



# National Health Service Act 1977

## 1977 CHAPTER 49

### PART I

#### SERVICES AND ADMINISTRATION

##### *Functions of the Secretary of State*

#### **1 Secretary of State's duty as to health service.**

- (1) It is the Secretary of State's duty to continue the promotion in England and Wales of a comprehensive health service designed to secure improvement—
- (a) in the physical and mental health of the people of those countries, and
  - (b) in the prevention, diagnosis and treatment of illness,
- and for that purpose to provide or secure the effective provision of services in accordance with this Act.
- (2) The services so provided shall be free of charge except in so far as the making and recovery of charges is expressly provided for by or under any enactment, whenever passed.

#### **2 Secretary of State's general power as to services.**

Without prejudice to the Secretary of State's powers apart from this section, he has power—

- (a) to provide such services as he considers appropriate for the purpose of discharging any duty imposed on him by this Act; and
- (b) to do any other thing whatsoever which is calculated to facilitate, or is conducive or incidental to, the discharge of such a duty.

This section is subject to section 3(3) below.

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#### Modifications etc. (not altering text)

- C1** S. 2: transfer of functions (E.) (1.4.2001) by S.I. 2001/747, regs. 2(1), 3, 4, Sch. 1
- C2** S. 2: functions of local authority not to be responsibility of an executive of the authority (1.4.2000) by virtue of S.I.2000/695, reg. 3(2)(a), Sch. 1

### 3 Services generally.

- (1) It is the Secretary of State's duty to provide throughout England and Wales, to such extent as he considers necessary to meet all reasonable requirements—
- (a) hospital accommodation;
  - (b) other accommodation for the purpose of any service provided under this Act;
  - (c) medical, dental, nursing and ambulance services;
  - (d) such other facilities for the care of expectant and nursing mothers and young children as he considers are appropriate as part of the health service;
  - (e) such facilities for the prevention of illness, the care of persons suffering from illness and the after-care of persons who have suffered from illness as he considers are appropriate as part of the health service;
  - (f) such other services as are required for the diagnosis and treatment of illness.
- (2) Where any hospital provided by the Secretary of State in accordance with this Act was a voluntary hospital transferred by virtue of the <sup>M1</sup>National Health Service Act 1946, and—
- (a) the character and associations of that hospital before its transfer were such as to link it with a particular religious denomination, then
  - (b) regard shall be had in the general administration of the hospital to the preservation of that character and those associations.
- (3) Nothing in section 2 above or in this section affects the provisions of Part II of this Act (which relates to arrangements with practitioners for the provision of medical, dental, ophthalmic and pharmaceutical services).

#### Modifications etc. (not altering text)

- C3** S. 3(1)(a)-(f): functions of local authority not to be responsibility of an executive of the authority (1.4.2000) by virtue of S.I. 2000/695, reg. 3(2)(a), Sch. 1
- C4** S. 3(1)(a)-(f): transfer of functions (E.) (1.4.2001) by S.I. 2001/747, regs. 2(1), 3, 4, Sch. 1

#### Marginal Citations

- M1** 1946 c. 81.

### <sup>F14</sup> High security psychiatric services.

- (1) The duty imposed on the Secretary of State by section 1 above to provide services for the purposes of the health service includes a duty to provide hospital accommodation and services for persons who are liable to be detained under the <sup>M2</sup>Mental Health Act 1983 and in his opinion require treatment under conditions of high security on account of their dangerous, violent or criminal propensities.

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- (2) The hospital accommodation and services mentioned in subsection (1) above are in this Act referred to as "high security psychiatric services".
- (3) High security psychiatric services shall be provided only at hospital premises at which services are provided only for the persons mentioned in subsection (1) above; and for this purpose "hospital premises" means—
  - (a) a hospital; or
  - (b) any part of a hospital which is treated as a separate unit.]

#### Textual Amendments

**F1** S. 4 substituted (1.4.2000 for E.W.) by 1999 c. 8, s. 41(1); S.I. 1999/2793, art. 2(3)(a), Sch. 3

#### Modifications etc. (not altering text)

**C5** S. 4: transfer of functions (E.) (1.4.2001) by S.I. 2001/747, regs. 2(1), 3, 4, Sch. 1

#### Marginal Citations

**M2** 1983 c.20.

## 5 Other services.

- (1) It is the Secretary of State's duty—
  - (a) to provide for the medical . . . <sup>F2</sup> inspection at appropriate intervals of pupils in attendance at schools maintained by local education authorities <sup>F3</sup> . . . and for the medical . . . <sup>F2</sup> treatment of such pupils . . . <sup>F4</sup>;
  - (b) to arrange, to such extent as he considers necessary to meet all reasonable requirements in England and Wales, for the giving of advice on contraception, the medical examination of persons seeking advice on contraception, the treatment of such persons and the supply of contraceptive substances and appliances.

[<sup>F5</sup>(1A) It is also the Secretary of State's duty to provide, to such extent as he considers necessary to meet all reasonable requirements—

- (a) for the dental inspection of pupils in attendance at schools maintained by local education authorities <sup>F3</sup> . . .;
- (b) for the dental treatment of such pupils; and
- (c) for the education of such pupils in dental health.

(1B) Schedule 1 to this Act shall have effect.]

- (2) The Secretary of State may—
  - (a) 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 (and the additional provisions set out in Schedule 2 to this Act have effect in relation to this paragraph);
  - (b) arrange to provide accommodation and treatment outside Great Britain for persons suffering from respiratory tuberculosis;
  - (c) provide a microbiological service, which may include the provision of laboratories, for the control of the spread of infectious diseases [<sup>F6</sup>and carry

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on such other activities as in his opinion can conveniently be carried on in conjunction with that service];

- (d) conduct, or assist by grants or otherwise (without prejudice to the general powers and duties conferred on him under the <sup>M5</sup>Ministry of Health Act 1919) any person to conduct, research into any matters relating to the causation, prevention, diagnosis or treatment of illness, and into any such other matters connected with any service provided under this Act as he considers appropriate.

[<sup>F7</sup>(2A) Charges may be made for service or materials supplied by virtue of paragraph (c) of subsection (2) above; and the powers conferred by that paragraph may be exercised both for the purposes of the health service and for other purposes.]

[<sup>F8</sup>(2B) The Secretary of State's functions may be performed outside England and Wales, in so far as they relate—

- (a) to holidays for patients;  
 (b) to the transfer of patients to or from Scotland, Northern Ireland, the Isle of Man or the Channel Islands; or  
 (c) to the return of patients who have received treatment in England and Wales to countries or territories outside the British Islands.]

(3) ..... <sup>F9</sup>

(4) The Public Health Laboratory Service Board continues in being for the purpose of exercising such functions with respect to the [<sup>F10</sup> powers conferred by paragraph (c) of subsection (2) above as the Secretary of State may determine].

(5) The Board shall continue to be constituted in accordance with Part I of Schedule 3 to this Act, and the additional provisions set out in Part II of that Schedule have effect in relation to the Board.

#### Textual Amendments

- F2** Words repealed by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), ss. 10(1)(a), 25(2), **Sch. 3**
- F3** Words in s. 5(1)(a)(1A)(a) repealed (1.9.1999) by 1998 c. 31, s. 140(3), **Sch. 31**; S.I. 1999/2323, art. 2(1), **Sch. 1** (with arts. 3-23)
- F4** Words repealed by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), s. 25(2), **Sch. 3**
- F5** [S. 5\(1A\)\(1B\)](#) inserted by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), s. **10(1)(b)**
- F6** Words substituted by [Public Health Laboratory Service Act 1979 \(c. 23, SIF 113:1\)](#), s. **1(1)**
- F7** [S. 5\(2A\)](#) inserted by [Public Health Laboratory Service Act 1979 \(c. 23, SIF 113:1\)](#), s. **1(2)**
- F8** [S. 5\(2B\)](#) added by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. **9(1)**
- F9** [S. 5\(3\)](#) repealed by [Social Security Act 1988 \(c. 7, SIF 113:1\)](#), s. 16(2), **Sch. 5**
- F10** Words substituted by [Public Health Laboratory Service Act 1979 \(c. 23, SIF 113:1\)](#), s. **1(3)**

#### Modifications etc. (not altering text)

- C6** [S. 5\(1\)-\(1B\)](#) applied (1.4.1994) by S.I. 1994/653, reg. 42(1), **Sch. Pt. I**  
[S. 5\(1\)-\(1B\)](#) applied (9.5.1994) by S.I. 1994/1084, reg. 8(1), **Sch. 2 Pt. I**
- C7** [S. 5\(1\)\(a\)\(b\)\(1A\)](#): transfer of functions (E.) (1.4.2001) by S.I. 2001/747, regs. 2(1), 3, 4, **Sch. 1**
- C8** [S. 5\(2\)\(d\)](#): functions of local authority not to be responsibility of an executive of the authority (1.4.2000) by virtue of S.I. 2000/695, reg. 3(2)(a), **Sch. 1** (as amended (E.) (1.4.2002) by S.I. 2002/555, reg. 3(3))
- C9** [S. 5\(2\)\(b\)\(d\)](#): transfer of functions (E.) (1.4.2001) by S.I. 2001/747, regs. 2(1), 3, 4, **Sch. 1**
- C10** [S. 5\(2B\)](#) modified (23.5.1991) by S.I. 1991/1236, art. 2(b) (which S.I. revoked S.I. 1991/577)

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### Marginal Citations

M3 1919 c. 21(57).

## Central Health Services Council and Medical Practices Committee

### 6 <sup>X1</sup>Central Health Services Council, and standing advisory committees.

- (1) ..... <sup>F11</sup>
- (3) The Secretary of State may, . . . <sup>F12</sup> by order constitute standing advisory committees for the purpose of advising him . . . <sup>F12</sup> on such of the services provided under this Act as may be specified in the order [<sup>F13</sup> and the provisions of Schedule 4 to this Act shall have effect in relation to such committees].
- [<sup>F14</sup>(4) Any committee so constituted shall consist of persons appointed by the Secretary of State after consultation with such representative organisations as he recognises for the purpose.]
- (5) It shall be the duty of a committee so constituted to advise the Secretary of State and . . . <sup>F12</sup>
- (a) upon such matters relating to the services with which the committee are concerned as they think fit, and
- (b) upon any questions referred to them by the Secretary of State . . . <sup>F12</sup> relating to those services,
- ..... <sup>F12</sup>
- (6) ..... <sup>F11</sup>

### Editorial Information

X1 Unreliable marginal note

### Textual Amendments

**F11** Ss. 6(1)(2)(6)(7), 30(2), 59, 60, 67-71, 73-76, Sch. 4 para. 1, Sch. 15 paras. 11, 41, 68-70 repealed by [Health Services Act 1980 \(c. 53, SIF 113:2\)](#), [Sch. 7](#)

**F12** Words repealed by [Health Services Act 1980 \(c. 53, SIF 113:2\)](#), [Sch. 7](#)

**F13** Words added by [Health Services Act 1980 \(c. 53, SIF 113:2\)](#), [s. 8\(3\)\(a\)](#)

**F14** [S. 6\(4\)](#) substituted by [Health Services Act 1980 \(c. 53, SIF 113:2\)](#), [s. 8\(3\)\(b\)](#)

### 7 Medical Practices Committee.

- (1) [<sup>F15</sup>Subject to subsection (1A) below] the Medical Practices Committee—
- (a) shall consist of a chairman and eight other members appointed by the Secretary of State after consultation with such organisations as he may recognise as representative of the medical profession; and
- (b) [<sup>F16</sup>five of the] members shall be medical practitioners, and [<sup>F17</sup>four] at least of those [<sup>F17</sup>five] shall be actively engaged in medical practice.

[<sup>F18</sup>(1A) The Secretary of State may by order make such modifications as he considers appropriate of paragraphs (a) and (b) of subsection (1) above.]

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- (2) The Secretary of State may—
- (a) make regulations as to the appointment, tenure of office and vacation of office of the members of the Committee; and
  - (b) provide the services of such officers as the Committee may require.
- (3) The Committee's proceedings shall not be invalidated by any vacancy in its membership or by any defect in a member's appointment or qualification.
- [<sup>F19</sup>(4) After consulting the Medical Practices Committee, the Secretary of State may give the Committee directions with respect to the exercise of its functions; and it shall be the duty of the Committee to comply with any such directions.]

#### Textual Amendments

- F15** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 22(2)
- F16** Words in s. 7(1)(b) substituted (1.4.1994) by S.I. 1995/545, art. 2
- F17** Words in s. 7(1)(b) substituted (21.4.1993) by S.I. 1993/887, art. 2
- F18** S. 7(1A) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 22(3)
- F19** S. 7(4) added by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 22(4)

#### Local administration

#### [<sup>F20</sup>8] Health Authorities.

- (1) It is the duty of the Secretary of State by order to establish, in accordance with Part I of Schedule 5 to this Act, authorities to be called Health Authorities.
- (2) Subject to subsection (4) below, a Health Authority shall [<sup>F21</sup>be established] for such area of England or of Wales as is specified in the order establishing the authority [<sup>F22</sup>or, if the order so provides, for the whole of Wales].
- (3) A Health Authority shall be known by such name, in addition to the title "Health Authority", as—
- (a) appears to the Secretary of State appropriately to signify the connection of the Health Authority with the area for which the authority are to [<sup>F23</sup>be established]; and
  - (b) is specified in the order establishing the authority.
- (4) The Secretary of State may by order—
- (a) vary a Health Authority's area;
  - (b) abolish a Health Authority; <sup>F24</sup> . . .
  - (c) establish a new Health Authority.
  - [<sup>F25</sup>(d) change the name by which a Health Authority are known]
- (5) The Secretary of State shall act under this section so as to secure—
- (a) that the areas for which Health Authorities are at any time [<sup>F26</sup>established] together comprise the whole of England and Wales; but
  - (b) that no area for which a Health Authority [<sup>F27</sup>are established] extends both into England and into Wales.

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- (6) The power to make incidental or supplemental provision conferred by section 126(4) below includes in particular, in its application to orders made under this section, power to make provision for the transfer of staff, property, rights and liabilities.]

#### Textual Amendments

- F20** S. 8 substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) for ss. 8, 10 by 1995 c. 17, ss. 1(1)(2), 8(1) (with Sch. 2 para. 6)
- F21** Words in s. 8(2) substituted (1.12.1999 for W., 4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, s. 65(1), Sch. 4 para. 5(a); S.I. 1999/3184, art. 2(2), Sch. 2 (with art. 3); S.I. 1999/2342, art. 2(3), Sch. 2
- F22** Words in s. 8(2) inserted (1.12.1998) by 1998 c. 38, s. 148; S.I. 1998/2789, art. 2
- F23** Words in s. 8(3)(a) substituted (1.12.1999 for W., 4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, s. 65(1), Sch. 4 para. 5(b); S.I. 1999/3184, art. 2(2), Sch. 2 (with art. 3); S.I. 1999/2342, art. 2(3), Sch. 2
- F24** Word in s. 8(4)(b) repealed (1.4.2000 for E.W. and otherwise *prosp.*) by 1999 c. 8, s. 65(2), Sch. 5; S.I. 2000/1041, art. 2(d), Sch.
- F25** S. 8(4)(d) inserted (1.12.1999 for W., 4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, s. 65(1), Sch. 4 para. 5(c); S.I. 1999/3184, art. 2(2), Sch. 2 (with art. 3); S.I. 1999/2342, art. 2(3), Sch. 2
- F26** Word in s. 8(5)(a) substituted (1.12.1999 for W., 4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, s. 65(1), Sch. 4 para. 5(d)(i); S.I. 1999/3184, art. 2(2), Sch. 2 (with art. 3); S.I. 1999/2342, art. 2(3), Sch. 2
- F27** Words in s. 8(5)(b) substituted (1.12.1999 for W., 4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, s. 65(1), Sch. 4 para. 5(d)(ii); S.I. 1999/3184, art. 2(2), Sch. 2 (with art. 3); S.I. 1999/2342, art. 2(3), Sch. 2

#### Modifications etc. (not altering text)

- C11** S. 8(1)(5)(a) modified (1.12.1998) by 1998 c. 38, s. 27(7)(a); S.I. 1998/2789, art. 2

9 ..... F28

#### Textual Amendments

- F28** S. 9, Sch. 5 Pt. I para. 4, Sch. 8 paras. 1(2), 2(5), 3(2), repealed by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), ss. 13, 30, Sch. 10 Pt. I

## 11 [F32]Special Health Authorities.]

[F33](1) The Secretary of State may by order establish special bodies for the purpose of exercising any functions which may be conferred on them by or under this Act.]

(2) The Secretary of State may, subject to the provisions of Part III of Schedule 5 to this Act, make such further provision relating to that body as he thinks fit.

(3) A body established in pursuance of this section shall (without prejudice to the power conferred by subsection (4) below) allocate a particular name to the body be called a [F34]Special Health Authorities].

(4) Without prejudice to the generality of the power conferred by this section to make an order (or of section 126(4) below), that order may in particular contain provisions as to—

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- (a) the membership of the body established by the order;
  - (b) the transfer to the body of officers, property, rights and liabilities; and
  - (c) the name by which the body is to be known.
- (5) It is the Secretary of State’s duty before he makes such an order to consult with respect to the order such bodies as he may recognise as representing officers who in his opinion are likely to be transferred or affected by transfers in pursuance of the order.

**Textual Amendments**

**F32** S. 11 sidenote substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. I para. 2(c)** (with Sch. 2 para. 6)

**F33** S. 11(1) substituted (1.9.1999 for E. and 1.12.1999 for W.) by 1999 c. 8, s. 65(1), **Sch. 4 para. 6**; S.I. 1999/2342, art. 2(1), **Sch. 1**; S.I. 1999/3184, art. 2(2), **Sch. 2** (with art. 3)

**F34** Words in s. 11(3) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. I para. 2(b)** (with Sch. 2 para. 6)

**12 Supplementary provisions for ss. 8 <sup>F35</sup>and] 11.**

<sup>F36</sup>(1) . . . . .

[<sup>F37</sup>(2)] The provisions of Part III of Schedule 5 to this Act have effect, so far as applicable, in relation to—

- [<sup>F38</sup>(a) Health Authorities established under section 8 above; and
- (b) any Special Health Authority established under section 11 above.]

**Textual Amendments**

**F35** Word in s. 12 sidenote substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. I para. 3(c)** (with Sch. 2 para. 6)

**F36** S. 12(1) omitted (4.1.2000 for E. and otherwise prosp.) and repealed (prosp.) by 1999 c. 8, s. 65, Sch. 4 para. 7, **Sch. 5**; S.I. 1999/2342, art. 2(3), **Sch. 2**

**F37** S. 12 renumbered as s. 12(2) (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. I para. 3** (with Sch. 2 para. 6)

**F38** S. 12(2)(a)(b) (as so renumbered) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) for s. 12(2)(a)-(c) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. I para. 3(b)** (with Sch. 2 para. 6)

**<sup>F39</sup>13 Secretary of State’s directions.**

- (1) The Secretary of State may direct a [<sup>F40</sup>Health Authority or Special Health Authority] to exercise on his behalf such of his functions relating to the health service as are specified in the directions, and <sup>F41</sup>. . . it shall be the duty of the [<sup>F42</sup>Health Authority or Special Health Authority] to comply with the directions.
- (2) The Secretary of State’s functions under subsection (1) above—
  - (a) include any of his functions under enactments relating to mental health and nursing homes, <sup>F43</sup>. . .
  - (b) . . . . .



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**Textual Amendments**

- F39** S. 13 ceased to have effect (1.9.1999 for E. and 1.12.1999 for W.) by 1999 c. 8, ss. 12(5), 65, **Sch. 5**; S.I. 1999/2342, art. 2(1), **Sch. 1**; S.I. 1999/3184, art. 2(2), **Sch. 2** (with art. 3); S.I. 2000/1041, art. 2(d), **Sch.**
- F40** Words in s. 13(1) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. I para. 4(a)(i)** (with **Sch. 2 para. 6**)
- F41** Words in s. 13(1) omitted (28.6.1995 for specified purposes and otherwise 1.4.1996) and repealed (1.4.1996) by 1995 c. 17, ss. 2(1)(3), 5(1)(2), 8(1), **Sch. 1 Pt. I para. 4(a)(ii)**, **Sch. 3** (with **Sch. 2 paras. 6, 16**)
- F42** Words in s. 13(1) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. I para. 4(a)(iii)** (with **Sch. 2 para. 6**)
- F43** S. 13(2)(b) and preceding word omitted (28.6.1995 for specified purposes and otherwise 1.4.1996) and repealed (1.4.1996) by 1995 c. 17, ss. 2(1)(3), 5(1)(2), 8(1), **Sch. 1 Pt. I para. 4(b)**, **Sch. 3** (with **Sch. 2 paras. 6, 16**)

<sup>F44</sup>14 .....

**Textual Amendments**

- F44** S. 14 omitted (28.6.1995 for specified purposes and otherwise 1.4.1996) and repealed (1.4.1996) by 1995 c. 17, ss. 2(1)(3), 5, 8(1), **Sch. 1 Pt. I para. 5**, **Sch. 3** (with **Sch. 2 paras. 6, 16**)

**15** [<sup>F45</sup>**Duty of Health Authority in relation to family health services.**]

- (1) It is the duty of [<sup>F46</sup>each Health Authority, in accordance with regulations]—
  - [<sup>F47</sup>(a) to administer the arrangements made in pursuance of this Act for the provision of general medical services, general dental services, general ophthalmic services and pharmaceutical services for their [<sup>F48</sup>area];]
  - (b) to perform such [<sup>F49</sup>management and] other functions relating to those services as may be prescribed.

..... <sup>F50</sup>

[<sup>F51</sup>(1ZA) It is the duty of each Health Authority, in accordance with regulations, to perform such functions in relation to section 28C arrangements as may be prescribed.

(1ZB) Regulations under subsection (1ZA) may, in particular—

- (a) prescribe functions in relation to training;
- (b) provide for appeals to the Secretary of State or a prescribed body in relation to functions prescribed by the regulations.]

<sup>F52</sup>(1A) .....

[<sup>F53</sup>In relation to a Part II medical practitioner—

- <sup>F54</sup>(1B) (a) whose name is included in the medical list of only one Health Authority, and
- (b) who practises on his own or in partnership with others all of whom are Part II medical practitioners whose names are included only in that Authority's medical list,

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any reference in this Act or the <sup>M4</sup>National Health Service and Community Care Act 1990 to the relevant Health Authority is to be construed as a reference to that Authority.

(1BA) In relation to a medical practitioner who is not within subsection (1B), any reference in this Act or the National Health Service and Community Care Act 1990 to the relevant Health Authority is to be construed as a reference to the Authority in whose area most of the practice patients live.]

[ In relation to the operation of a fund-holding practice by medical practitioners the <sup>F55</sup>(1C) relevant Health Authority in respect of one or more of whom would (apart from this subsection) be different from that in respect of the other or others, the relevant Health Authority for each of them shall be determined for the purposes of the application of any provision relating to fund-holding practices as if they were all practising in a single partnership.]

[ In this section—  
<sup>F56</sup>(1D) ”Part II medical practitioner” means a medical practitioner who provides general medical services under Part II and does not perform personal medical services under section 28C arrangements; and

”practice patient” means—

- (a) in relation to a medical practitioner who practises otherwise than in partnership, an individual who is on that practitioner’s list of patients (or, if that practitioner and one or more other medical practitioners together have a single list of patients in connection with section 28C arrangements, an individual who is on that single list);
- (b) in relation to a medical practitioner who is one of two or more practitioners who practise in partnership with each other, an individual who is on the list of patients of any of those practitioners (or, if any of those practitioners together have a single list of patients in connection with section 28C arrangements, an individual who is on that single list).]]

(2) ..... <sup>F57</sup>

#### Textual Amendments

- F45** S. 15 sidenote substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. I para. 6(e)** (with Sch. 2 para. 6)
- F46** Words in s. 15(1) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. I para. 6(a)(i)** (with Sch. 2 para. 6)
- F47** S. 15(1)(a) substituted by Health and Social Security Act 1984 (c. 48, SIF 113:1), **s. 5(2)**
- F48** Words in s. 15(1)(a) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. I para. 6(a)(ii)** (with Sch. 2 para. 6)
- F49** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 12(1)(b)**
- F50** Words repealed by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 24, **Sch. 8 Pt. I**
- F51** S. 15(1ZA)-(1ZB) inserted (1.4.1998) by 1997 c. 46, s. 41(10)(11), **Sch. 2 Pt. I para. 4(2)**; S.I. 1998/631, art. 2(1)(b), **Sch. 2**
- F52** S. 15(1A) omitted (28.6.1995 for specified purposes and otherwise 1.4.1996) and repealed (1.4.1996) by 1995 c. 17, ss. 2(1)(3), 5(1)(2), 8(1), Sch. 1 Pt. I para. 6(b), **Sch. 3** (with Sch. 2 paras. 6, 16)
- F53** S. 15(1B)-(1D) repealed (1.10.1999 for specified purposes for E., 1.4.2000 for specified purposes for W. and otherwise prosp.) by 1999 c. 8, s. 65, Sch. 4 para. 8, **Sch. 5**; S.I. 1999/2540, art. 2(1), **Sch. 1**; S.I. 2000/1026, art. 2(1), **Sch. 1**; S.I. 2000/1041, art. 2(d), **Sch.**

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- F54** S. 15(1B)(1BA) substituted (1.4.1998) for s. 15(1B) by 1997 c. 46, s. 41(10)(11), **Sch. 2 Pt. I para. 4(3)**; S.I. 1998/631, art. 2(1)(b), **Sch. 2**
- F55** S. 15(1C) inserted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. I para. 6(d)** (with Sch. 2 para. 6)
- F56** S. 15(1D) inserted (1.4.1998) by 1997 c. 46, s. 41(10)(11), **Sch. 2 Pt. I para. 4(4)**; S.I. 1998/631, art. 2(1)(b), **Sch. 2**
- F57** S. 15(2), Sch. 12 para. 2(5) repealed by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 24, **Sch. 8 Pt. I**

**Modifications etc. (not altering text)**

- C12** S. 15(1)(b) modified (1.4.1995) by S.I. 1995/692, **art. 2**

**Marginal Citations**

- M4** 1990 c. 19.

[<sup>F58</sup>**16** **Exercise of functions by Health Authorities and Special Health Authorities.**

- (1) This subsection applies to functions which are exercisable by a Health Authority under or by virtue of this Act (including this section), the <sup>M5</sup>National Health Service and Community Care Act 1990 or any prescribed provision of any other Act.
- (2) Regulations may provide for any functions to which subsection (1) above applies to be exercised—
- (a) by another Health Authority,
  - (b) by a Special Health Authority, or
  - (c) jointly with any one or more of the following: Primary Care Trusts and other Health Authorities.
- (3) Regulations may provide for any functions which are exercisable by a Special Health Authority under section 16D below to be exercised—
- (a) by another Special Health Authority, or
  - (b) jointly with one or more other Special Health Authorities.
- (4) Regulations may provide—
- (a) for any functions to which subsection (1) above applies to be exercised, on behalf of the Health Authority by whom they are exercisable, by a committee, sub-committee or officer of the Health Authority,
  - (b) for any functions which, under section 16D below or this section, are exercisable by a Special Health Authority to be exercised, on behalf of that authority, by a committee, sub-committee or officer of the authority,
  - (c) for any functions exercisable jointly under subsection (2)(c) or (3)(b) above to be exercised, on behalf of the health service bodies in question, by a joint committee or joint sub-committee.]

**Textual Amendments**

- F58** S. 16 substituted (1.9.1999 for specified purposes for E., 1.12.1999 for specified purposes for W., 4.1.2000 insofar as not already in force for E. and otherwise prosp.) by 1999 c. 8, s. 65, **Sch. 4 para. 9**; S.I. 1999/2342, art. 2(1)(3), Schs. 1, 2; S.I. 1999/3184, art. 2(2), **Sch. 2** (with art. 3)

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### Marginal Citations

M5 1990 c.19.

## [<sup>F59</sup>16A Primary Care Trusts.

- (1) The Secretary of State may establish bodies to be known as Primary Care Trusts with a view, in particular, to their—
  - (a) providing or arranging for the provision of services under this Part of this Act,
  - (b) exercising functions in relation to the provision of general medical services under Part II of this Act, and
  - (c) providing services in accordance with section 28C arrangements.
- (2) Each Primary Care Trust shall be established by an order made by him (referred to in this Act as a PCT order).
- (3) A Primary Care Trust shall be established for the area specified in its PCT order and shall exercise its functions in accordance with any prohibitions or restrictions in the order.
- (4) If any consultation requirements apply, they must be complied with before a PCT order is made.
- (5) In this section, "consultation requirements" means requirements about consultation contained in regulations (and the regulations must impose requirements where a PCT order establishes a Primary Care Trust).
- (6) Schedule 5A to this Act (which makes further provision about Primary Care Trusts) shall have effect.]

### Textual Amendments

**F59** Ss. 16A, 16B inserted (8.9.1999 for specified purposes for E. and 4.1.2000 insofar as not already in force for E.) by 1999 c. 8, s. 2(1); S.I. 1999/2342, art. 2(2)(a)(3), Sch. 2

### Modifications etc. (not altering text)

**C13** S. 16A extended (19.12.2001 for E.) by 2001 c. 15, ss. 45(5), 70(2) (with ss. 64(9), 65(4)); S.I. 2001/4149, art. 2(a)

## <sup>F60</sup>16B Exercise of functions by Primary Care Trusts.

- (1) This section applies to functions which are exercisable by a Primary Care Trust under or by virtue of this Act (including this section), the <sup>M6</sup>National Health Service and Community Care Act 1990 or any prescribed provision of any other Act.
- (2) Regulations may provide for any functions to which this section applies to be exercised—
  - (a) by another Primary Care Trust,
  - (b) by a Special Health Authority, or
  - (c) jointly with any one or more of the following: Health Authorities, NHS trusts and other Primary Care Trusts.
- (3) Regulations may provide—

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- (a) for any functions to which this section applies to be exercised, on behalf of the Primary Care Trust by whom they are exercisable, by a committee, sub-committee or officer of the trust,
- (b) for any functions which, under this section, are exercisable by a Special Health Authority to be exercised, on behalf of that authority, by a committee, sub-committee or officer of the authority,
- (c) for any functions which, under this section, are exercisable by a Primary Care Trust jointly with one or more Health Authorities or other Primary Care Trusts (but not with any NHS trusts) to be exercised, on behalf of the health service bodies in question, by a joint committee or joint sub-committee.

#### Textual Amendments

**F60** Ss. 16A, 16B inserted (8.9.1999 for specified purposes for E., 4.1.2000 insofar as not already in force for E. and otherwise *prosp.*) by 1999 c. 8, s. 2(1); S.I. 1999/2342, art. 2(2)(a)(3), Sch. 2

#### Marginal Citations

**M6** 1990 c.19

VALID FROM 10/10/2002

### [<sup>F61</sup>16BALocal Health Boards

- (1) The National Assembly for Wales may establish bodies to be known as Local Health Boards with a view, in particular, to their exercising—
  - (a) functions of Health Authorities transferred or to be transferred to the Assembly by order under section 27 of the Government of Wales Act 1998 (reform of Welsh health authorities),
  - (b) other functions of the Assembly relating to the health service.
- (2) Each Local Health Board shall be established by order made by the Assembly (referred to in this Act as an LHB order), and an order may establish more than one Local Health Board.
- (3) A Local Health Board shall be established for the area of Wales specified in its LHB order.
- (4) If any consultation requirements apply, they must be complied with before an LHB order is varied or revoked.
- (5) In this section, “consultation requirements” means requirements about consultation contained in regulations made by the Assembly.
- (6) Schedule 5B to this Act (which makes further provision about Local Health Boards) shall have effect.

#### Textual Amendments

**F61** Ss. 16BA, 16BB, 16BC inserted (10.10.2002 for W.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 6(1), 42(3); S.I. 2002/2532, art. 2

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VALID FROM 10/10/2002

### **16BB Local Health Boards: functions**

- (1) The National Assembly for Wales may direct a Local Health Board to exercise in relation to its area any functions which—
  - (a) were exercised by a Health Authority in relation to any part of the same area, and
  - (b) have been transferred to the Assembly as mentioned in section 16BA(1) above.
- (2) The Assembly may also direct a Local Health Board to exercise in relation to its area such other functions of the Assembly relating to the health service as are specified in the directions.
- (3) The functions which may be specified in directions under this section include functions under enactments relating to mental health and nursing homes.
- (4) The Assembly may give directions to a Local Health Board about its exercise of any functions.
- (5) Directions under subsection (1) above must be given in regulations made by the Assembly; but other directions under this section and directions under section 16BC below may be given in such regulations or by instrument in writing.

#### **Textual Amendments**

**F61** Ss. 16BA, 16BB, 16BC inserted (10.10.2002 for W.) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), [ss. 6\(1\)](#), 42(3); S.I. 2002/2532, [art. 2](#)

VALID FROM 10/10/2002

### **16BC Exercise of functions by Local Health Boards**

- (1) This section applies to functions which are exercisable by a Local Health Board under or by virtue of section 16BB above or this section.
- (2) The Assembly may give directions providing for any functions to which this section applies to be exercised—
  - (a) by another Local Health Board;
  - (b) by a Special Health Authority; or
  - (c) jointly with any one or more of the following: Health Authorities, NHS trusts, Primary Care Trusts and other Local Health Boards.
- (3) Directions given by the Assembly may provide—
  - (a) for any functions to which this section applies to be exercised, on behalf of the Local Health Board by whom they are exercisable, by a committee, sub-committee or officer of the Board,

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- (b) for any functions which, under this section, are exercisable by a Special Health Authority to be exercised, on behalf of that authority, by a committee, sub-committee or officer of the authority,
- (c) for any functions which, under this section, are exercisable by a Local Health Board jointly with one or more Health Authorities or other Local Health Boards (but not with any NHS trusts) to be exercised, on behalf of the health service bodies in question, by a joint committee or joint sub-committee.]

#### Textual Amendments

**F61** Ss. 16BA, 16BB, 16BC inserted (10.10.2002 for W.) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 6(1), 42(3); S.I. 2002/2532, art. 2

### [<sup>F62</sup>16C Advice for Health Authorities and Primary Care Trusts.

- (1) Every Health Authority shall make arrangements with a view to securing that they receive advice appropriate for enabling them effectively to exercise the functions exercisable by them from persons with professional expertise relating to the physical or mental health of individuals.
- (2) This section applies to Primary Care Trusts as it applies to Health Authorities.]

#### Textual Amendments

**F62** S. 16C inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, s. 65, Sch. 4 para. 10; S.I. 1999/2342, art. 2(3)(a), Sch. 2

### [<sup>F63</sup> Directions as to distribution and exercise of functions]

#### Textual Amendments

**F63** Ss. 16D, 17, 17A, 17B and preceding cross-heading substituted (1.9.1999 for specified purposes for E., 1.12.1999 for specified purposes for W., 4.1.2000 insofar as not already in force for E. and otherwise *prosp.*) for s. 17 by 1999 c. 8, s. 12(1); S.I. 1999/3184, art. 2(2), Sch. 2 (with art. 3); S.I. 1999/2342, art. 2(1)(3), Sch. 1, Sch. 2

### [<sup>F64</sup>16D Secretary of State's directions: distribution of functions.

- (1) The Secretary of State may direct a Health Authority or Special Health Authority to exercise any of his functions relating to the health service which are specified in the directions.
- (2) The Secretary of State may direct a Special Health Authority to exercise any functions of a Health Authority or a Primary Care Trust which are specified in the directions.
- (3) The functions which may be specified in directions under this section include functions under enactments relating to mental health and nursing homes.]

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### Textual Amendments

**F64** Ss. 16D, 17, 17A, 17B and preceding cross-heading substituted (1.9.1999 for specified purposes for E., 1.12.1999 for specified purposes for W., 4.1.2000 insofar as not already in force for E. and otherwise *prosp.*) for s. 17 by 1999 c. 8, s. 12(1); S.I. 1999/3184, art. 2(2), Sch. 2 (with art. 3); S.I. 1999/2342, art. 2(1)(3), Sch. 1, Sch. 2

### [<sup>F65</sup>17 Secretary of State's directions: exercise of functions.

- (1) The Secretary of State may give directions to any of the bodies mentioned in subsection (2) below about their exercise of any functions.
- (2) The bodies are—
  - (a) Health Authorities;
  - (b) Special Health Authorities;
  - (c) Primary Care Trusts;
  - (d) NHS trusts.
- (3) The power conferred by subsection (1) above shall not be exercised so as to give any directions which may be given under—
  - (a) section 27, 28A, 41A, 97, 97A or 99 of, or paragraph 10 of Schedule 5 or paragraph 9 of Schedule 5A to, this Act;
  - (b) section 7(3)(ii) of the <sup>M7</sup>Health and Medicines Act 1988 (directions about the exercise of powers for financing the health service); or
  - (c) section 28 of the <sup>M8</sup>Health Act 1999 (plans for improving health etc.).]

### Textual Amendments

**F65** Ss. 16D, 17, 17A, 17B and preceding cross-heading substituted (1.9.1999 for specified purposes for E., 1.12.1999 for specified purposes for W., 4.1.2000 insofar as not already in force for E. and otherwise *prosp.*) for s. 17 by 1999 c. 8, s. 12(1); S.I. 1999/3184, art. 2(2), Sch. 2 (with art. 3); S.I. 1999/2342, art. 2(1)(3), Sch. 1, Sch. 2

### Modifications etc. (not altering text)

**C14** S. 17(3) extended (1.9.1999 for E., 1.12.1999 for W. and otherwise *prosp.*) by 1999 c. 8, s. 12(2); S.I. 1999/2342, art. 2(1), Sch. 1; S.I. 1999/3184, art. 2(2), Sch. 2 (with art. 3) (which amendment falls (*prosp.*) by reason of the repeal of 1999 c. 8, s. 12(2) by 2001 c. 15, s. 67, Sch. 6 Pt. 1)

### Marginal Citations

**M7** 1988 c.49.  
**M8** 1999 c.8.

### [<sup>F66</sup>17A Health Authority's directions: distribution of functions.

- (1) A Health Authority may direct a Primary Care Trust whose area falls within their area to exercise any specified delegable functions.
- (2) A function is a delegable function for the purposes of this section if it is a function exercisable by the Health Authority which is not an excepted function.



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- (3) In subsection (2) above "excepted function" means a function under—
- (a) section 4 above;
  - (b) section 15 above (except in so far as it relates to general medical services);
  - (c) section 44 or 45(1C) to (4) below; or
  - (d) any of the other provisions of Part II of this Act—
    - (i) unless it is a function under section 51, 52 or 53; or
    - (ii) in relation to the remaining provisions of Part II, except in so far as the function relates to general medical services,or a function referred to in section 28EE(1)(a) to (d) below.
- (4) The Secretary of State may direct Health Authorities that specified delegable functions—
- (a) are to be exercisable, or exercisable to (or only to) any specified extent, by Primary Care Trusts; or
  - (b) are not to be exercisable by Primary Care Trusts,
- and that the power under subsection (1) above is to be exercised accordingly.
- (5) In this section "specified" means specified in directions.]

#### Textual Amendments

**F66** Ss. 16D, 17, 17A, 17B and preceding cross-heading substituted (1.9.1999 for specified purposes for E., 1.12.1999 for specified purposes for W., 4.1.2000 insofar as not already in force for E. and otherwise *prosp.*) for s. 17 by 1999 c. 8, s. 12(1); S.I. 1999/3184, art. 2(2), Sch. 2 (with art. 3); S.I. 1999/2342, art. 2(1)(3), Schs. 1, 2

#### Modifications etc. (not altering text)

**C15** S. 17A modified (4.1.2000 for E. and otherwise *prosp.*) by 1997 c. 46, s. 8A(1) (as inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, s. 6(1); S.I. 1999/2342, art. 2(3), Sch. 2)

**C16** S. 17A(1) restricted (1.5.2000) by S.I. 2000/1168, art. 8  
S. 17A(1) restricted (18.2.2000) by S.I. 2000/307, art. 8  
S. 17A(1) restricted (14.8.2000) by S.I. 2000/2154, art. 8  
S. 17A(1) restricted (7.7.2000) by S.I. 2000/1718, art. 8

#### [<sup>F67</sup>17B Health Authority's directions: exercise of functions.

- (1) A Health Authority may give directions to a Primary Care Trust about its exercise of any functions which the authority have directed the trust to exercise under section 17A above.
- (2) Directions under this section have effect subject to any directions given under section 17 above.]

#### Textual Amendments

**F67** Ss. 16D, 17, 17A, 17B and preceding cross-heading substituted (1.9.1999 for specified purposes for E., 1.12.1999 for specified purposes for W., 4.1.2000 insofar as not already in force for E. and otherwise *prosp.*) for s. 17 by 1999 c. 8, s. 12(1); S.I. 1999/3184, art. 2(2), Sch. 2 (with art. 3); S.I. 1999/2342, art. 2(1)(3), Sch. 1, Sch. 2

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*[<sup>F68</sup> Directions and regulations: general]*

**Textual Amendments**

**F68** S. 18: cross-heading, sidenote and subsections (1)-(1B) substituted (1.9.1999 for specified purposes for E., 1.12.1999 for specified purposes for W., 4.1.2000 insofar as not already in force for E. and otherwise *prosp.*) for s. 18 down to the end of subsection (1) by 1999 c. 8, s. 12(3); S.I. 1999/2343, art. 2(1)(3), Schs. 1, 2; S.I. 1999/3184, art. 2(2), Sch. 2 (with art. 3)

**[<sup>F69</sup>18 Directions and regulations under preceding provisions.**

(1) Any directions given by the Secretary of State under section 16D, 17 or 17A above shall be given by regulations or by an instrument in writing.

(1A) But any directions given by him—

- (a) under section 16D above about functions under section 4 above;
- (b) under section 17A(4) above about functions relating to general medical services; or
- (c) under section 16D, 17 or 17A above about functions conferred on the Secretary of State by section 20(1) or (2) below,

shall be given by regulations.

(1B) Directions given by a Health Authority under section 17A or 17B above shall be given by an instrument in writing.]

<sup>F70</sup>(2) . . . . .

(3) Directions given and regulations made under sections [<sup>F71</sup>16 to 17B above] in respect of any function—

- (a) shall not, except in prescribed cases, preclude [<sup>F72</sup>an authority or a] person by whom the function is exercisable apart from the directions or regulations from exercising the function, and
- (b) may in the case of directions given by an instrument in writing be varied or revoked by subsequent directions given in pursuance of those sections and this section (without prejudice to the operation of [<sup>F73</sup>section 14 of the <sup>M9</sup>Interpretation Act 1978] in the case of directions given by regulations),

<sup>F74</sup> . . . . .

**Textual Amendments**

**F69** S. 18: cross-heading, sidenote and subsections (1)-(1B) substituted (1.9.1999 for specified purposes for E., 1.12.1999 for specified purposes for W., 4.1.2000 insofar as not already in force for E. and otherwise *prosp.*) for s. 18 down to the end of subsection (1) by 1999 c. 8, s. 12(3); S.I. 1999/2342, art. 2(1)(3), Schs. 1, 2; S.I. 1999/3184, art. 2(2), Sch. 2 (with art. 3)

**F70** S. 18(2) omitted (28.6.1995 for specified purposes and otherwise 1.4.1996) and repealed (1.4.1996) by 1995 c. 17, ss. 2(1)(3), 5(1)(2), 8(1), Sch. 1 Pt. I para. 9(b), Sch. 3 (with Sch. 2 paras. 6, 16)

**F71** Words in s. 18(3) substituted (1.9.1999 for specified purposes for E., 1.12.1999 for specified purposes for W., 4.1.2000 insofar as not already in force for E. and otherwise *prosp.*) by 1999 c. 8, s. 12(4); S.I. 1999/2343, art. 2(1)(3), Schs. 1, 2; S.I. 1999/3184, art. 2(2), Sch. 2 (with art. 3)

**F72** Words in s. 18(3) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), Sch. 1 Pt. I para. 9(c)(ii) (with Sch. 2 para. 6)

**F73** Words substituted by virtue of Interpretation Act 1978 (c. 30, SIF 115:1), s. 17(2)(a)

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**F74** Words in s. 18(3) repealed (28.6.1995) by 1995 c. 17, ss. 3(8)(10), 5(1), Sch. 3 (with Sch. 2 para. 6s, 16)

#### Marginal Citations

**M9** 1978 c. 30(115:1).

### *[<sup>F75</sup> Primary Care Trusts: further functions*

#### Textual Amendments

**F75** S. 18A and preceding cross-heading inserted (4.1.2000 for specified purposes for E. and otherwise *prosp.*) by 1999 c. 8, s. 5; S.I. 1999/2342, art. 2(3), Sch. 2

### <sup>F76</sup>**18A Provision of services etc.**

- (1) A Primary Care Trust may provide services under an agreement made under section 28C below, and may do so as a member of a qualifying body (within the meaning of section 28D).
- (2) A Primary Care Trust may arrange for the provision by the trust to another health service body of goods or services (including accommodation) which are of the same description as those which, at the time of making the arrangement, the trust has power to provide in carrying out its other functions.
- (3) A Primary Care Trust may provide premises for the use of persons—
  - (a) providing general medical, general dental, general ophthalmic or pharmaceutical services, or
  - (b) performing personal medical or personal dental services under an agreement made under section 28C below,on any terms it thinks fit.
- (4) A Primary Care Trust which manages any hospital may make accommodation or services available there for patients who give undertakings (or for whom undertakings are given) to pay any charges imposed by the trust in respect of the accommodation or services.
- (5) A Primary Care Trust has power to do anything specified in section 7(2) of <sup>M10</sup>the Health and Medicines Act 1988 (provision of goods, services etc.), other than make accommodation or services available for patients at any hospital it manages, for the purpose of making additional income available for improving the health service.
- (6) A Primary Care Trust may only exercise a power conferred by subsection (4) or (5) above—
  - (a) to the extent that its exercise does not to any significant extent interfere with the performance by the trust of its functions or of its obligations under NHS contracts, and
  - (b) in circumstances specified in directions under section 17 above, with the Secretary of State's consent.
- (7) In this section "hospital" means a health service hospital and includes any establishment or facility managed for the purposes of the health service.]

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#### Textual Amendments

**F76** S. 18A and preceding cross-heading inserted (4.1.2000 for specified purposes for E. and otherwise *prosp.*) by 1999 c. 8, s. 5; S.I. 1999/2342, art. 2(3), **Sch. 2**

#### Marginal Citations

**M10** 1988 c.49

*[<sup>F77</sup> Advisory committees for Wales] and Community Health Councils*

#### Textual Amendments

**F77** Words in the cross-heading substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 10(e)** (with Sch. 2 paras. 6, 16)

### 19 [<sup>F78</sup> Advisory committees for Wales].

(1) Where the Secretary of State is satisfied that a committee formed for Wales, <sup>F79</sup> . . . is representative of persons of any of the following categories—

- (a) the medical practitioners, or
- (b) the dental practitioners, or
- (c) the nurses and midwives, or
- (d) the registered pharmacists, or
- (e) the ophthalmic and dispensing opticians,

of Wales <sup>F80</sup> . . . , then it shall be his duty to recognise the committee.

(2) A committee recognised in pursuance of subsection (1) above shall be called—

- (a) the Welsh Medical, Dental, Nursing and Midwifery, Pharmaceutical or Optical Committee, as the case may be;
- <sup>F81</sup>(b) . . . . .

<sup>F82</sup>(3) . . . . .

(4) The Secretary of State's duty under [<sup>F83</sup> subsection (1)] above is subject to paragraph 1 of Schedule 6 to this Act, and that Schedule has effect in relation to a committee recognised in pursuance of this section.

#### Textual Amendments

**F78** Words in the sidenote to s. 19 substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 10 para. 10(e)** (with Sch. 2 paras. 6, 16)

**F79** Words in s. 19(1) repealed (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 5(1)(2), 8(1), **Sch. 1 para. 10(a)(i)**, **Sch. 3** (with Sch. 2 paras. 6, 16)

**F80** Words in s. 19(1) repealed (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 5(1)(2), 8(1), **Sch. 1 para. 10(a)(ii)**, **Sch. 3** (with Sch. 2 paras. 6, 16)

**F81** S. 19(2)(b) repealed (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 5(1)(2), 8(1), **Sch. 1 para. 10(b)**, **Sch. 3** (with Sch. 2 paras. 6, 16)

**F82** S. 19(3) repealed (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 5(1)(2), 8(1), **Sch. 1 para. 10(c)**, **Sch. 3** (with Sch. 2 paras. 6, 16)

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**F83** Words in s. 19(4) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 10(d)** (with Sch. 2 paras. 6, 16)

PROSPECTIVE

### **[<sup>F84</sup>19A Independent advocacy services**

- (1) It is the duty of the Secretary of State to arrange, to such extent as he considers necessary to meet all reasonable requirements, for the provision of independent advocacy services.
- (2) “Independent advocacy services” are services providing assistance (by way of representation or otherwise) to individuals making or intending to make—
  - (a) a complaint under a procedure operated by a health service body or independent provider,
  - (b) a complaint to the Health Service Commissioner for England or the Health Service Commissioner for Wales,
  - (c) a complaint of a prescribed description which relates to the provision of services as part of the health service and—
    - (i) is made under a procedure of a prescribed description, or
    - (ii) gives rise, or may give rise, to proceedings of a prescribed description.
- (3) In subsection (2)—

“health service body” means a body which, under section 2(1) or (2) of the Health Service Commissioners Act 1993, is subject to investigation by the Health Service Commissioner for England or the Health Service Commissioner for Wales;

“independent provider” means a person who, under section 2B(1) or (2) of that Act, is subject to such investigation.
- (4) The Secretary of State may make such other arrangements as he thinks fit for the provision of assistance to individuals in connection with complaints relating to the provision of services as part of the health service.
- (5) In making arrangements under this section the Secretary of State must have regard to the principle that the provision of services under the arrangements should, so far as practicable, be independent of any person who is the subject of a relevant complaint or is involved in investigating or adjudicating on such a complaint.
- (6) The Secretary of State may make payments to any person in pursuance of arrangements under this section.]

#### **Textual Amendments**

**F84** S. 19A inserted (*prosp.*) by 2001 c. 15, ss. 12, 70(2) (with ss. 64(9), 65(4))

## **20 Community Health Councils.**

- (1) It is the Secretary of State’s duty to establish in accordance with this [<sup>F85</sup>section, in the case of the area of each Health Authority, a council for the area, or separate councils

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for such separate parts of the area] as he thinks fit, and such a council shall be called a Community Health Council.

- (2) The Secretary of State—
- (a) may if he thinks fit discharge this duty by establishing a Community Health Council for a district which includes the areas or parts of the areas of two or more [<sup>F86</sup>Health Authorities], but
  - (b) shall be treated as not having discharged that duty unless he secures that there is no part of the area of [<sup>F87</sup>a Health Authority] which is not included in some Community Health Council's district.
- (3) The additional provisions of Schedule 7 to this Act have effect in relation to Community Health Councils.

#### Textual Amendments

**F85** Words in s. 20(1) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 11(a)** (with **Sch. 2 paras. 6, 16**)

**F86** Words in s. 20(2)(a) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 11(b)(i)** (with **Sch. 2 paras. 6, 16**)

**F87** Words in s. 20(2)(b) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 11(b)(ii)** (with **Sch. 2 paras. 6, 16**)

#### Modifications etc. (not altering text)

**C17** S. 20 modified (1.12.1998) by 1998 c. 38, **s. 27(7)(b)** (with ss. 139(2), 141(1), 143(2)); S.I. 1998/2789, **art. 2**

### *Co-operation and assistance*

## 21 Local social services authorities.

- (1) Subject to paragraphs (d) and (e) of section 3(1) above, the services described in Schedule 8 to this Act in relation to—
- (a) care of mothers <sup>F88</sup> . . . ,
  - (b) prevention, care and after-care,
  - (c) home help and laundry facilities,
- are functions exercisable by local social services authorities, and that Schedule has effect accordingly.
- (2) A local social services authority who provide premises, furniture or equipment for any of the purposes of this Act may permit the use of the premises, furniture or equipment—
- (a) by any other local social services authority, or
  - (b) by any of the bodies constituted under this Act, or
  - (c) by a local education authority.

This permission may be on such terms (including terms with respect to the services of any staff employed by the authority giving permission) as may be agreed.

- (3) A local social services authority may provide (or improve or furnish) residential accommodation—

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- (a) for officers employed by them for the purposes of any of their functions as a local social services authority, or
- (b) for officers employed by a voluntary organisation for the purposes of any services provided under this section and Schedule 8.

#### Textual Amendments

**F88** Words in s. 21(1)(a) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch. 15** (with s. 108(6), Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

#### Modifications etc. (not altering text)

**C18** S. 21 restricted (8.1.2003) by Nationality, Immigration and Asylum Act 2002 (c. 41), ss. 54, 162(2), **Sch. 3**; S.I. 2002/2811, **art. 2**, Sch.

## 22 Co-operation between health authorities and local authorities.

[<sup>F89</sup>(1) In exercising their respective functions NHS bodies (on the one hand) and local authorities (on the other) shall co-operate with one another in order to secure and advance the health and welfare of the people of England and Wales.

(1A) In this section “NHS body” means—

- (a) a Health Authority;
- (b) a Special Health Authority;
- (c) a Primary Care Trust; or
- (d) an NHS trust.]

(2) There shall be committees, to be called joint consultative committees, who shall [<sup>F90</sup>advise][<sup>F91</sup>bodies represented on them] on the performance of their duties under subsection (1) above, and on the planning and operation of services of common concern to those authorities. <sup>F92</sup> . . .

[<sup>F93</sup>(3) Except as provided by an order under the following provisions of this section, each joint consultative committee shall represent one or more Health Authorities together with, in the case of each, one or more associated local authorities; and a Health Authority shall be represented together with each of the local authorities associated with that Health Authority in one or other of the committees (but not necessarily the same committee).

(3ZA) For the purposes of subsection (3) above a local authority is associated with a Health Authority if it is a local authority whose area is wholly or partly within the area of the Health Authority.]

[<sup>F94</sup>(3A) It is the Secretary of State’s duty by order to secure as respects each joint consultative committee that it includes additional members appointed in a manner specified in the order by voluntary organisations.]

(4) The Secretary of State shall have power by order to provide for any matter relating to joint consultative committees, and such an order may in particular—

- (a) provide for the way in which the provisions of subsections (2) and (3) above are to be carried out, or provide for varying the arrangements set out in those subsections;

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- (b) provide, where it appears to the Secretary of State appropriate, for [<sup>F95</sup>a Health Authority to be represented on a joint consultative committee together with a local authority none of whose area is within the area of the Health Authority;]
  - (c) afford a choice to any authorities as to the number of joint consultative committees on which they are to be represented, and provide for the case where the authorities cannot agree on the choice;
  - (d) authorise or require a joint consultative committee to appoint any sub-committee or to join with another joint consultative committee or other joint consultative committees in appointing a joint sub-committee;
  - (e) authorise or require the appointment to a joint consultative committee, or to any sub-committee, of persons who are [<sup>F96</sup>neither—
    - (i) members of the authorities represented by the joint consultative committee; nor
    - (ii) appointed by virtue of an order under subsection (3A) above];
  - (f) require the authorities represented on a joint consultative committee to defray the expenses of the committee, and of any sub-committee, in such shares as may be determined by or under the order, and provide for the way in which any dispute between those authorities concerning the expenses is to be resolved; and
  - (g) require those authorities to make reports to the Secretary of State on the work of the joint consultative committee and of any sub-committee.
- (5) Before making an order under this section the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned, and with any local authority with whom consultation appears to him to be desirable.
- [<sup>F97</sup>(6) Without prejudice to the generality of section 126(4) below, the power to make an order conferred by subsection (3A) above may be exercised so as to make different provision for England and Wales and different provision for different communities in either.]

#### Textual Amendments

- F89** S. 22(1)(1A) substituted (1.4.2000 for E. and 1.12.2000 for W. for specified purposes and otherwise *prosp.*) for s. 22(1) by 1999 c. 8, **ss. 27, 67(1)**; S.I. 1999/2793, **art. 2(3)(b)**; S.I. 2000/2991, **art. 2(1), Sch. 1**
- F90** Word in s. 22(2) inserted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, **ss. 2(1)(3), 8(1), Sch. 1 para. 12(b)** (with Sch. 2 paras. 6, 16)
- F91** Words substituted by **Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 5(4), Sch. 3 para. 3(b)**
- F92** Table in s. 22(2) repealed (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, **ss. 2(1)(3), 5(1)(2), 8(1), Sch. 1 para. 12(c), Sch. 3** (with Sch. 2 paras. 6, 16)
- F93** S. 22(3)(3ZA) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) for s. 22(3) by 1995 c. 17, **ss. 2(1)(3), 8(1), Sch. 1 para. 12(d)** (with Sch. 2 paras. 6, 16)
- F94** S. 22(3A) inserted by **Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 12, Sch. 5 para. 2(a)**
- F95** Words in s. 22(4)(b) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, **ss. 2(1)(3), 8(1), Sch. 1 para. 12(e)** (with Sch. 2 paras. 6, 16)
- F96** Words substituted by **Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 12, Sch. 5 para. 2(b)**
- F97** S. 22(6) inserted by **Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 12, Sch. 5 para. 2(c)**



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## 23 Voluntary organisations and other bodies.

- (1) The Secretary of State may, where he considers it appropriate, arrange with any person or body (including a voluntary organisation) for that person or body to provide, or assist in providing, any service under this Act.

F98

- (2) The Secretary of State may make available—
- (a) to any person or body (including a voluntary organisation) carrying out any arrangements under subsection (1) above, or
  - (b) to any voluntary organisation eligible for assistance under section 64 or section 65 of the Health Services and Public Health Act 1968 (assistance made available by the Secretary of State or local authorities),
- any facilities (including goods or materials, or the use of any premises and the use of any vehicle, plant or apparatus) provided by him for any service under this Act; and, where anything is so made available, the services of persons employed by the Secretary of State or by a [F99Health Authority [F100, Special Health Authority or Primary Care Trust,]] in connection with it.
- (3) The powers conferred by this section may be exercised on such terms as may be agreed, including terms as to the making of payments by or to the Secretary of State, and any goods or materials may be made available either temporarily or permanently.
- (4) The Secretary of State may by order provide that, in relation to a vehicle which is made available by him in pursuance of this section and is used in accordance with the terms on which it is so made available, [F101the Vehicle Excise and Registration Act 1994] and [F102Part VI of the Road Traffic Act 1988] shall have effect with such modifications as are specified in the order.
- (5) Any power to supply goods or materials conferred by this section includes a power to purchase and store them and includes a power to arrange with third parties for the supply of goods or materials by those third parties.

### Textual Amendments

- F98** Para. repealed by [Health Services Act 1980 \(c. 53, SIF 113:2\)](#), [Sch. 7](#)
- F99** Words in s. 23(2) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by [1995 c. 17, ss. 2\(1\)\(3\), 8\(1\)](#), [Sch. 1 para. 13](#) (with [Sch. 2 paras. 6, 16](#))
- F100** Words in s. 23(2) substituted (8.2.2000) by [S.I. 2000/90, art. 3\(1\)](#), [Sch. 1 para. 13\(2\)](#) (with [art. 2\(5\)](#))
- F101** Words in s. 23(4) substituted (1.9.1994) by [1994 c. 22, ss. 63, 66\(1\)](#), [Sch. 3 para. 10](#) (with [s. 57\(4\)](#))
- F102** Words substituted by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\)](#), [s. 4](#), [Sch. 3 para. 18\(1\)](#)

### Modifications etc. (not altering text)

- C19** [S. 23\(1\)-\(3\)](#): functions of local authority not to be responsibility of an executive of the authority (1.4.2000) by virtue of [S.I. 2000/695, reg. 3\(2\)\(a\)](#), [Sch. 1](#)
- C20** [S. 23\(1\)-\(3\)](#): transfer of functions (E.) (1.4.2001) by [S.I. 2001/747, regs. 2\(1\), 3, 4](#), [Sch. 1](#)

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### Textual Amendments

**F103** S. 24 repealed by Overseas Development and Co-operation Act 1980 (c. 63, SIF 88), s. 18, Sch. 2 Pt. I

## 25 Supplies not readily obtainable.

Where the Secretary of State has acquired—

- (a) supplies of human blood for the purposes of any service under this Act, or
- (b) any part of a human body for the purpose of, or in the course of providing, any such service, or
- (c) supplies of any other substances or preparations not readily obtainable,

he may arrange to make such supplies or that part available (on such terms, including terms as to charges, as he thinks fit) to any person.

This section is subject to section 62 below (restriction of powers under <sup>F104</sup>section 25]).

### Textual Amendments

**F104** Words substituted by Health and Medicines Act 1988 (c. 49, SIF 113:2), s. 25(1), Sch. 2 para. 2

## 26 Supply of goods and services by Secretary of State.

(1) The Secretary of State may—

- (a) supply to local authorities, and to such public bodies or classes of public bodies as he may determine, any goods or materials of a kind used in the health service;
- (b) make available to local authorities, and to those bodies or classes of bodies, any facilities (including the use of any premises and the use of any vehicle, plant or apparatus) provided by him <sup>F105</sup>or by a Primary Care Trust] for any service under this act, and the services of persons employed by the Secretary of State or by a <sup>F106</sup>Health Authority [<sup>F107</sup>Special Health Authority or Primary Care Trust]];]
- (c) carry out maintenance work in connection with any land or building for the maintenance of which a local authority is responsible.

In this subsection—

“maintenance work” includes minor renewals, minor improvements and minor extensions; and

“public bodies” includes public bodies in Northern Ireland.

<sup>F108</sup>(2) The Secretary of State may supply or make available to persons—

- (a) providing general medical services, general dental services, general ophthalmic services or pharmaceutical services, or
- (b) providing, in accordance with section 28C arrangements, personal medical services, personal dental services or other services of a kind that may be provided under this Part,

such goods, materials or other facilities as may be prescribed.]

(3) The Secretary of State shall make available to local authorities—

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- (a) any services or other facilities (excluding the services of any person but including goods or materials, the use of any premises and the use of any vehicle, plant or apparatus) provided under this Act,
- (b) the services provided as part of the health service by any person employed by the Secretary of State or a <sup>F106</sup>Health Authority <sup>F109</sup>Special Health Authority or Primary Care Trust]], and
- (c) the services of any medical practitioner, dental practitioner or nurse employed by the Secretary of State or a <sup>F106</sup>Health Authority <sup>F109</sup>Special Health Authority or Primary Care Trust]] otherwise than to provide services which are part of the health service,

so far as is reasonably necessary and practicable to enable local authorities to discharge their functions relating to social services, education and public health.

<sup>F110</sup>(4) The Secretary of State may arrange to make available to local authorities the services of persons of the following descriptions, that is to say—

- (a) persons providing general medical services, general dental services, general ophthalmic services or pharmaceutical services,
  - <sup>F111</sup>(aa) [ persons performing, in accordance with section 28C arrangements, personal medical services, personal dental services or other services of a kind that may be provided under this Part,] and
- (b) persons providing <sup>F112</sup>Health Authorities <sup>F113</sup>Special Health Authorities or Primary Care Trusts]] with services of a kind provided as part of the health service,

so far as is reasonably necessary and practicable to enable local authorities to discharge their functions relating to social services, education and public health.]

#### Textual Amendments

- F105** Words in s. 26(1)(b) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65(2), 67(1), **Sch. 4 para. 11(a)**; S.I. 1999/2342, art. 2(3), **Sch. 2**
- F106** Words in s. 26 substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 14(a)**
- F107** Words in s. 26(1)(b) substituted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65(2), 67(1), **Sch. 4 para. 11(a)**; S.I. 1999/2342, art. 2(3), **Sch. 2**
- F108** S. 26(2) substituted (1.4.1998) by 1997 c. 46, s. 41(10), **Sch. 2 Pt. I para. 5(2)**; S.I. 1998/631, art. 2(b), **Sch. 2** (subject to arts. 3-5) (as amended (13.8.1998) by S.I. 1998/1998, **art. 3(3)**)
- F109** Words in s. 26(3)(b)(c) substituted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65(1), 67(1), **Sch. 4 para. 11(b)**; S.I. 1999/2342, art. 2(3), **Sch. 2**
- F110** S. 26(4) added by Health Services Act 1980 (c. 53, SIF 113:2), s. 3(1)
- F111** S. 26(4)(aa) inserted (1.4.1998) by 1997 c. 46, s. 41(10), **Sch. 2 Pt. I para. 5(3)**; S.I. 1998/631, art. 2(b), **Sch. 2** (subject to arts. 3-5) (as amended (13.8.1998) by S.I. 1998/1998, **art. 3(3)**)
- F112** Words in s. 26(4)(b) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 14(b)**
- F113** Words in s. 26(4)(b) substituted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65(1), 67(1), **Sch. 4 para. 11(c)**; S.I. 1999/2342, art. 2(3), **Sch. 2**

#### Modifications etc. (not altering text)

- C21** S. 26: functions of local authority not to be responsibility of an executive of the authority (1.4.2000) by virtue of S.I. 2000/695, reg. 3(2)(a), **Sch. 1**
- C22** S. 26(1)-(4): transfer of functions (E.) (1.4.2001) by S.I. 2001/747, regs. 2(1), 3, 4, **Sch. 1**

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## 27 Conditions of supply under s. 26.

- (1) It is the Secretary of State's duty, before he makes the services of any officer of a [F114Health Authority [F115Special Health Authority or Primary Care Trust]] available in pursuance of subsection (1)(b) or subsection (3)(b) or (c) of section 26 above, to consult the officer or a body recognised by the Secretary of State as representing the officer about the matter, or to satisfy himself that the [F114Health Authority [F115Special Health Authority or Primary Care Trust]] has consulted the officer about the matter.
- (2) The Secretary of State shall be entitled to disregard the provisions of subsection (1) above in a case where he considers it necessary to make the services of an officer available as mentioned in that subsection for the purpose of dealing temporarily with an emergency, and has previously consulted such a body about the making available of services in an emergency.
- (3) For the purposes of subsection (1)(b) or subsection (3)(b) or (c) of section 26 the Secretary of State may give such directions to [F116Health Authorities [F117Special Health Authorities and Primary Care Trusts]] to make the services of their officers available as he considers appropriate; [F118. . .].
- (4) The powers conferred by this section and section 26 may be exercised on such terms as may be agreed, including terms as to the making of payments to the Secretary of State, and such charges may be made by the Secretary of State in respect of services or facilities provided under subsection (3) of section 26 as may be agreed between the Secretary of State and the local authority or, in default of agreement, as may be determined by arbitration.
- (5) The Secretary of State may by order provide that, in relation to a vehicle which is made available by him in pursuance of section 26 and is used in accordance with the terms on which it is so made available, [F119the Vehicle Excise and Registration Act 1994] and [F120Part VI of the M11Road Traffic Act 1988] shall have effect with such modifications as are specified in the order.
- (6) Any power to supply goods or materials conferred by section 26 includes a power to purchase and store them, and a power to arrange with third parties for the supply of goods or materials by those third parties.

### Textual Amendments

- F114** Words in s. 27(1) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 15(a)**
- F115** Words in s. 27(1) substituted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65(1), 67(2), **Sch. 4 para. 12(2)**; S.I. 1999/2342, art. 2(3), **Sch. 2**
- F116** Words in s. 27(3) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 15(b)(i)**
- F117** Words in s. 27(3) substituted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65(1), 67(2), **Sch. 4 para. 12(3)(a)**; S.I. 1999/2342, art. 2(3), **Sch. 2**
- F118** Words in s. 27(3) omitted (1.9.1999 for E. and 1.12.1999 for W.) by virtue of 1999 c. 8, ss. 65(1), **Sch. 4 para. 12(3)(b)**; S.I. 1999/2342, art. 2(1), **Sch. 1**; S.I. 1999/3184, art. 2(2), **Sch. 2** and repealed (1.4.2000) by 1999 c. 8, ss. 65(2), **Sch. 5**; S.I. 2000/1041, art. 2(d), **Sch.**
- F119** Words in s. 27(5) substituted (1.9.1994) by 1994 c. 22, ss. 63, 66(1), **Sch. 3 para. 10** (with s. 57(4))
- F120** Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 18(2)**

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**Modifications etc. (not altering text)**

- C23** S. 27(1)(2)(4): functions of local authority not to be responsibility of an executive of the authority (1.4.2000) by virtue of S.I. 2000/695, reg. 3(2)(a), **Sch. 1**
- C24** S. 27(1)(2)(4): transfer of functions (E.) (1.4.2001) by S.I. 2001/747, regs. 2(1), 3, 4, **Sch. 1**

**Marginal Citations**

- M11** 1988 c. 52(107:1).

**28 Supply of goods and services by local authorities.**

- (1) In the <sup>M12</sup>Local Authorities (Goods and Services) Act 1970 the expression “public body” includes any [<sup>F121</sup>Health Authority [<sup>F122</sup>Special Health Authority or Primary Care Trust]] and so far as relates to his functions under this Act includes the Secretary of State.
- (2) The provisions of subsection (1) above have effect as if made by an order under section 1(5) of that Act of 1970, and accordingly may be varied or revoked by such an order.
- (3) Every local authority shall make available to [<sup>F123</sup>Health Authorities, Special Health Authorities [<sup>F124</sup>Primary Care Trusts]] [<sup>F125</sup>and NHS trusts] acting in the area of the local authority the services of persons employed by the local authority for the purposes of the local authority’s functions under the <sup>M13</sup>Local Authorities Social Services Act 1970 so far as is reasonably necessary and practicable to enable [<sup>F123</sup>Health Authorities, Special Health Authorities [<sup>F124</sup>Primary Care Trusts]] [<sup>F125</sup>and NHS trusts] to discharge their functions under this Act [<sup>F126</sup>and the National Health Service and Community Care Act 1990].
- (4) . . . . . <sup>F127</sup>

**Textual Amendments**

- F121** Words in s. 28(1) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 16(a)**
- F122** Words in s. 28(1) substituted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65(1), 67(2), **Sch. 4 para. 13(a)**; S.I. 1999/2342, art. 2(3), **Sch. 2**
- F123** Words in s. 28(3) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 para. 16(b)**
- F124** Words in s. 28(3) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65(1), 67(2), **Sch. 4 para. 13(b)**; S.I. 1999/2342, art. 2(3), **Sch. 2**
- F125** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 5(8), **Sch. 2 para. 21**
- F126** Words added by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 5(8), **Sch. 2 para. 21**
- F127** S. 28(4) repealed (*retrospectively*) by Health and Medicines Act 1988 (c. 49, SIF 113:2), ss. 19, 25(2), **Sch. 3**

**Marginal Citations**

- M12** 1970 c. 39(81:4).
- M13** 1970 c. 42(81:3).

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**[<sup>F128</sup>28A Power to make payments towards expenditure on community services.**

- (1) This section applies to the following [<sup>F129</sup>[<sup>F130</sup>bodies]—
- (a) a Health Authority;] and
    - [ a Primary Care Trust]
  - <sup>F131</sup>(b)
- (2) [<sup>F132</sup>A body to which] this section applies may, if they think fit, make payments—
- (a) to a local social services authority towards expenditure incurred or to be incurred by them in connection with any function which, by virtue of section 2(1) or (2) of the <sup>M14</sup>Local Authority Social Services Act 1970, is to be performed through their social services committee, other than functions under section 3 of the <sup>M15</sup>Disabled Persons (Employment) Act 1958;
  - (b) to a district council, [<sup>F133</sup>or to a Welsh county council or county borough council,] towards expenditure incurred or to be incurred by them in connection with their functions under section 8 of the <sup>M16</sup>Residential Homes Act 1980 or Part II of Schedule 9 to the <sup>M17</sup>Health and Social Services and Social Security Adjudications Act 1983 (meals and recreation for old people);
  - (c) to an authority who are a local education authority for the purposes of [<sup>F134</sup>the Education Act 1996], towards expenditure incurred or to be incurred by them in connection with their functions under [<sup>F135</sup>the Education Acts (within the meaning of that Act)], in so far as they perform those functions for the benefit of disabled persons;
  - <sup>F136</sup>(d) [ to a local housing authority within the meaning of the <sup>M18</sup>Housing Act 1985, towards expenditure incurred or to be incurred by them in connection with their functions under Part II of that Act (provision of housing); and]
  - (e) to the following bodies, in respect of expenditure incurred or to be incurred by them in connection with the provision of housing accommodation,—
    - [ a registered social landlord within the meaning of the Housing Act <sup>F137</sup>(i) 1985 (see section 5(4) and (5) of that Act);.]
    - (ii) the Commission for the New Towns;
    - (iii) a new town development corporation;
    - (iv) an urban development corporation established under the <sup>M19</sup>Local Government, Planning and Land Act 1980;
    - (v) the Housing Corporation; <sup>F138</sup> . . .
    - <sup>F138</sup>(vi) . . . . .
    - <sup>F139</sup>(vii) . . . . .
- [ A body to which this section applies may, if they think fit, make payments to a local <sup>F140</sup>(2A) authority towards expenditure incurred or to be incurred by the authority in connection with the performance of any of the authority’s functions which, in the opinion of the body,—
- (a) have an effect on the health of any individuals,
  - (b) have an effect on, or are affected by, any NHS functions, or
  - (c) are connected with any NHS functions.
- (2B) In this section “NHS functions” means functions exercised by a Health Authority, Special Health Authority, Primary Care Trust or NHS trust.]
- (3) A payment under this section may be made in respect of expenditure of a capital or of a revenue nature or in respect of both kinds of expenditure.

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- [ No payment shall be made under this section in respect of any expenditure unless
- <sup>F141</sup>(4) the expenditure has been recommended for a payment under this section by a joint consultative committee on which the authority proposing to make the payment are represented.]
- (5) The Secretary of State may by directions prescribe conditions relating to payments under this section.
- (6) The power to give such directions may be exercised so as to make, as respects the cases in relation to which it is exercised, the same provision for all cases, or different provision for different cases or different classes of case, or different provision as respects the same case or class of case for different purposes.
- (7) Without prejudice to the generality of subsection (5) above, the power may be exercised—
- (a) so as to make different provision for England and Wales and different provision for different [<sup>F142</sup>areas] in either; and
- (b) so as to require, in such circumstances as may be specified,—
- (i) repayment of the whole or any part of a payment under this section;
- (ii) payment, in respect of property acquired with money paid under this section, of an amount representing the whole or part of an increase in the value of the property which has occurred since its acquisition.
- (8) No payment shall be made under this section in respect of any expenditure unless the conditions relating to it—
- [ accord with the advice given by the joint consultative committee in making the
- <sup>F141</sup>(a) recommendation for a payment under this section in respect of the expenditure in question; and]
- (b) conform with the conditions prescribed for payments of that description under subsection (5) above.
- (9) Where [<sup>F143</sup>the expenditure in respect of which a payment under this section is proposed to be made] is expenditure in connection with services to be provided by a voluntary organisation—
- (a) the [<sup>F144</sup>body] who are to make the payment may make payments to the voluntary organisation towards the expenditure incurred or to be incurred by the organisation in connection with the provision of those services, instead of or in addition to making payments under subsection (2) [<sup>F145</sup>or (2A)] above; and
- (b) an authority of one of the descriptions specified in paragraph (a), (b), (c) or (d) of subsection (2) above [<sup>F146</sup>, or in subsection (2A) above,] and who have received payments under that subsection may make out of the sums paid to them payments to the voluntary organisation towards expenditure incurred or to be incurred by the organisation in connection with the provision of those services,
- but no payment shall be made under this subsection except subject to conditions [<sup>F147</sup>which conform with the conditions prescribed for payments of that description under subsection (5) above.]]

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### Textual Amendments

- F128** Ss. 28A, 28B substituted for s. 28A by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\), s. 1](#)
- F129** Words in s. 28A(1) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), [Sch. 1 para. 17\(a\)](#)
- F130** Word in s. 28A(1) substituted (1.11.1999 for E. and 1.12.2000 for W. otherwise *prosp.*) by 1999 c. 8, [ss. 29\(2\)\(a\)](#), 67(2); S.I. 1999/2793, art. 2(1)(a), [Sch. 1](#); S.I. 2000/2991, art. 2(1), [Sch. 1](#)
- F131** S. 28A(1)(b) substituted (1.4.2000 for E. and otherwise *prosp.*) by 1999 c. 8, [ss. 29\(2\)\(b\)](#), 67(2); S.I. 1999/2793, [art. 2\(3\)\(b\)](#)
- F132** Words in s. 28A(2) substituted (1.11.1999 for E. and 1.12.2000 for W.) by 1999 c. 8, ss. 65(1), 67(2), [Sch. 4 para. 14\(2\)](#); S.I. 1999/2793, art. 2(1)(a), [Sch. 1](#); S.I. 2000/2991, art. 2(1), [Sch. 1](#)
- F133** Words in s. 28A(2)(b) inserted (1.4.1996) by 1994 c. 19, s. 22(4), [Sch. 10 para. 11\(2\)](#) (with Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, [Sch. 1](#)
- F134** Words in s. 28A(2)(c) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), [Sch. 37 Pt. I para. 44\(a\)](#) (with s. 1(4), Sch. 9 paras. 30, 39, Sch. 39)
- F135** Words in s. 28A(2)(c) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), [Sch. 37 Pt. I para. 44\(b\)](#) (with s. 1(4), Sch. 9 paras. 30, 39, Sch. 39)
- F136** S. 28A(2)(d) substituted by [Housing \(Consequential Provisions\) Act 1985 \(c. 71, SIF 61\), s. 4, Sch. 2 para. 38\(2\)\(a\)](#)
- F137** S. 28A(2)(e)(i) substituted (E.W.) (1.10.1996) by S.I. 1996/2325, art. 5(1), [Sch. 2 para. 9\(2\)](#)
- F138** S. 28A(2)(e)(vi) and word “and” immediately preceding repealed (1.10.1998) by 1998 c. 38, s. 152, [Sch. 18 Pt. IV](#) (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, [art. 4](#)
- F139** S. 28A(2)(e)(vii) repealed (1.11.1998) by 1998 c. 38, s. 152, [Sch. 18 Pt. VI](#) (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, [art. 5](#)
- F140** S. 28A(2A)(2B) inserted (1.11.1999 for E. 1.12.2000 for W. for specified purposes and otherwise *prosp.*) by 1999 c. 8, [ss. 29\(3\)](#), 67(2); S.I. 1999/2793, art. 2(1)(a), [Sch. 1](#); S.I. 2000/2991, art. 2(1), [Sch. 1](#)
- F141** S. 28A(4)(8)(a) omitted (1.11.1999 for E. for specified purposes, 1.4.2000 for specified other purposes, 1.12.2000 for W. for specified purposes, 1.1.2001 for other specified purposes) by virtue of 1999 c. 8, ss. 65(1), 67(2), [Sch. 4 para. 14\(3\)](#); S.I. 1999/2793, art. 2(1)(a)(3)(c)(i), [Sch. 1](#); S.I. 2000/2991, art. 2(1)(2), Schs. 1, 2
- F142** Word in s. 28A(7)(a) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), [Sch. 1 para. 17\(b\)](#)
- F143** Words in s. 28A(9) substituted (1.11.1999 for E. for specified purposes, 1.4.2000 for specified other purposes, 1.12.2000 for W. for specified purposes, 1.1.2001 for other specified purposes) by 1999 c. 8, ss. 65(1), 67(2), [Sch. 4 para. 14\(4\)\(a\)](#); S.I. 1999/2793, art. 2(1)(a)(3)(c)(i), [Sch. 1](#); S.I. 2000/2991, art. 2(1)(2), Schs. 1, 2
- F144** Word in s. 28A(9)(a) substituted (1.11.1999 for E. and 1.12.2000 for W.) by 1999 c. 8, ss. 65(1), 67(2), [Sch. 4 para. 14\(4\)\(b\)](#); S.I. 1999/2793, art. 2(1)(a), [Sch. 1](#); S.I. 2000/2991, art. 2(1), [Sch. 1](#)
- F145** Words in s. 28A(9)(a) inserted (1.4.2000 for E. and 1.1.2001 for W.) by 1999 c. 8, ss. 65(1), 67(2), [Sch. 4 para. 14\(4\)\(c\)](#); S.I. 1999/2793, [art. 2\(3\)\(c\)\(i\)](#); S.I. 2000/2991, art. 2(2), [Sch. 2](#)
- F146** Words in s. 28A(9)(b) inserted (1.4.2000 for E. and 1.1.2001 for W.) by 1999 c. 8, ss. 65(1), 67(2), [Sch. 4 para. 14\(4\)\(d\)](#); S.I. 1999/2793, [art. 2\(3\)\(c\)\(i\)](#); S.I. 2000/2991, art. 2(2), [Sch. 2](#)
- F147** Words in s. 28A(9)(b) substituted (1.11.1999 for E. for specified purposes, 1.4.2000 for specified other purposes, 1.12.2000 for W. for specified purposes, 1.1.2001 for s. 28A(b)(i)(ii) by 1999 c. 8, ss. 65(1), 67(2), [Sch. 4 para. 14\(4\)\(e\)](#); S.I. 1999/2793, art. 2(1)(a)(3)(c)(i), [Sch. 1](#); S.I. 2000/2991, art. 2(1)(2), Schs. 1, 2

### Marginal Citations

- M14** 1970 c. 42(81:3).  
**M15** 1958 c. 33(43:1).



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- M16 1980 c. 7.
- M17 1983 c. 41(113:3).
- M18 1985 c. 68(61).
- M19 1980 c. 65(81:1, 2) (103:1, 2) (123:1, 2, 3, 4).

[<sup>F148</sup>**28B Power of Secretary of State to make payments towards expenditure on community services in Wales.**

- (1) The Secretary of State may, if he thinks fit, make payments—
- (a) to authorities in Wales of any of the descriptions mentioned in paragraphs (a), (b), (c) and (d) of section 28A(2) above, for the purposes respectively mentioned in those paragraphs;
  - (b) to the following bodies, in respect of expenditure incurred or to be incurred by them in connection with the provision of housing accommodation in Wales,  
—<sup>F149</sup>
    - [ a registered social landlord within the meaning of the Housing Act<sup>F150</sup>(i) 1985 (see section 5(4) and (5) of that Act);.]
    - (ii) the Commission for the New Towns;
    - (iii) a new town development corporation;
    - (iv) an urban development corporation established under the<sup>M20</sup>Local Government, Planning and Land Act 1980;
    - <sup>F151</sup>(v) . . . . .
    - <sup>F152</sup>(vi) . . . . .
- (2) The Secretary of State may, if he thinks fit, make payments to a voluntary organisation towards expenditure incurred or to be incurred by the organisation in connection with the provision of services for which he could make payments under subsection (1) above.
- (3) A payment under this section may be made in respect of expenditure of a capital or of a revenue nature or in respect of both kinds of expenditure.
- (4) Conditions may be attached to a payment under this section.
- (5) Without prejudice to the generality of subsection (4) above, the conditions that may be attached include conditions requiring, in such circumstances as may be specified,—
- (a) repayment of the whole or any part of a payment under this section;
  - (b) payment, in respect of property acquired with money paid under this section, of an amount representing the whole or part of an increase in the value of the property which has occurred since its acquisition.

**Textual Amendments**

- F148** Ss. 28A, 28B substituted for s. 28A by **Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 1**
- F149** S. 28B(1)(b)(i) substituted by **Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 4, Sch. 2 para. 38(3)**
- F150** S. 28B(1)(b)(i) substituted (E.W.) (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 9(3)**
- F151** S. 28B(1)(b)(v) repealed (1.11.1998) by virtue of 1998 c. 38, s. 152, **Sch. 18 Pt. VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**

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**F152** S. 28B(1)(b)(vi) and the word “and” immediately preceding repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**

#### Marginal Citations

**M20** 1980 c. 53(113:2).

### [<sup>F153</sup>**28BB**Power of local authorities to make payments to NHS bodies.

- (1) A local authority may, if they think fit, make payments to a relevant NHS body towards expenditure incurred or to be incurred by the body in connection with the performance by the body of prescribed functions of the NHS body.
- (2) In this section—
  - “prescribed” means prescribed to any extent by regulations made by the Secretary of State;
  - “relevant NHS body” means a Health Authority or a Primary Care Trust.
- (3) A payment under this section may be made in respect of expenditure of a capital or of a revenue nature or in respect of both kinds of expenditure.
- (4) The Secretary of State may by directions prescribe conditions relating to payments under this section.
- (5) The power to give such directions may be exercised so as to make, as respects the cases in relation to which it is exercised, the same provision for all cases, or different provision for different cases or different classes of case, or different provision as respects the same case or class of case for different purposes.
- (6) Without prejudice to the generality of subsection (4) above, the power may be exercised—
  - (a) so as to make different provision for England and Wales and different provision for different areas in either; and
  - (b) so as to require, in such circumstances as may be specified—
    - (i) repayment of the whole or any part of a payment under this section; or
    - (ii) payment, in respect of property acquired with money paid under this section, of an amount representing the whole or part of an increase in the value of the property which has occurred since its acquisition.
- (7) No payment shall be made under this section in respect of any expenditure unless the conditions relating to it conform with the conditions prescribed for payments of that description under subsection (4) above.]

#### Textual Amendments

**F153** S. 28BB inserted (1.4.2000 for E. and 1.12.2000 for W. for specified purposes and otherwise *prosp.*) by 1999 c. 8, **ss. 30**, 67(2); S.I. 1999/2793, **art. 2(3)(b)**; S.I. 2000/2991, **art. 2(1)**, **Sch. 1**

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### *[<sup>F154</sup> Provision of personal medical or dental services]*

#### **Textual Amendments**

**F154** Cross-heading inserted (*prosp.*) by 1997 c. 46, ss. 21(1), 41(3)

PROSPECTIVE

#### **<sup>F155</sup>28C Personal medical or dental services.**

- (1) A [Strategic Health Authority or a] Health Authority may make one or more agreements with respect to their area, in accordance with the provisions of regulations under section 28E, under which—
  - (a) personal medical services are provided (otherwise than by the Authority); or
  - (b) personal dental services are provided (otherwise than by the Authority).
- (2) An agreement made under this section—
  - (a) may not combine arrangements for the provision of personal medical services with arrangements for the provision of personal dental services [<sup>F156</sup>, and may not combine arrangements for the provision of personal medical services or personal dental services with arrangements for the provision of local pharmaceutical services under LPS schemes (within the meaning of paragraph 1(3) of Schedule 8A to this Act) or under pilot schemes made under section 28 of the Health and Social Care Act 2001]; but
  - (b) may include arrangements for the provision of services—
    - (i) which are not personal medical services or personal dental services; but
    - (ii) which may be provided under this Part.
- (3) Except to such extent as may be prescribed—
  - (a) a patient for whom personal medical services are provided in accordance with an agreement made under this section is not to count as a person for whom arrangements must be made by the [Primary Care Trust or] Health Authority concerned under section 29;
  - (b) a patient for whom personal dental services are provided under an agreement made under this section is not to count as a person for whom arrangements must be made by the [Primary Care Trust or] Health Authority concerned under section 35.
- (4) This Act (and in particular section 17) has effect, in relation to personal medical services or personal dental services provided under an agreement made under this section, as if those services were provided as a result of the delegation by the Secretary of State (by directions given under section [<sup>F157</sup>16D]) of functions of his under this Part.
- (5) The functions of a Health Authority in relation to an agreement made under this section are primary functions of the Authority for the purposes of the <sup>M21</sup>National Health Service and Community Care Act 1990.
- (6) Regulations may provide—

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- (a) for functions which are exercisable by a [Strategic Health Authority or a] Health Authority in relation to an agreement made under this section to be exercisable on behalf of the Authority by a Health Board; and
  - (b) for functions which are exercisable by a Health Board in relation to an agreement made under section 17C of the <sup>M22</sup>National Health Service (Scotland) Act 1978 to be exercisable on behalf of the Board by a [Strategic Health Authority or a] Health Authority.
- (7) For the purposes of this section—
- “personal medical services” means medical services of a kind that may be provided by a general medical practitioner in accordance with arrangements made under Part II; and
- “personal dental services” means dental services of a kind that may be provided by a general dental practitioner in accordance with arrangements made under Part II.

#### Textual Amendments

**F155** SS. 28C-28D inserted (*prosp.*) by 1997 c. 46, ss. 21(1), 41(3)

**F156** Words in s. 28C(2)(a) inserted (1.7.2002 for W. and otherwise *prosp.*) by 2001 c. 15, ss. 67(1), 70(2), Sch. 5 para. 11(4) (with ss. 64(9), 65(4)); S.I. 2002/1475, art. 2, Sch. Pt. 1

**F157** Word in s. 28C(4) substituted (1.10.1999 for E. and 1.12.1999 for W.) by 1999 c. 8, ss. 65(1), Sch. 4 para. 15; S.I. 1999/2540, art. 2(1)(a), Sch. 1; S.I. 1999/3184, art. 2(2), Sch. 2

#### Marginal Citations

**M21** 1990 c. 19.

**M22** 1978 c. 29.

PROSPECTIVE

#### <sup>F158</sup>28D Persons with whom agreements may be made.

- (1) A [Strategic Health Authority or a] Health Authority may make an agreement under section 28C only with one or more of the following—
- (a) an NHS trust;
  - (b) in the case of an agreement under which personal medical services are provided—
    - (i) a qualifying medical practitioner;
    - (ii) an individual who is providing personal medical services in accordance with section 28C arrangements or section 17C arrangements;
  - (c) in the case of an agreement under which personal dental services are provided—
    - (i) a qualifying dental practitioner;
    - (ii) an individual who is providing personal dental services in accordance with section 28C arrangements or section 17C arrangements;
  - (d) an NHS employee, a section 28C employee or a section 17C employee;
  - (e) a qualifying body.

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<sup>F159</sup>(f) [ a Primary Care Trust]

(2) In this section—

“the 1978 Act” means the <sup>M23</sup>National Health Service (Scotland) Act 1978;

“NHS employee” means an individual who, in connection with the provision of services in the health service in England and Wales or Scotland, is employed by—

- (a) an NHS trust;
- (b) in the case of an agreement under which personal medical services are provided—

- (i) a medical practitioner whose name is included in a medical list kept under this Act or in a corresponding list kept under the 1978 Act; or

- (ii) a medical practitioner who is providing personal medical services in accordance with section 28C arrangements or section 17C arrangements;

- (c) in the case of an agreement under which personal dental services are provided—

- (i) a dental practitioner whose name is included in a list prepared in accordance with regulations made under section 36(1)(a) of this Act or section 25(2)(a) of the 1978 Act; or

- (ii) a dental practitioner who is providing personal dental services in accordance with section 28C arrangements or section 17C arrangements;

“qualifying body” means—

- (a) a company which is limited by shares all of which are legally and beneficially owned by persons falling within [<sup>F160</sup>paragraph (a), (b), (c), (d) or (f)] of subsection (1); and also

- (b) in the case of an agreement under which personal dental services are provided, a body corporate which, in accordance with the provisions of Part IV of the <sup>M24</sup>Dentists Act 1984, is entitled to carry on the business of dentistry;

“qualifying dental practitioner” means a dental practitioner who satisfies the conditions imposed by regulations made under section 28E(2)(b) of this Act or section 17E(2)(b) of the 1978 Act;

“qualifying medical practitioner” means a medical practitioner who satisfies the conditions imposed by regulations made under section 28E(2)(b) of this Act or section 17E(2)(b) of the 1978 Act;

“section 17C arrangements” means arrangements for the provision of services made under section 17C of the 1978 Act;

“section 17C employee” means an individual who, in connection with the provision of services in accordance with section 17C arrangements, is employed by an individual providing those services;

“section 28C arrangements” means arrangements for the provision of services made under section 28C; and

“section 28C employee” means an individual who, in connection with the provision of services in accordance with section 28C arrangements, is employed by an individual providing those services.]

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#### Textual Amendments

**F158** SS. 28C-28D inserted (*prosp.*) by 1997 c. 46, **ss. 21(1)**, 41(3)

**F159** S. 28D(1)(f) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, **ss. 65(1)**, 67(2), **Sch. 4 para. 16(a)**; S.I. 1999/2540, **art. 2(2)**

**F160** S. 28D(2); words in para. (a) of the definition of “qualifying body” substituted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, **ss. 65(1)**, 67(2), **Sch. 4 para. 16(b)**; S.I. 1999/2540, **art. 2(2)**

#### Marginal Citations

**M23** 1978 c. 29.

**M24** 1984 c. 24.

VALID FROM 01/07/2002

### <sup>F161</sup>28DA **Lists of persons who may perform personal medical services or personal dental services**

- (1) The Secretary of State may make regulations providing for the preparation and publication by each Health Authority of one or more lists of—
  - (a) medical practitioners who may perform personal medical services in accordance with section 28C arrangements,
  - (b) dental practitioners who may perform personal dental services in accordance with section 28C arrangements.
- (2) Such a list is referred to in this section as a “services list”.
- (3) The regulations may, in particular, include provision as to—
  - (a) the Health Authority to which an application for inclusion in a services list is to be made,
  - (b) the procedure for applying for inclusion, including any information to be supplied to the Health Authority (whether by the applicant or by arrangement with him),
  - (c) grounds on which the Health Authority may, or must, refuse a person’s application for inclusion in a services list (including his unsuitability for inclusion in such a list), or on which they may defer their decision on the application,
  - (d) requirements with which a person included in a services list must comply (including the declaration of financial interests and of gifts and other benefits),
  - (e) grounds on which a Health Authority may, or must, suspend or remove a person from a services list, the procedure for doing so, and the consequences of doing so,
  - (f) payments to or in respect of persons who are suspended from a services list (including provision for the amount of the payments, or the method of calculating the amount, to be determined by the Secretary of State or by another person appointed for the purpose by the Secretary of State),
  - (g) the supply to the Health Authority by an applicant for inclusion in a services list, or by a person included in one, of a criminal conviction certificate under section 112 of the Police Act 1997 (c. 50), a criminal record certificate under

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- section 113 of that Act or an enhanced criminal record certificate under section 115 of that Act,
- (h) circumstances in which a person included in a services list may not withdraw from it,
  - (i) criteria to be applied in making decisions under the regulations,
  - (j) appeals against decisions of Health Authorities under the regulations,
  - (k) the disclosure by a Health Authority, to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about applicants for inclusion in a services list, refusals of such applications, and suspensions and removals from that list.
- (4) The regulations may, in particular, also provide for—
- (a) a person's inclusion in a services list to be subject to conditions determined by the Health Authority,
  - (b) the Health Authority to vary the conditions or impose different ones,
  - (c) the consequences of failing to comply with a condition (including removal from the list), and
  - (d) the review by the Health Authority of their decisions made by virtue of regulations under this subsection.
- (5) The imposition of such conditions must be with a view to—
- (a) preventing any prejudice to the efficiency of the services to which the services list relates; or
  - (b) preventing any acts or omissions of the type described in section 49F(3)(a) below.
- (6) Regulations may provide—
- (a) that no person may perform personal medical services in accordance with section 28C arrangements unless he is included in a medical list, a supplementary list under section 43D or a services list,
  - (b) that no person may perform personal dental services in accordance with section 28C arrangements unless he is included in a list referred to in section 36(1)(a), a supplementary list under section 43D or a services list.
- (7) Regulations made by virtue of subsection (3)(e) may (but need not) make provision corresponding to anything in sections 49F to 49N below.
- (8) If the regulations provide under subsection (3)(e) or (4) that a Health Authority may suspend or remove a person from a services list, they must include provision—
- (a) requiring him to be given notice of any allegation against him;
  - (b) giving him the opportunity of putting his case at a hearing before the Health Authority make any decision as to his suspension or removal; and
  - (c) requiring him to be given notice of the Health Authority's decision and the reasons for it and of any right of appeal under subsection (9) or (10).
- (9) If the regulations provide under subsection (3)(c) or (e) that a Health Authority may refuse a person's application for inclusion in a services list, or remove a person from one, the regulations must provide for an appeal (by way of redetermination) to the FHSAA against the Health Authority's decision.
- (10) If the regulations make provision under subsection (4), they must provide for an appeal (by way of redetermination) by the person in question to the FHSAA against the Health Authority's decision—

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- (a) to impose conditions, or any particular condition,
- (b) to vary a condition,
- (c) to remove him from the services list for breach of condition,
- (d) on any review of an earlier such decision of theirs.]

#### Textual Amendments

**F161** S. 28DA inserted (1.7.2002 for W., otherwise prosp.) by 2001 c. 15, ss. 26(1), 70(2) (with ss. 64(9), 65(4)); S.I. 2002/1475, art. 2

PROSPECTIVE

#### [<sup>F162</sup>28E Personal medical or dental services: regulations.

- (1) The Secretary of State may make regulations with respect to the provision of services in accordance with section 28C arrangements.
- (2) The regulations must—
  - (a) include provision for participants other than [Strategic Health Authorities and Health Authorities to withdraw from section 28C arrangements if they wish to do so;
  - (b) impose conditions (including conditions as to qualifications and experience) to be satisfied by medical practitioners performing personal medical services, and dental practitioners performing personal dental services, in accordance with section 28C arrangements.

In paragraph (b) “practitioner” does not include a practitioner who is undergoing training of a prescribed description.
- (3) The regulations may, in particular—
  - (a) provide that section 28C arrangements may be made only in prescribed circumstances;
  - (b) provide that section 28C arrangements may be made only in prescribed areas;
  - (c) provide that only prescribed services, or prescribed categories of service, may be provided in accordance with section 28C arrangements;
  - (d) require details of section 28C arrangements to be published;
  - (e) make provision with respect to the variation and termination of section 28C arrangements;
  - (f) prevent (except in such circumstances and to such extent as may be prescribed) a medical practitioner who performs personal medical services in accordance with section 28C arrangements from providing general medical services;
  - (g) make provision with respect to medical lists, including provision for preferential treatment for medical practitioners;
  - (h) provide for parties to section 28C arrangements to be treated, in such circumstances and to such extent as may be prescribed, as health service bodies for the purposes of section 4 of the <sup>M25</sup>National Health Service and Community Care Act 1990;



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- (i) provide for directions, as to payments, made under section 4(7) of the Act of 1990 (as it has effect as a result of regulations made by virtue of paragraph (h)) to be enforceable in a county court (if the court so orders) as if they were judgments or orders of that court;
- (j) confer powers or impose duties on the Dental Practice Board in relation to agreements made by virtue of section 28C(1) under which personal dental services are provided;
- (k) authorise [Strategic Health Authorities and] Health Authorities to make payments of financial assistance for prescribed categories of preparatory work undertaken—
  - (i) in connection with preparing proposals for section 28C arrangements;  
or
  - (ii) in preparation for the provision of services under proposed section 28C arrangements.

[ The regulations must include provision for a medical practitioner who—

- <sup>F163</sup>(4) (a) has provided or performed personal medical services in accordance with section 28C arrangements, and
- (b) in contemplation of doing so, gave up fund-holding status,
- to be allowed to return immediately to fund-holding status on satisfying the Secretary of State that, if he were granted that status, he would be able to fulfil the conditions for the time being in force for continuing to have it.

For the purposes of this subsection “fund-holding status” has such meaning as may be prescribed.]

- (5) The Secretary of State must—
- (a) consider whether section 28C arrangements are likely to have an adverse effect on the distribution of medical practitioners providing general medical services or performing personal medical services in England or in Wales;
  - (b) if he thinks that the arrangements are likely to have that effect, consider whether it is necessary to include in the regulations provisions designed to secure that, so far as is possible, the arrangements do not have that effect; and
  - (c) if he thinks that it is necessary, include such provisions in the regulations.
- (6) Regulations which impose conditions on persons performing personal medical services or persons performing personal dental services (whether made by virtue of subsection (2)(b) or otherwise) may, in particular, include provision of a kind that may be made by regulations under section 32.
- (7) Regulations made by virtue of subsection (3)(g) may, in particular, include provision—
- (a) requiring (except in prescribed circumstances) [Primary Care Trusts and] Health Authorities to remove from their medical lists persons who are performing personal medical services in accordance with section 28C arrangements or corresponding services under section 17C of the <sup>M26</sup>National Health Service (Scotland) Act 1978;
  - (b) conferring a right to transfer to a medical list on persons who have ceased to perform such services;
  - (c) that any provision in relation to medical lists made by or under any enactment is not to apply;
  - (d) as to conditions to be attached to entries in medical lists;

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- (e) conferring powers of disqualification on the [<sup>F164</sup>Family Health Services Appeal Authority constituted under section 49S].
- (8) The power to make provision under this section of the kind mentioned in subsection (3) (j) includes power—
- (a) to authorise or require the Dental Practice Board to perform on behalf of a [Strategic Health Authority or] Health Authority functions of a prescribed description (including functions relating to remuneration) which have been delegated to the Board by the [Strategic Health Authority or] Health Authority in accordance with a power conferred by the regulations;
  - (b) to provide that functions conferred by the regulations are only to be exercised by the Board in accordance with directions of the Secretary of State;
  - (c) to require information for the purpose of performing any functions conferred or imposed on the Board under this section.]

#### Textual Amendments

**F162** S. 28E inserted (*prosp.*) by 1997 c. 46, ss. 22(1), 41(3)

**F163** S. 28E(4) repealed (1.10.1999 for E. and 1.4.2000 for W.) by 1999 c. 8, ss. 65(2), Sch. 5; S.I. 1999/2540, art. 2(1), Sch. 1; S.I. 2000/1041, art. 2(d), Sch.

**F164** Words in s. 28E(7)(e) substituted ((E.) 1.10.2001 for specified purposes otherwise 1.12.2001 and (W.) 26.8.2002) by 2001 c. 15, ss. 27(5)(a), 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3294, art. 4(1), Sch. Pt. I (subject to art. 4(2), Sch. Pt. II); S.I. 2002/1919, art. 3(1), Sch. Pt. II (subject to art. 3(2))

#### Marginal Citations

**M25** 1990 c. 19.

**M26** 1978 c. 29.

PROSPECTIVE

[<sup>F165</sup>28EE] **Delegation of Health Authority functions relating to section 28C arrangements.**

- (1) **No commentary item could be found for this reference c18059541.** . . . . .
- (2) The Secretary of State may by order make provision for any rights and liabilities arising under an agreement to provide personal medical services under section 28C above to be transferred from [Strategic Health Authorities] to Primary Care Trusts and from Primary Care Trusts to [Strategic Health Authorities] .
- (3) Subsection (2) above is without prejudice to any other power of the Secretary of State to transfer rights and liabilities under this Act.]

#### Textual Amendments

**F165** S. 28EE inserted (*prosp.*) by 1999 c. 8, ss. 6(2), 67(2)

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### [<sup>F166</sup>28F Right to choose medical practitioner.

- (1) Provision shall be made in regulations for conferring a right on any person to choose the medical practitioner from whom he is to receive primary medical services, subject to—
  - (a) the consent of the practitioner concerned; and
  - (b) any limit on the number of patients to be accepted by any practitioner.
- (2) In particular, the regulations—
  - (a) shall prescribe the procedure for choosing a practitioner;
  - (b) may prescribe a limit on the number of patients to be accepted by a medical practitioner who undertakes to provide general medical services under Part II; and
  - (c) shall provide for the distribution among medical practitioners of persons who have indicated a wish to obtain primary medical services but—
    - (i) have been refused by the medical practitioner of their choice; or
    - (ii) have not chosen a medical practitioner.
- (3) The Secretary of State may give directions imposing a limit on the number of patients to be accepted by a medical practitioner who performs personal medical services in accordance with section 28C arrangements.
- (4) Any such directions may make different provision for different cases or descriptions of case.
- (5) Regulations under this section may also provide that the right to choose a medical practitioner conferred by the regulations shall, in the case of such persons as may be specified in the regulations, be exercised on their behalf by other persons so specified.
- (6) In this section “primary medical services” means medical services which are—
  - (a) provided, in accordance with section 28C arrangements, as personal medical services; or
  - (b) provided under Part II as general medical services.]

#### Textual Amendments

**F166** S. 28F inserted (1.4.1998) by 1997 c. 46, s. 23(1); S.I. 1997/631, art. 2(1)(a), Sch. 1 (subject to arts. 3-5)

### [<sup>F167</sup>28G Right to choose dental practitioner.

- (1) Provision shall be made in regulations for conferring a right on any person to choose the dental practitioner from whom he is to receive primary dental services, subject to the consent of the practitioner concerned.
- (2) The regulations shall, in particular, prescribe the procedure for choosing a practitioner.
- (3) The regulations may, in particular, provide that the right to choose a dental practitioner conferred by the regulations shall, in the case of such persons as may be specified in the regulations, be exercised on their behalf by other persons so specified.
- (4) In this section “primary dental services” means dental services which are—

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- (a) provided, in accordance with section 28C arrangements, as personal dental services; or
- (b) provided under Part II as general dental services.]

#### Textual Amendments

**F167** S. 28G inserted (1.10.1998) by 1997 c. 46, s. 24(1); S.I. 1998/1998, art. 2(2)(a), Sch. 1

#### [<sup>F168</sup>28H Immunisation.

Where the Secretary of State arranges with medical practitioners for the vaccination or immunisation of persons against disease, he shall so far as reasonably practicable give every person providing, and every medical practitioner performing, personal medical services in accordance with section 28C arrangements an opportunity to participate in the arrangements for vaccination or immunisation.]

#### Textual Amendments

**F168** S. 28H inserted (1.4.1998) by 1997 c. 46, s. 41(10), Sch. 2 Pt. I para. 6; S.I. 1998/631, art. 2(1), Schs. 1, 2 (subject to arts. 3-5)

#### [<sup>F169</sup>28I Use of accommodation.

If the Secretary of State considers that any accommodation provided by him by virtue of this Act is suitable for use in connection with the provision of personal medical services or personal dental services in accordance with section 28C arrangements, he may make the accommodation available on such terms as he thinks fit to persons providing those services.]

#### Textual Amendments

**F169** S. 28I inserted (1.4.1998) by 1997 c. 46, s. 41(10), Sch. 2 Pt. I para. 7; S.I. 1998/631, art. 2(1), Schs. 1, 2 (subject to arts. 3-5)

PROSPECTIVE

#### [<sup>F170</sup>28J Local pharmaceutical services schemes

- (1) Schedule 8A makes provision with respect to the provision of local pharmaceutical services in accordance with schemes made by [Primary Care Trusts and] Health Authorities.]

#### Textual Amendments

**F170** S. 28J inserted (*prosp.*) by 2001 c. 15, ss. 40(1), 70(2) (with ss. 64(9), 65(4))

**Status:**

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