



Health Service Medical Supplies (Costs) Act 2017

2017 CHAPTER 23

Information about medical supplies etc

9 Provision of information to Welsh Ministers and disclosure

“After section 201 of the National Health Service (Wales) Act 2006 insert—

Provision of information about medical supplies etc

201A Provision of information by persons providing primary medical services or pharmaceutical services

- (1) Regulations may make provision requiring any Part 4 provider or Part 7 provider to—
 - (a) record and keep information, or information of a description, specified in the regulations, and
 - (b) provide that information to the Welsh Ministers.
- (2) Information, or a description of information, may not be specified in the regulations by virtue of subsection (1) unless the Welsh Ministers consider that the information may be required for the purpose of enabling or facilitating any of the following—
 - (a) the determination of the payments to be made to any Part 4 providers;
 - (b) the determination of the remuneration to be paid to any Part 7 providers;
 - (c) the consideration by the Welsh Ministers of whether—
 - (i) adequate supplies of health service products are available, and
 - (ii) the terms on which those products are available represent value for money.

- (3) The information which the Welsh Ministers may require from a Part 4 provider or Part 7 provider by virtue of this section includes the following—
- (a) the price charged or paid by the provider for health service products;
 - (b) the price paid by the provider for delivery or other services in connection with health service products;
 - (c) the discounts or rebates or other payments given or received by the provider in connection with the supply of health service products;
 - (d) the revenue or profits accrued to the provider in connection with the supply of health service products;
 - (e) such information about medicinal products, other medical supplies or other related products as is necessary to verify whether or not they are health service products.
- (4) Regulations under this section may require information to be provided in such form and manner, and at such time or within such period, as may be prescribed.
- (5) Regulations under this section may provide for a person who contravenes any provision of the regulations to be liable to pay a penalty to the Welsh Ministers.
- (6) The penalty may be—
- (a) a single penalty not exceeding £10,000, or
 - (b) a daily penalty not exceeding £100 for every day on which the contravention occurs or continues.
- (7) If regulations under this section make provision by virtue of subsection (5) they must include provision conferring on Part 4 providers and Part 7 providers a right of appeal against a decision of the Welsh Ministers to impose a penalty.
- (8) The provision of information by virtue of this section does not breach—
- (a) any obligation of confidence owed by the person providing it, or
 - (b) any other restriction on the provision of information (however imposed).
- (9) The Welsh Ministers may by regulations increase (or further increase) either of the sums mentioned in subsection (6).
- (10) In this section—
- “health service products” means any medicinal products used to any extent for the purposes of the health service continued under section 1(1) and any other medical supplies, or other related products, required for the purposes of that health service;
- “medical supplies” includes surgical, dental and optical materials and equipment (and for this purpose “equipment” includes any machinery, apparatus or appliance, whether fixed or not, and any vehicle);
- “medicinal product” has the meaning given by section 130 of the Medicines Act 1968;
- “Part 4 provider” means a person who provides primary medical services under Part 4;
- “Part 7 provider” means a person who provides pharmaceutical services under Part 7.

201B Disclosure of information

- (1) Information provided by virtue of section 201A may be disclosed by the Welsh Ministers to any of the following persons—
 - (a) a Local Health Board or other person appointed under section 88(3)(b) to exercise the functions of a determining authority under Part 7;
 - (b) an NHS trust established under section 18;
 - (c) any person who provides services to the Welsh Ministers or to any person falling within paragraph (a) or (b);
 - (d) any body which appears to the Welsh Ministers appropriate to represent Part 4 providers or Part 7 providers (as defined by section 201A(10)).
- (2) A person to whom any confidential or commercially sensitive information is disclosed under subsection (1) may not—
 - (a) use the information for a purpose other than a purpose specified in section 201A(2), or
 - (b) disclose the information to another person.

201C Sections 201A and 201B: supplementary

- (1) Before making regulations under section 201A the Welsh Ministers must consult any body which appears to the Welsh Ministers appropriate to represent Part 4 providers or Part 7 providers.
- (2) Nothing in section 201A or 201B requires information to be provided, or authorises information to be disclosed or used, in contravention of the Data Protection Act 1998.
- (3) Nothing in section 201A or 201B affects any duties, obligations or powers to require or authorise information to be provided, disclosed or used which exist apart from that section.”