



# Health Services and Public Health Act 1968

## 1968 CHAPTER 46

### PART I

#### AMENDMENTS CONNECTED WITH THE NATIONAL HEALTH SERVICE

##### *Miscellaneous Provisions*

#### **30 Certificates for exemption from prescription charges**

- (1) Regulations made under section 38(3) of the 1946 Act (which authorises regulations providing for the making and recovery of charges in respect of pharmaceutical services) and regulations made under section 1(1) of the National Health Service Act 1952 (which authorises regulations providing for the making and recovery of charges in respect of the supply, as part of hospital and specialist services under Part II of the 1946 Act, of drugs, medicines and appliances) may each provide for the grant, on payment of such sums as may be thereby prescribed, of certificates conferring on the persons to whom the certificates are granted exemption from charges otherwise exigible under the regulations in respect of drugs, medicines and appliances supplied during such period as may be so prescribed ; and different sums may be so prescribed in relation to different periods.
- (2) This section shall have effect in Scotland as if, for the references therein to section 38(3) and Part II of the 1946 Act, there were substituted references respectively to section 40(3) and Part II of the 1947 Act.

#### **31 Power of the Minister to make services available and, in certain circumstances, to provide them otherwise than for purposes of hospital and specialist services**

The Minister may allow persons to make use (on such terms, including terms as to the payment of charges, as he thinks fit) of any services the provision of which is involved in the provision of hospital and specialist services; and he may, in the case

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of services the provision of which is so involved, provide them to an extent greater than that necessitated by the provision of hospital and specialist services if he thinks it expedient so to do in order to allow persons to make use of them.

**32 Power of the Minister to dispose of goods and, in certain circumstances, to produce or manufacture them otherwise than for purposes of hospital and specialist services**

- (1) The Minister may sell or give away, or otherwise dispose of, goods the production or manufacture whereof by him is involved in the provision of hospital and specialist services ; and he may, in the case of goods such as aforesaid which are prescribed for the purposes of this section by regulations made by the Minister, produce or manufacture them to an extent greater than that necessitated by the provision of such services in order that they may be supplied to persons other than those to whom they are supplied by way of the provision of such services (whether or not the first-mentioned persons are engaged in the provision of other services provided by virtue of the 1946 Act).
- (2) This section shall have effect in Scotland as if, for the reference therein to the 1946 Act, there were substituted a reference to the 1947 Act.

**33 Provision of vehicles for persons suffering from physical defect or disability**

- (1) The Minister may provide invalid carriages for persons appearing to him to be suffering from severe physical defect or disability and, at the request of such a person, may provide for him a vehicle other than an invalid carriage.
- (2) The Minister shall have power, in the case of an invalid carriage or other vehicle provided by him for or belonging to any such person as is mentioned in the foregoing subsection, on such terms and subject to such conditions as he may determine.—
  - (a) to adapt the vehicle for the purpose of making it suitable for the circumstances of that person;
  - (b) to maintain and repair the vehicle ;
  - (c) to take out insurance policies relating to the vehicle and pay the duty, if any, with which the vehicle is chargeable under the Vehicles (Excise) Act 1962;
  - (d) to provide a structure for the keeping of the vehicle therein and provide all material and execute all works necessary for the erection of the structure.
- (3) The Minister may, on such terms and subject to such conditions as he may determine, make payments by way of grant towards costs incurred by any such person as is mentioned in subsection (1) above in respect of all or any of the following matters in relation to an invalid carriage or other vehicle provided by the Minister for or belonging to that person, that is to say, the taking of any such action as is referred to in subsection (2) above, the purchase of fuel for the purposes of the vehicle, so far as the cost of the purchase is attributable to duties of excise payable In respect of the fuel, and the taking of instruction in the driving of the vehicle.
- (4) Section 3(2) of the 1946 Act (making and recovering of charges in respect of the supply, as part of hospital and specialist services, of certain appliances and, in certain circumstances, in respect of replacement or repair of appliances supplied as part of such services) shall have effect as if any reference to an appliance included a reference to a vehicle and, in relation to a vehicle, any reference to replacement or repair were

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a reference to replacement thereof or the taking of any such action in relation thereto as is mentioned in subsection (2) above.

- (5) Regulations made by the Minister may provide for any incidental or supplementary matter for which it appears to the Minister necessary or expedient to make provision in connection with the taking of any action under subsection (2) above or the making of any payment under subsection (3) above.
- (6) The provision of vehicles as mentioned in this section and the taking of any such action as is mentioned in subsection (2) above shall, for the purposes of the 1946 Act, be treated as having been included from 5th July 1948 among hospital and specialist services provided under Part II of that Act.
- (7) In this section " invalid carriage " means a mechanically propelled vehicle specially designed and constructed, and not merely adapted, for the use of a person suffering from some physical defect or disability and used solely by such a person.
- (8) This section shall have effect in Scotland as if, for references therein to the 1946 Act, or any Part or provision thereof, there were substituted respectively references to the 1947 Act and the corresponding Part or provision of that Act.

#### **34 Superannuation of officers of hospitals outside national health service used for providing hospital and specialist services by agreement with Boards of Governors**

- (1) Section 18 of the 1949 Act (which enables officers of a hospital to which the section applies to be admitted to participate in superannuation benefits provided under section 67(1) of the 1946 Act in like manner as officers of Regional Hospital Boards) shall be extended so that the hospitals to which the section applies shall include a hospital (not vested in the Minister) which is used, in pursuance of arrangements made by the governing body of the hospital with the Board of Governors of a teaching hospital, for the provision of hospital and specialist services; and, accordingly, in subsection (4) of the said section 18, after the words " Regional Hospital Board ", there shall be inserted the words " or the Board of Governors of a teaching hospital ".
- (2) This section does not apply to Scotland.

#### **35 Compensation for loss of employment, and c, attributable to re-organisation of provision of hospital services, and c**

- (1) The Minister may make regulations for the payment by him, but subject to such exceptions or conditions as may be prescribed by the regulations, of compensation to, or in respect of, persons who are, or who but for any such service by them as may be so prescribed would be, the holders of any such place, situation or employment as may be so prescribed and who suffer loss of employment or loss or diminution of emoluments which is attributable to—
  - (a) the occurrence, after the coming into operation of this section, of any of the events mentioned in paragraphs (a) to (c) of section 11(9) of the 1946 Act; or
  - (b) the making, after coming into operation of this section, of an order under subsection (2), (3) or (4) of section 31 of that Act, or an order revoking an order made under any of those subsections.
- (2) Different regulations may be made under this section in relation to different classes of persons and different circumstances, and any such regulations may be so framed as to

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have effect as from a date earlier than the making thereof, so however that so much of any regulations as provides that any provision thereof is to have effect as from a date earlier than the making thereof shall not place any person (other than the Minister) in a worse position than he would have been in if the regulations had been so framed as to have effect only as from the date of the making thereof.

- (3) Regulations made under this section may include provision as to the manner in which and the person to whom any claim for compensation is to be made and for the determination of all questions arising under the regulations.
- (4) This section shall have effect in Scotland as if, in paragraph (a) of subsection (1) thereof, for the reference to paragraphs (a) to (c) of section 11(9) of the 1946 Act, there were substituted a reference to paragraphs (a) and (b) of section 11(10) of the 1947 Act, and as if, in paragraph (b) of that subsection, for the reference to section 31 of the 1946 Act, there were substituted a reference to section 32 of the 1947 Act.

### **36 Payment of allowances and remuneration to members of certain bodies established by or under the 1946 Act and members of certain other bodies in England and Wales**

- (1) The Minister may pay—
  - (a) to members of any of the following bodies constituted under the 1946 Act, that is to say—
    - (i) the Central Health Services Council, any standing advisory committee constituted under section 2 of that Act to advise the Minister and that Council, any committee appointed by that Council under paragraph 4 of Schedule 1 to that Act and any sub-committee appointed by any such standing advisory committee under the said paragraph 4 ;
    - (ii) a Regional Hospital Board, Hospital Management Committee, Board of Governors of a teaching hospital and any committee appointed by virtue of paragraph 2(b) of Part IV of Schedule 3 to that Act;
    - (iii) an Executive Council, any joint committee established for the area of two or more such Councils under section 31(4) of that Act, the Dental Estimates Board, and any committee appointed by virtue of paragraph 3(b) of Schedule 5 to that Act or paragraph 6(b) of Schedule 1 to this Act;
    - (iv) the Medical Practices Committee and the Tribunal constituted under section 42 of that Act;
  - (b) to members of a body not so constituted being a body specified in an order made by the Minister as being a body recognised by him to have been formed for the purpose of performing a function connected with the provision of services under the 1946 Act;

such travelling and other allowances, including compensation for loss of remunerative time, as he may, with the approval of the Treasury, from time to time determine.

- (2) The Minister may pay to members of any of the following bodies, that is to say, the Dental Estimates Board, the Medical Practices Committee, the said Tribunal, and any other body constituted under or by virtue of Part IV of the 1946 Act, being a body specified in an order made for the purposes of this subsection, with the approval of the Treasury, by the Minister, such remuneration as he may, with such approval, from time to time determine.

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- (3) Allowances shall not be paid under subsection (1) above except in connection with the exercise or performance of such powers or duties, in such circumstances, as may, with the approval of the Treasury, be determined by the Minister.
- (4) Any payments made under this section shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Minister may, with the approval of the Treasury, determine.
- (5) This section does not apply to Scotland.

**37 Payment of allowances and remuneration to members of certain bodies established by or under the 1947 Act and members of certain other bodies in Scotland**

- (1) The Minister may pay—
  - (a) to members of any of the following bodies constituted under the 1947 Act, that is to say—
    - (i) the Scottish Health Services Council, any standing advisory committee constituted under section 2 of that Act to advise the Minister and that Council, any committee appointed by that Council under paragraph 4 of Schedule 1 to that Act and any sub-committee appointed by any such standing advisory committee under the said paragraph 4 ;
    - (ii) a Regional Hospital Board, a Board of Management and any committee appointed by virtue of paragraph 2(b) of Part IV of Schedule 4 to that Act;
    - (iii) an Executive Council, any joint committee established for the area of two or more such Councils under section 32(4) of that Act, the Scottish Dental Estimates Board, and any committee appointed by virtue of paragraph 4(b) of Schedule 6 to that Act;
    - (iv) the Scottish Medical Practices Committee and the Tribunal constituted under section 43 of that Act;
  - (b) to members of a body not so constituted, being a body specified in an order made by the Minister as being a body recognised by him to have been formed for the purpose of performing a function connected with the provision of services under the 1947 Act;such travelling and other allowances, including compensation for loss of remunerative time, as he may, with the approval of the Treasury, from time to time determine.
- (2) The Minister may pay to members of any of the following bodies, that is to say, the Scottish Dental Estimates Board, the Scottish Medical Practices Committee, the said Tribunal, and any other body constituted under or by virtue of Part IV of the 1947 Act, being a body specified in an order made for the purposes of this subsection, with the approval of the Treasury, by the Minister, such remuneration as he may, with such approval, from time to time determine.
- (3) Allowances shall not be paid under subsection (1) above except in connection with the performance of such powers or duties, in such circumstances, as may, with the approval of the Treasury, be determined by the Minister.

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- (4) Any payments made under this section shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Minister may, with the approval of the Treasury, determine.
- (5) This section applies to Scotland only.

**38 Power to confer right of appeal from determination of committee as to medical practitioner's qualifications**

- (1) The power conferred by section 41 of the 1946 Act to prescribe the qualifications to be possessed by a medical practitioner shall include power to confer on a person who is dissatisfied with the determination of a committee to whom, in pursuance of regulations made in exercise of the power so conferred, he is required to show that he possesses qualifications, a right of appeal to a committee appointed by the Minister, and to make provision for any matter for which it appears to the Minister to be requisite or expedient to make provision in consequence of the conferring of that right.
- (2) Section 21(1) of the 1949 Act (removal of doubts as to powers to prescribe qualifications of medical practitioners) shall have effect with the omission of the words " or to the satisfaction of the Minister acting on the advice of such a committee ".
- (3) This section shall have effect in Scotland as if, in subsection (1) thereof, for the reference to section 41 of the 1946 Act there were substituted a reference to section 42 of the 1947 Act; and as if, in subsection (2) thereof, for the words " the Minister " there were substituted the words " the Secretary of State ".

**39 Power to recover cost of replacing appliances where the replacement is necessitated by lack of care**

- (1) Paragraph (b) of section 3(2) of the 1946 Act (which includes amongst the matters in respect of which charges may be imposed by regulations of the Minister, the replacement or repair of an appliance supplied as part of the hospital and specialist services if it is determined in manner prescribed by the regulations that the replacement or repair is necessitated by lack of care on the part of the person supplied) shall be amended by the substitution, for the words " lack of care on the part of the person supplied ", of the words " an act or omission of the person supplied or (if it occurred when he was under sixteen years of age) of his or of the person having charge of him when it occurred," , and paragraph (b) of section 44(1) of that Act (which makes similar provision with respect to dental appliances supplied as part of general dental services and optical appliances supplied as part of general ophthalmic services) shall be similarly amended.
- (2) This section shall have effect in Scotland as if, for the references therein to section 3(2) and section 44(1) of the 1946 Act, there were substituted references respectively to section 3(3) and section 45(1) of the 1947 Act.

**40 Accommodation for persons displaced in course of development for purposes of the Acts relating to the national health service or to mental health**

- (1) Where the carrying out of a scheme for the provision by the Minister in pursuance of the 1946 Act or Part VII of the Mental Health Act 1959 of hospital accommodation or other facilities will involve the displacement from any premises of persons residing therein, the Minister may make arrangements with one or more of the following

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bodies, that is to say, an authority who are a local authority for the purposes of the Housing Act 1957, a housing association within the meaning of that Act, a housing trust within the meaning of that Act, a development corporation established under the New Towns Act 1965 and the Commission for the New Towns, for securing, in so far as it appears to him that there is no other residential accommodation suitable for the reasonable requirements of those persons available on reasonable terms, the provision of residential accommodation in advance of the displacements from time to time becoming necessary as the carrying out of the scheme proceeds.

- (2) Arrangements made under the foregoing subsection may include provision for the making by the Minister to the body with whom the arrangements are made of payments of such amounts and for such purposes as may be approved by the Treasury.
- (3) This section shall have effect in Scotland as if, in subsection (1) thereof,
  - (a) for the references to the 1946 Act, Part VII of the Mental Health Act 1959, the Housing Act 1957 and the New Towns Act 1965, there were substituted references respectively to the 1947 Act, Part VII of the Mental Health (Scotland) Act 1960, the Housing (Scotland) Act 1966 and the New Towns (Scotland) Act 1968;
  - (b) the reference to a housing association within the meaning of the said Act of 1966 included a reference to the Scottish Special Housing Association;
  - (c) for the words " a housing trust within the meaning of that Act", there were substituted the words " a housing trust within the meaning of the Housing (Repairs and Rents) (Scotland) Act 1954 ; and
  - (d) the reference to the Commission for the New Towns were omitted.

#### **41 Provision of practice accommodation in Scotland**

- (1) The power conferred on Executive Councils by section 64(2) of the 1947 Act to provide, if authorised by the Minister in certain circumstances, residential accommodation for medical practitioners providing services under Part IV of that Act shall include power to provide, if so authorised in like circumstances, practice accommodation for—
  - (a) medical practitioners providing such services as aforesaid, and
  - (b) persons providing such other services under the National Health (Scotland) Acts 1947 to 1967 or under this Part of this Act as may be so authorised either generally or in special cases.
- (2) In this section " practice accommodation " in relation to a person providing services of any kind means accommodation suitable for the provision of services of that kind.
- (3) This section applies to Scotland only.

#### **42 Orders and regulations**

- (1) Any power conferred by this Part of this Act to make an order or regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Any power conferred by this Part of this Act to make regulations shall, if the Treasury so direct, not be exercisable except in conjunction with the Treasury.

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- (3) Any power conferred by this Part of this Act to make an order shall include power exercisable in like manner to vary or revoke an order.

**43 Interpretation of Part I, and application of provisions of the 1946 and 1947 Acts**

- (1) In this Part of this Act, " the 1946 Act" means the National Health Service Act 1946 as amended by any subsequent enactment, " the 1947 Act" means the National Health Service (Scotland) Act 1947 as amended by any subsequent enactment and "the 1949 Act" means the National Health Service (Amendment) Act 1949.
- (2) In this Part of this Act, in its application to England and Wales, the expression " the Minister " means the Minister of Health, and any other expression to which a meaning is assigned by the 1946 Act for the purposes of that Act has that meaning also for the purposes of this Part of this Act in its application to England and Wales.
- (3) In this Part of this Act, in its application to Scotland, the expression "the Minister" means the Secretary of State, and any other expression to which a meaning is assigned by the 1947 Act for the purposes of that Act has that meaning also for the purposes of this Part of this Act in its application to Scotland.
- (4) In the provisions of the 1946 Act specified in Part I of Schedule 2 to this Act references to that Act shall include references to this Part of this Act in its application to England and Wales, and in section 65 (residential accommodation for staff) of that Act the reference to Part III thereof shall include a reference to this Part of this Act in its application as aforesaid ; and in the provisions of the 1947 Act specified in Part II of that Schedule the references to that Act shall include references to this Part of this Act in its application to Scotland, and in section 64 (residential accommodation for staff) of that Act, the reference to Part III thereof shall include a reference to this Part of this Act in such last mentioned application thereof.