), art. 67, Sch. 1 para. 11\(3\)\(b\)](#)

Modifications etc. (not altering text)

- C6** S. 86 modified (temp.) (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), ss. 5, 8\(2\), Sch. 3 para. 7](#) (with Sch. 3 Pt. 1)

87 Inadequate provision of pharmaceutical services

- (1) Subsection (2) applies if the Welsh Ministers are satisfied, after such inquiry as they consider appropriate, that—
- (a) as respects the area, or part of the area, of a Local Health Board, the persons whose names are included in any pharmaceutical list are not such as to secure the adequate provision of pharmaceutical services in that area or part, or
- (b) for any other reason any considerable number of persons in any such area or part are not receiving satisfactory services under the arrangements in force under this Chapter.
- (2) Where this subsection applies, the Welsh Ministers—
- (a) may authorise the Local Health Board to make such other arrangements as the Welsh Ministers may approve, or may themselves make such other arrangements, and
- (b) may dispense with any of the requirements of regulations made under this Chapter or Part 8 so far as appears to the Welsh Ministers necessary to meet exceptional circumstances and enable such arrangements to be made.

Modifications etc. (not altering text)

- C7** S. 87: Functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\), reg. 4, Sch.](#)

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Remuneration

88 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 89 determining authorities are—
 - (a) the Welsh Ministers, and
 - (b) so far as authorised by the Welsh Ministers to exercise the functions of determining authorities, any Local Health Board or other person appointed by them in an instrument.
- (4) The instrument mentioned in subsection (3)(b) is called in this section an “instrument of appointment”.
- (5) An instrument of appointment—
 - (a) may contain requirements with which a determining authority appointed by that instrument must comply in making determinations, and
 - (b) may be contained in regulations.
- (6) Subject to this section and section 89, 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.
- (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,

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(ii) if it is not so required, on the date on which it is made.

(10) A reference in this section or section 89 to a determination is to a determination of remuneration under this section.

89 Section 88: supplementary

- (1) Before a determination is made by the Welsh Ministers which relates to all persons who provide pharmaceutical services, or a category of such services, they—
 - (a) must consult a body appearing to them to be representative of persons to whose remuneration the determination would relate, and
 - (b) may consult such other persons as they consider appropriate.
- (2) Determinations may make different provision for different cases, including different provision for any particular case, class of case or area.
- (3) Determinations may be—
 - (a) made in more than one stage,
 - (b) made by more than one determining authority,
 - (c) varied or revoked by subsequent determinations.
- (4) A determination may be varied—
 - (a) to correct an error, or
 - (b) where it appears to the determining authority that it was made in ignorance of or under a mistake as to a relevant fact.
- (5) Determinations may, in particular, provide that the whole or any part of the remuneration—
 - (a) is payable only if the determining authority is satisfied as to certain conditions, or
 - (b) must be applied for certain purposes or is otherwise subject to certain conditions.
- (6) Remuneration under section 88 may be determined from time to time and may consist of payments by way of—
 - (a) salary,
 - (b) fees,
 - (c) allowances,
 - (d) reimbursement (in full or in part) of expenses incurred or expected to be incurred in connection with the provision of the services or instruction.
- (7) At the time a determination is made or varied, certain matters which require determining may be reserved to be decided at a later time.
- (8) The matters which may be reserved include in particular—
 - (a) the amount of remuneration to be paid in particular cases,
 - (b) whether any remuneration is to be paid in particular cases.
- (9) Any determination may be made only after taking into account all the matters which are considered to be relevant by the determining authority.
- (10) Such matters may include in particular—

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- (a) the amount or estimated amount of expenses (taking into account any discounts) incurred in the past or likely to be incurred in the future (whether or not by persons to whose remuneration the determination will relate) in connection with the provision of pharmaceutical services or of any category of pharmaceutical services,
 - (b) the amount or estimated amount of any remuneration paid or likely to be paid to persons providing such services,
 - (c) the amount or estimated amount of any other payments or repayments or other benefits received or likely to be received by any such persons,
 - (d) the extent to which it is desirable to encourage the provision, either generally or in particular places, of pharmaceutical services or the category of pharmaceutical services to which the determination will relate,
 - (e) the desirability of promoting pharmaceutical services which are—
 - (i) economic and efficient, and
 - (ii) of an appropriate standard.
- (11) If the determination is of remuneration for a category of pharmaceutical services, the reference in subsection (10)(a) to a category of pharmaceutical services is a reference to the same category of pharmaceutical services or to any other category of pharmaceutical services falling within the same description.

Local Pharmaceutical Committees

90 Local Pharmaceutical Committees

- (1) A Local Health Board may recognise a committee formed for its area, or for its area and that of one or more other Local Health Boards, which it is satisfied is representative of the persons providing pharmaceutical services from premises in that area.
- (2) A committee recognised under this section is called the Local Pharmaceutical Committee for the area for which it is formed.
- (3) Any such committee may delegate any of its functions, with or without restrictions or conditions, to sub-committees composed of members of that committee.
- (4) Regulations may require a Local Health Board, in the exercise of functions under this Chapter, to consult committees recognised by it under this section on such occasions and to such extent as may be prescribed.
- (5) Subsection (4) does not affect any other power to require a Local Health Board to consult committees recognised by it under this section.
- (6) A committee recognised under this section has such other functions as may be prescribed.
- (7) A Local Health Board may, on the request of any committee recognised by it under this section, allot to that committee such sums for defraying the committee's administrative expenses as may be determined by the Local Health Board.
- (8) Any sums so allotted must be out of the moneys available to the Local Health Board for the remuneration of persons of whom the committee is representative under this section.

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- (9) The amount of any such sums must be deducted from the remuneration of those persons in such manner as may be determined by the Local Health Board.
- (10) The administrative expenses of a committee include the travelling and subsistence allowances payable to its members.

Modifications etc. (not altering text)

- C8** S. 90(1)(7)(8)(9): Functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\)](#), reg. 4, [Sch.](#)

Provision of accommodation by the Welsh Ministers

91 Use of accommodation: provision of pharmaceutical services

If the Welsh Ministers consider that any accommodation provided by them by virtue of this Act is suitable for use in connection with the provision of pharmaceutical services, they may make the accommodation available on such terms as they consider appropriate to persons providing those services.

Modifications etc. (not altering text)

- C9** S. 91: Functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\)](#), reg. 4, [Sch.](#)

CHAPTER 2

LOCAL PHARMACEUTICAL SERVICES: PILOT SCHEMES

92 Pilot schemes

- (1) Local Health Boards may establish pilot schemes.
- (2) In this Act, a “pilot scheme” means one or more agreements—
- (a) made by a Local Health Board in accordance with this Chapter,
 - (b) under which local pharmaceutical services will be provided (otherwise than by the Local Health Board), and
 - (c) the parties to which do not include any other Local Health Board.
- (3) A pilot scheme may include arrangements—
- (a) for the provision of services, other than general ophthalmic services, which are not local pharmaceutical services, but which may be provided under this Act, other than under Part 6 or Chapter 1 of this Part, and whether or not of the kind usually provided by pharmacies,
 - (b) for the provision of training and education (including training and education for persons who are, or may become, involved in the provision of local pharmaceutical services).

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- (4) A pilot scheme may not combine arrangements for the provision of local pharmaceutical services with arrangements for the provision of primary medical services or primary dental services.
- (5) In determining the arrangements it needs to make in order to comply with section 80, a Local Health Board may take into account arrangements under a pilot scheme made by it.
- (6) The functions of an NHS trust and an NHS foundation trust include power to provide any services to which a pilot scheme applies.
- (7) In this Chapter—
 - “local pharmaceutical services” means such services of a kind which may be provided under section 80, or by virtue of section 81 (other than practitioner dispensing services) as may be prescribed for the purposes of this Chapter, and
 - “piloted services” means services provided under a pilot scheme (including any services to which the scheme applies as a result of subsection (3)).
- (8) “Practitioner dispensing services” means the provision of drugs, medicines or listed appliances (within the meaning given by section 80) by a medical practitioner or dental practitioner to a patient of his pursuant to arrangements made by virtue of section 86(1).

Modifications etc. (not altering text)

C10 S. 92: Functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\)](#), reg. 4, **Sch.**

93 Making pilot schemes

Schedule 6 makes provision with respect to making pilot schemes, including provision with respect to the procedure to be followed.

Modifications etc. (not altering text)

C11 S. 93: Functions made exercisable by Local Health Boards (1.10.2009) by [The Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\)](#), reg. 4, **Sch.**

94 Designation of priority neighbourhoods or premises

- (1) The Welsh Ministers may make regulations allowing a Local Health Board to designate—
 - (a) neighbourhoods,
 - (b) premises, or
 - (c) descriptions of premises,for the purposes of this section.
- (2) The regulations may, in particular, make provision—
 - (a) as to the circumstances in which, and the neighbourhoods or premises in relation to which, designations may be made or maintained,

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- (b) allowing a Local Health Board to defer consideration of pharmaceutical list applications relating to neighbourhoods, premises or descriptions of premises that have been designated,
 - (c) allowing a designation to be cancelled in prescribed circumstances,
 - (d) requiring a designation to be cancelled—
 - (i) if the Welsh Ministers give a direction to that effect, or
 - (ii) in prescribed circumstances.
- (3) “Pharmaceutical list applications” means applications for inclusion in a pharmaceutical list.

95 Reviews of pilot schemes

- (1) At least one review of the operation of each pilot scheme must be conducted by the Welsh Ministers.
- (2) Each pilot scheme must be reviewed under this section before the end of the period of three years beginning with the date on which piloted services are first provided under the scheme.
- (3) When conducting a review of a pilot scheme, the Welsh Ministers must give—
 - (a) the Local Health Board concerned, and
 - (b) any person providing services under the scheme,
 an opportunity to comment on any matter relevant to the review.
- (4) Otherwise, the procedure on any review must be determined by the Welsh Ministers.

96 Variation and termination of pilot schemes

- (1) The Welsh Ministers may give directions authorising Local Health Boards to vary pilot schemes (otherwise than in response to directions given under subsection (2)) in such circumstances, and subject to such conditions, as may be specified in the directions.
- (2) The Welsh Ministers may by directions require a pilot scheme to be varied by the Local Health Board concerned in accordance with the directions.
- (3) If satisfied that a pilot scheme is (for any reason) unsatisfactory, the Welsh Ministers may give directions to the Local Health Board concerned requiring it to bring the scheme to an end in accordance with the terms of the directions.

97 NHS contracts and the provision of piloted services

- (1) In the case of a pilot scheme entered into, or to be entered into, by a single individual or body corporate (other than an NHS foundation trust), that individual or body may make an application under this section to become a health service body.
- (2) In the case of any other pilot scheme, all of those providing, or proposing to provide, piloted services under the scheme may together make an application under this section to become a single health service body.
- (3) An application must—
 - (a) be made to the Welsh Ministers in accordance with such provisions as may be made by regulations, and

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- (b) specify the pilot scheme in relation to which it is made.
- (4) Except in such cases as may be prescribed, the Welsh Ministers may grant an application.
- (5) If an application is granted, the Welsh Ministers must specify a date in relation to that application and, as from that date—
 - (a) in the case of an application under subsection (1), the applicant is, and
 - (b) in the case of an application under subsection (2), the applicants together are, a health service body for the purposes of section 7.
- (6) That section has effect in relation to such a health service body (“a PHS body”), acting as commissioner, as if the functions referred to in section 7(1) were the provision of piloted services.
- (7) Except in such circumstances as may be prescribed, a PHS body resulting from an application under subsection (2) must be treated, at any time, as consisting of those who are providing piloted services under the scheme.
- (8) A direction as to payment made under section 7(11) against, or in favour of, a PHS body is enforceable in [^{F28}the county court] (if the court so orders) as if it were a judgment or order of that court.
- (9) Regulations may provide for a PHS body to cease to be a PHS body in prescribed circumstances.
- (10) The Welsh Ministers must—
 - (a) maintain and publish a list of PHS bodies,
 - (b) publish a revised copy of the list as soon as is reasonably practicable after any change is made to it.
- (11) The list must be published in such manner as the Welsh Ministers consider appropriate.

Textual Amendments

F28 Words in s. 97(8) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); [S.I. 2014/954](#), [art. 2\(c\)](#) (with [art. 3](#))

98 Funding of preparatory work

- (1) Provision may be made by regulations for Local Health Boards to make payments of financial assistance for preparatory work.
- (2) “Preparatory work” means work which it is reasonable for a person to undertake—
 - (a) in connection with preparing proposals for a pilot scheme, or
 - (b) in preparing for the provision by him of any piloted services.
- (3) The regulations may, in particular, include provision—
 - (a) prescribing the circumstances in which payments of financial assistance may be made,
 - (b) imposing a limit on the amount of any payment of financial assistance which a Local Health Board may make in any prescribed period in respect of any one person or any one pilot scheme,

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- (c) imposing a limit on the aggregate amount which a Local Health Board may pay by way of financial assistance in any one financial year,
- (d) requiring a person to whom assistance is given under this section to comply with such conditions as may be imposed in accordance with prescribed requirements, and
- (e) for repayment in the case of a failure to comply with any condition so imposed.

99 Application of this Act

This Act has effect in relation to piloted services subject to any provision of, or made under, this Chapter, section 103 (application of enactments) or section 127 (charges for local pharmaceutical services).

100 Premises from which piloted services may be provided

The Welsh Ministers may by regulations—

- (a) prevent (except in such circumstances and to such extent as may be prescribed) the provision of both piloted services and pharmaceutical services from the same premises,
- (b) make provision with respect to the inclusion, removal, re-inclusion or modification of an entry in respect of premises in a pharmaceutical list.

101 Control of entry regulations

The power to make regulations under section 83 includes power to prescribe the extent to which the provision of piloted services must be taken into account in determining whether to grant an application for inclusion in a pharmaceutical list.

CHAPTER 3

LOCAL PHARMACEUTICAL SERVICES: LPS SCHEMES

102 Local pharmaceutical services schemes

Schedule 7 makes provision with respect to the provision of local pharmaceutical services in accordance with schemes made by Local Health Boards.

CHAPTER 4

LOCAL PHARMACEUTICAL SERVICES: APPLICATION OF ENACTMENTS

103 Application of enactments

- (1) The Welsh Ministers may by regulations make, in relation to local pharmaceutical services arrangements or persons providing or assisting in the provision of services under such arrangements, provision corresponding (whether or not exactly) to enactments containing provision relating to—
 - (a) section 50 arrangements or section 64 arrangements, or
 - (b) persons who provide or perform services under section 50 or section 64.

Status: Point in time view as at 01/04/2019.

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- (2) The regulations may, in particular, provide for the application of any such enactment with such modifications, if any, as the Welsh Ministers consider appropriate.
- (3) The provision which may be made under this section includes provision amending, repealing or revoking enactments.
- (4) “Local pharmaceutical services arrangements” means arrangements made under an LPS scheme or a pilot scheme.

Status:

Point in time view as at 01/04/2019.

Changes to legislation:

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