

## SCHEDULES

### SCHEDULE 12

Section 140

#### FUNDING OF EXPENDITURE IN CONNECTION WITH PROVISION OF PHARMACEUTICAL SERVICES

#### PART 1

#### ENGLAND

- 1 In this Part of this Schedule “the NHS Act” means the National Health Service Act 2006 (c. 41).
- 2 (1) Section 228 of the NHS Act (public funding of Primary Care Trusts) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) The Secretary of State must pay in respect of each financial year to each Primary Care Trust sums not exceeding the amount allotted for that year by the Secretary of State to the Primary Care Trust towards meeting the expenditure of the Primary Care Trust which is attributable to the performance by it of its functions in that year.”
- (3) Omit subsection (2).
- (4) In subsections (3) and (7)(b), for “(1)(b)” substitute “(1)”.
- (5) Omit subsection (12).
- 3 In section 229 of the NHS Act (financial duties of Primary Care Trusts), in subsection (1)—
- (a) omit “(not including its pharmaceutical services expenditure)”, and
- (b) in paragraph (a), for “section 228(1)(b)” substitute “section 228(1)”.
- 4 In section 230 of the NHS Act (resource limits for Primary Care Trusts) omit subsections (2) and (3).
- 5 (1) Schedule 14 to the NHS Act (further provision about expenditure of Primary Care Trusts) is amended as follows.
- (2) Omit paragraphs 1 and 2.
- (3) After paragraph 3 insert—
- “3A (1) The Secretary of State may designate any element of the remuneration paid by Primary Care Trusts to persons providing pharmaceutical services or local pharmaceutical services which is not remuneration referable to the cost of drugs.

- (2) If an element is so designated, the Secretary of State must for each financial year apportion among all Primary Care Trusts, in such manner as the Secretary of State considers appropriate, the total of the remuneration referable to that element which is paid by each Primary Care Trust in that year.
- (3) A Primary Care Trust is accountable in any year for remuneration referable to that element to the extent (and only to the extent) that such remuneration is apportioned to it under sub-paragraph (2).
- (4) Where in any financial year any remuneration referable to that element for which a Primary Care Trust is accountable is paid by another Primary Care Trust, the remuneration must be treated (for the purposes of sections 228 and 229) as having been paid by the first Primary Care Trust in the performance of its functions.
- (5) The Secretary of State may, in particular, exercise the discretion under sub-paragraph (2)—
- (a) so that any apportionment relating to services associated with the provision of drugs reflects, in the case of each Primary Care Trust, the financial consequences of orders for the provision of drugs, being orders which in the opinion of the Secretary of State are attributable to the Primary Care Trust in question,
  - (b) by reference to averaged or estimated amounts.
- (6) The Secretary of State may make provision for any remuneration referable to an element designated under sub-paragraph (1) which is paid by a Primary Care Trust other than the Primary Care Trust which is accountable for the payment to be reimbursed in such manner as the Secretary of State may determine.”
- (4) In paragraph 4(1)—
- (a) for the definition of “designated” substitute—
 

““designate” means designate in writing (and different designations may be made for different purposes),”
  - (b) omit the definition of “pharmaceutical services”, and
  - (c) in the definition of “remuneration referable to the cost of drugs”, omit the words “except in paragraph 1(2)(b) and”.
- (5) After paragraph 4(3) insert—
- “(4) If the Secretary of State does not treat such remuneration, so far as it is so met by an NHS trust or NHS foundation trust, as remuneration referable to the cost of drugs, the Secretary of State may treat it as remuneration falling within paragraph 3A(1).”

## PART 2

### WALES

- 6 In this Part of this Schedule “the NHS (Wales) Act” means the National Health Service (Wales) Act 2006 (c. 42).

- 7 In section 174 of the NHS (Wales) Act (public funding of Local Health Boards) omit “and pharmaceutical” in—
- (a) subsection (1)(a),
  - (b) subsection (2)(a) and (b), and
  - (c) subsection (12).
- 8 In section 175 of the NHS (Wales) Act (financial duties of Local Health Boards), in subsection (1) omit “and pharmaceutical”.
- 9 In section 176 of the NHS (Wales) Act (resource limits for Local Health Boards) omit “and pharmaceutical” in—
- (a) subsection (2), and
  - (b) subsection (3)(b).
- 10 (1) Schedule 8 to the NHS (Wales) Act (further provision about expenditure of Local Health Boards) is amended as follows.
- (2) In paragraph 1(1)—
- (a) omit “and pharmaceutical”, and
  - (b) in paragraph (a) for the words from “services under” to “pharmaceutical services)” substitute “general ophthalmic services”.
- (3) In paragraph 1(2)—
- (a) in paragraph (a) for “services as mentioned in sub-paragraph (1)(a)” substitute “general ophthalmic services”, and
  - (b) omit paragraphs (b) and (c).
- (4) Accordingly, in the heading immediately preceding paragraph 1, omit “and pharmaceutical”.
- (5) For paragraph 2 substitute—
- “2 In section 174 “main expenditure”, in relation to a Local Health Board and the year in question, means—
- (a) expenditure of the Local Health Board attributable to the reimbursement in that year of expenses of persons providing general ophthalmic services which are designated expenses incurred in connection with the provision of those services (or in giving instruction in matters relating to those services), and
  - (b) any other expenditure of the Local Health Board attributable to the performance of its functions in that year (other than general ophthalmic services expenditure).”
- (6) After paragraph 3 insert—
- “3A (1) The Welsh Ministers may designate any element of the remuneration paid by Local Health Boards to persons providing pharmaceutical services or local pharmaceutical services which is not remuneration referable to the cost of drugs.
- (2) If an element is so designated, the Welsh Ministers must for each financial year apportion among all Local Health Boards, in such manner as the Welsh Ministers consider appropriate, the total of the remuneration referable to that element which is paid by each Local Health Board in that year.
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*Status: This is the original version (as it was originally enacted).*

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- (3) A Local Health Board is accountable in any year for remuneration referable to that element to the extent (and only to the extent) that such remuneration is apportioned to it under sub-paragraph (2).
- (4) Where in any financial year any remuneration referable to that element for which a Local Health Board is accountable is paid by another Local Health Board, the remuneration must be treated (for the purposes of sections 174 and 175) as having been paid by the first Local Health Board in the performance of its functions.
- (5) The Welsh Ministers may, in particular, exercise their discretion under sub-paragraph (2)—
  - (a) so that any apportionment relating to services associated with the provision of drugs reflects, in the case of each Local Health Board, the financial consequences of orders for the provision of drugs, being orders which in the opinion of the Welsh Ministers are attributable to the Board in question,
  - (b) by reference to averaged or estimated amounts.
- (6) The Welsh Ministers may make provision for any remuneration referable to an element designated under sub-paragraph (1) which is paid by a Local Health Board other than the Board which is accountable for the payment to be reimbursed in such manner as the Welsh Ministers may determine.”
- (7) In paragraph 4(1)—
  - (a) at the end of the definition of “designated” insert “and “designate” must be read accordingly”,
  - (b) omit the definition of “pharmaceutical services”, and
  - (c) in the definition of “remuneration referable to the cost of drugs”, omit the words “except in paragraph 1(2)(b) and”.
- (8) After paragraph 4(3) insert—
  - “(4) If the Welsh Ministers do not treat such remuneration, so far as it is so met by an NHS trust, as remuneration referable to the cost of drugs, they may treat it as remuneration falling within paragraph 3A(1).”