



Health and Social Care Act 2001

2001 CHAPTER 15

PART 1

NATIONAL HEALTH SERVICE

Health service funding

1 Determination of allotments to and resource limits for Health Authorities and Primary Care Trusts

- (1) Part 4 of the National Health Service Act 1977 (c. 49) (property and finance) shall be amended as follows.
- (2) In section 97 (payments to Health Authorities and Special Health Authorities), after subsection (3) there shall be inserted—
 - “(3AA) In determining the amount to be allotted for any year to a Health Authority under subsection (3) above (or in varying the amount under subsection (5) below), the Secretary of State may take into account (in whatever way he thinks appropriate)—
 - (a) the Authority’s general Part 2 expenditure, and
 - (b) expenditure which would have been the Authority’s general Part 2 expenditure but for an order under section 103(1) below,during any period he thinks appropriate (or such elements of that expenditure as he thinks appropriate).”
- (3) In section 97AA (resource limits for Health Authorities and Special Health Authorities), after subsection (2) there shall be inserted—
 - “(2A) But in specifying an amount for a Health Authority under subsection (1) above (or in varying the amount under subsection (6) below), the Secretary of State may take into account (in whatever way he thinks appropriate)—
 - (a) any such use of resources, and

Status: This is the original version (as it was originally enacted).

- (b) the use of any resources which would have been for the purpose of the Authority’s general Part 2 expenditure but for an order under section 103(1) below,
 during any period he thinks appropriate (or such elements of such uses of resources as he thinks appropriate).”
- (4) In section 97C (public funding of Primary Care Trusts), after subsection (1) there shall be inserted—
- “(1A) In determining the amount to be allotted for any year to a Primary Care Trust under subsection (1)(b) above (or in varying the amount under subsection (3) below), the Authority may take into account, in whatever way they think appropriate, but subject to any directions, the distribution within their area of—
- (a) their general Part 2 expenditure, and
 (b) expenditure which would have been their general Part 2 expenditure but for an order under section 103(1) below,
 during any period the Authority think appropriate (or such elements of that expenditure as they think appropriate).”
- (5) In section 97E (resource limits for Primary Care Trusts), after subsection (2) there shall be inserted—
- “(2A) But in specifying an amount for a Primary Care Trust under subsection (1) above (or in varying the amount under subsection (4) below), the Health Authority may take into account, in whatever way they think appropriate, but subject to any directions, the distribution within their area of—
- (a) their use of resources for the purpose of their general Part 2 expenditure, and
 (b) the use of any resources which would have been for the purpose of their general Part 2 expenditure but for an order under section 103(1) below,
 during any period they think appropriate (or such elements of such uses of resources as they think appropriate).”

2 Payments relating to past performance

- (1) Section 97 of the 1977 Act (means of meeting expenditure of Health Authorities out of public funds) shall be amended as follows.
- (2) For subsection (3C) there shall be substituted—
- “(3C) Where the Secretary of State has made an initial determination of the amount (“the initial amount”) to be allotted for any year to a Health Authority under subsection (3) above, he may increase the initial amount by a further sum if it appears to him that over a period notified to the Authority—
- (a) they satisfied any objectives notified to them as objectives to be met in performing their functions, or
 (b) they performed well against any criteria notified to them as criteria relevant to the satisfactory performance of their functions (whether or not the method of measuring their performance against those criteria was also notified to them).”

- (3) In subsection (3D), for “Health Authorities” there shall be substituted “the Health Authority”.

3 Supplementary payments to NHS trusts and Primary Care Trusts

- (1) After paragraph 5 of Schedule 3 to the National Health Service and Community Care Act 1990 (c. 19) (which makes financial provision about NHS trusts) there shall be inserted—

“Supplementary payments

- 5A (1) If the Secretary of State considers it appropriate to do so, he may make a payment to the trust.
- (2) The payment may be subject to such conditions as he thinks fit to impose, including conditions as to repayment.”

- (2) In section 9 of the 1990 Act (financial provisions relating to NHS trusts), in subsection (9), after paragraph (c) there shall be inserted—

“(ca) the making of supplementary payments to them;”.

- (3) In section 97C of the 1977 Act (public funding of Primary Care Trusts), after subsection (5) there shall be inserted—

“(5A) If the Secretary of State considers it appropriate to do so, he may make a supplementary payment to a Primary Care Trust, which may be subject to such conditions as he thinks fit to impose, including conditions as to repayment.”

- (4) In section 97D of the 1977 Act (financial duties of Primary Care Trusts), in subsection (1)(b), after “section” there shall be inserted “, apart from subsection (5A)”.

4 Public-private partnerships

After section 96B of the 1977 Act there shall be inserted—

“Companies

96C Public-private partnerships

- (1) The Secretary of State may form, or participate in forming, companies to provide facilities or services for—
- persons or bodies exercising functions, or otherwise providing services, under this Act; or
 - NHS trusts.
- (2) The Secretary of State may, with a view to securing or facilitating the provision by companies of facilities or services for persons or bodies falling within subsection (1)(a) or (b)—
- invest in the companies (whether by acquiring assets, securities or rights or otherwise), or
 - provide loans and guarantees and make other kinds of financial provision to or in respect of them,

or both.

- (3) For the purposes of subsections (1) and (2) above it is immaterial that the facilities or services provided or to be provided by the companies in question are not provided or to be provided—
- (a) only to persons or bodies falling within subsection (1)(a) or (b); or
 - (b) to persons or bodies falling within subsection (1)(a) only in their capacities as persons or bodies such as are mentioned in that provision.
- (4) In this section—
- “companies” means companies within the meaning of the Companies Act 1985 (c. 6);
- “facilities” includes the provision of (or of the use of) premises, goods, materials, vehicles, plant or apparatus.
- (5) This section is without prejudice to any powers of the Secretary of State exercisable otherwise than by virtue of this section.”

5 Income generation

In section 7 of the Health and Medicines Act 1988 (c. 49) (additional powers for financing Health Service), after subsection (7) there shall be inserted—

- “(7A) The power specified in paragraph (g) of subsection (2) above includes power for the Secretary of State—
- (a) to form, or participate in the forming of, companies,
 - (b) to invest in companies (whether by acquiring assets, securities or rights or otherwise), and
 - (c) to provide loans and guarantees and make other kinds of financial provision to or in respect of companies,
- where it appears to him that to do so is calculated to facilitate, or to be conducive or incidental to, the exercise of any power conferred by that subsection.
- (7B) In subsection (7A) above “companies” means companies within the meaning of the Companies Act 1985 (c. 6); and that subsection is without prejudice to—
- (a) the generality of paragraph (g) of subsection (2) above, and
 - (b) any powers of the Secretary of State exercisable otherwise than by virtue of this section.”