



National Health Service (Scotland) Act 1978

1978 CHAPTER 29

PART IV

POWERS OF THE SECRETARY OF STATE

Control of maximum prices for medical supplies

49 Maximum prices of medical supplies may be controlled

- (1) The Secretary of State may by order provide for controlling maximum prices to be charged for any medical supplies required for the purposes of this Act.
- (2) The Secretary of State may by direction given with respect to any undertaking, or by order made with respect to any class or description of undertakings, being an undertaking or class or description of undertakings concerned with medical supplies required for the purposes of this Act, require persons carrying on the undertaking or undertakings of that class or description—
 - (a) to keep such books, accounts and records relating to the undertaking as may be prescribed by the direction or, as the case may be, by the order or a notice served under the order;
 - (b) to furnish at such times, in such manner and in such form as may be so prescribed such estimates, returns or information relating to the undertaking as may be so prescribed.
- (3) The additional provisions set out in Schedule 10 have effect in relation to this section; and

" medical supplies " in this section includes surgical, dental and optical materials and equipment; and

" undertaking " in this section and that Schedule means any public utility undertaking or any undertaking by way of trade or business.

Status: This is the original version (as it was originally enacted).

Additional powers as to services and supplies; and the use of those services and supplies for private patients

50 Additional powers as to accommodation and services

- (1) The Secretary of State may allow persons to make use on such terms (including terms as to the payment of charges) as he thinks fit, of any accommodation or services provided under this Act and may provide the accommodation or services in question to an extent greater than that necessary apart from this section if he thinks it expedient to do so in order to allow persons to make use of them.
- (2) This section is subject to sections 51, 52 and 54.

51 Section 50 power in relation to private patients

- (1) In this section and section 52 " the section 50 power " means the Secretary of State's power under section 50 to afford persons (subject to section 54) admission or access to accommodation or services as resident or non-resident private patients at health service hospitals.
- (2) The Secretary of State shall not in the exercise of his section 50 power afford a person admission or access to accommodation or services at such a hospital as a private patient unless satisfied that the accommodation or services are required for the purposes of investigation, diagnosis or treatment which—
 - (a) is of a specialised nature or involves the use of specialised equipment or skills ; and
 - (b) is not privately available in Great Britain or, if it is so available, either—
 - (i) is not privately available there at a place which is reasonably accessible to the patient; or
 - (ii) is such that it is in the interests of the Scottish health service or of the health service in England and Wales or of both for it to be carried out on that occasion at that hospital.

In this subsection " privately available " means available at a satisfactory standard otherwise than at a health service hospital.

- (3) The Secretary of State shall not exercise his section 50 power in such a way as to afford persons admission or access to accommodation or services at health service hospitals as private patients otherwise than in accordance with the following arrangements.

Those arrangements are such as in his opinion are best suited for securing that all persons admitted or afforded access to accommodation or services at health service hospitals as resident or non-resident patients for the purposes of investigation, diagnosis or treatment of a specialised nature, or involving the use of specialised equipment or skills, are, so far as practicable, admitted or afforded such access on the basis of medical priority alone, whether they come as private patients or not.

- (4) The Secretary of State shall not exercise his section 50 power in such a way as to allow any particular accommodation or facilities at a health service hospital to be reserved or set aside for regular or repeated use in connection with the treatment of persons as private patients.

This subsection is without prejudice to his power to allow such use in connection with the treatment of any particular person afforded admission or access to that accommodation or those facilities.

52 Additional provision as to charges under section 50

- (1) There shall be made in respect of any exercise of the section 50 power such charges as the Secretary of State may in accordance with subsections (2) and (3) determine. '
- (2) Without prejudice to the generality of the Secretary of State's section 50 power to make and recover charges for any use which he may under that section allow to be made of any accommodation or services provided under this Act, the Secretary of State may in pursuance of subsection (1) determine different rates or scales of charges—
 - (a) for different accommodation or services at different health service hospitals or different classes of such hospitals;
 - (b) for different forms or classes of treatment;
 - (c) in relation to patients who are, and patients who are not, ordinarily resident in Great Britain ;
 - (d) generally for different accommodation and for different services and in relation to different circumstances.
- (3) The charges determined in pursuance of subsection (1)—
 - (a) shall be such as will ensure, so far as is practicable, that no increase in the expenses incurred by the Secretary of State under this Act results from any exercise of the section 50 power ;
 - (b) shall include such amounts as appear to the Secretary of State proper and reasonable in respect of costs appearing to him to be properly attributable to capital account; and
 - (c) in the case of charges for services provided to a private patient at a health service hospital by a whole-time consultant, shall be not less than would be charged by a part-time consultant for providing similar services in similar circumstances to a private patient of his.
- (4) Where a Health Board receives any sum charged under section 50 for services provided to a private patient by a whole-time consultant—
 - (a) the Board shall retain that sum and use it for the purposes of research and development in medicine or dentistry, but
 - (b) if the services in question were provided by a consultant employed by a medical or dental school or university, the Board shall, if so directed by the Secretary of State, pay the sum to that school or university to use for those purposes.
- (5) Nothing in this section or in section 51 prevents the Secretary of State from allowing any medical or dental practitioner employed by a Health Board to make use of any accommodation or services provided by virtue of this Act to the extent to which the practitioner would be entitled to make such use under the terms of that employment if those terms were as they were or would have been at the passing of the Health Services Act 1976.
- (6) In this section—

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" whole-time consultant" and " part-time consultant" mean respectively a consultant employed whole-time or part-time by a Health Board, medical or dental school or university.

53 Additional powers as to disposal and production of goods

- (1) The Secretary of State may sell or give away, or otherwise dispose of, goods the production or manufacture of which by him is involved in the provision of services under this Act.
- (2) He may, in the case of goods referred to in subsection (1) which are prescribed for the purposes of this section, produce or manufacture them to an extent greater than that necessitated by the provision of such services in order that they may be supplied to persons other than those to whom they are supplied by way of the provision of such services whether or not the first-mentioned persons are engaged in the provision of other services provided under this Act.
- (3) This section is subject to section 54.

54 Restriction of powers under sections 44, 50 and 53

The Secretary of State shall exercise the powers conferred on him by the provisions of section 44 (supplies of blood and other substances) and sections 50 and 53 only if and to the extent that he is satisfied that anything which he proposes to do or allow under those powers—

- (a) will not to a significant extent interfere with the performance by him of any duty imposed on him by this Act to provide accommodation or services of any kind; and
- (b) will not to a significant extent operate to the disadvantage of persons seeking or afforded admission or access to accommodation or services at health service hospitals (whether as resident or non-resident patients) otherwise than as private patients.

Further provisions as to payments by patients for health service accommodation and services

55 Hospital accommodation on part payment

- (1) The Secretary of State may authorise the accommodation described in this section to be made available, to such extent as he may determine, for patients who give an undertaking (or for whom one is given) to pay such charges for part of the cost as the Secretary of State may determine, and he may recover those charges.

The accommodation mentioned above is—

- (a) in single rooms or small wards which are not for the time being needed by any patient on medical grounds;
 - (b) at any hospital.
- (2) The Secretary of State may allow such deductions as he thinks fit from the amount of a charge due by virtue of an undertaking given under this section to be paid for accommodation in respect of any period during which the accommodation is temporarily vacated by the person for whom it is made available.

56 Expenses payable by remuneratively employed resident patients

The Secretary of State may require any person—

- (a) who is a resident patient for whom the Secretary of State provides services under this Act; and
- (b) who is absent during the day for the purpose of engaging in remunerative employment from the hospital where he is a patient,

to pay such part of the cost of his maintenance in the hospital and any costs incidental thereto as may seem reasonable to the Secretary of State having regard to the amount of that person's remuneration, and the Secretary of State may recover the payment so required.

57 Accommodation and services for private resident patients

- (1) Subject to section 63 and to this section, if the Secretary of State is satisfied in the case of a health service hospital that it is reasonable to do so, he may—
 - (a) authorise accommodation and services at the hospital in question to be made available for resident patients to such extent as he may determine ;
 - (b) determine the charges payable in respect of such patients in accordance with the following provisions of this section, and recover those charges,and, on an undertaking being given by or on behalf of such patients to pay such charges, that accommodation and those services shall be available for them.
- (2) The Secretary of State may allow accommodation and services to which an authorisation under subsection (1) relates to be made available in connection with the treatment, in pursuance of arrangements made by a medical practitioner or dental practitioner serving whether in a honorary or paid capacity on the staff of a health service hospital, of private patients of that practitioner as resident patients.
- (3) The Secretary of State, for the purpose of determining charges to be paid under subsection (1)—
 - (a) may classify the health service hospitals, and may, in the case of each class, determine in respect of each period of 12 months beginning with 1st April first falling after the date on which the determination is made the charges to be paid under that subsection in respect of accommodation and services provided during that period, at a hospital falling within that class;
 - (b) in determining such charges in respect of a period the Secretary of State shall have regard, so far as is reasonably practicable, to the total cost (exclusive of costs appearing to him to be properly attributable to capital account) which, by reference to facts known to him at the time of the determination, it is estimated will be incurred during that period in the provision for resident patients of services at hospitals falling within that class; and
 - (c) may include in any such charges, in such cases as appear to him fit, such amounts as appear to him proper and reasonable to be included by way of contribution to expenditure appearing to him to be properly attributable to capital account.
- (4) The Secretary of State may under subsection (3) determine different charges for different accommodation and for different services and in relation to different circumstances.

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- (5) The Secretary of State may allow such deduction as he thinks proper from the amount of a charge due by virtue of an undertaking given under this section by, or in respect of, any patient—
- (a) in respect of treatment given to the patient under subsection (2); and
 - (b) in respect of any period during which the accommodation to which the undertaking relates is temporarily vacated by the patient.
- (6) Nothing in this section prevents accommodation from being made available for a patient other than one mentioned in subsection (1) if the use of that accommodation is needed more urgently for him on medical grounds than for a patient so mentioned, and no other suitable accommodation is available.

58 Accommodation and services for private non-resident patients

- (1) If the Secretary of State is satisfied, in the case of a health service hospital that it is reasonable to do so—
- (a) he may, subject to section 63, authorise accommodation and services at the hospital in question to be made available to such extent as he may determine, and
 - (b) that accommodation and those services shall be available in connection with the treatment, in pursuance of arrangements made by a medical practitioner or dental practitioner serving (whether in an honorary or paid capacity) on the staff of any such hospital, of private patients of that practitioner otherwise than as resident patients.

Those patients shall be patients who give an undertaking (or for whom one is given) to pay, in respect of the accommodation and services, such charges as the Secretary of State may determine, and he may recover those charges.

- (2) The Secretary of State may under subsection (1) determine different charges for different accommodation and for different services, and in relation to different circumstances.
- (3) No accommodation and no services shall be so made available under subsection (1) as to prejudice persons availing themselves of services at the hospital otherwise than as private patients.

Withdrawal of health service pay beds and services from private patients

59 Withdrawal of facilities available for private patients

- (1) Sections 60 to 63 have effect for the purpose of—
- (a) securing the separation of the facilities available in Scotland for the prevention, diagnosis and treatment of illness under private arrangements from the facilities available for those purposes at premises vested in the Secretary of State; and
 - (b) to that end securing the progressive withdrawal of accommodation and services at health service hospitals from use in connection with the treatment of persons at such hospitals as resident or non-resident private patients.
- (2) Nothing in this Part prejudices the operation of paragraph 8 of Schedule 1 (by virtue of which regulations governing the terms of employment of officers employed by a

Health Board must not contain a requirement that all consultants so employed shall be so employed whole-time).

60 Revocation of authorisations under section 57 or section 58

- (1) It shall continue to be the duty of the Health Services Board to submit to the Secretary of State from time to time in accordance with this section proposals for the progressive revocation of—
 - (a) the authorisations under section 57(1) or those granted by virtue of section 63(3), and
 - (b) the authorisations under section 58(1) or those which have been granted by virtue of section 63(3),and it shall be the Secretary of State's duty to give effect to all proposals so submitted.
- (2) The Health Services Board shall in the 6 months beginning with the date on which its first proposals were submitted under section 4(2) of the Health Services Act 1976, and in each successive period of 6 months thereafter, submit further proposals under this section or, if in all the circumstances it decides that the submission of further proposals in any particular period of 6 months is unnecessary, shall instead prepare and submit to the Secretary of State a report explaining the Board's reasons for that decision.
- (3) In formulating proposals under this section the Board shall—
 - (a) have regard to the principles set out in section 62 ; and
 - (b) consider any representations made to the Board by—
 - (i) the Secretary of State ;
 - (ii) any body which is representative of medical practitioners or dental practitioners or of persons employed in the health service or concerned with the interests of patients at health service hospitals ;
 - (iii) any other person having a substantial interest in the proposals.

In deciding what advice to give the Board in connection with the formulation of any such proposals the Board's Scottish Committee shall likewise have regard to the principles set out in section 62 and shall consider any representations made to the Committee by any of the persons or bodies mentioned in this subsection.

- (4) Each set of proposals under this section shall specify—
 - (a) the accommodation and services authorisation of which under section 57(1) or section 58(1) should be revoked and
 - (b) the date before which the necessary revocations should take effect,and may specify different dates for different accommodation or services so specified.

61 Further provisions as to revocation of section 58 authorisations

- (1) Without prejudice to subsection (3) of section 60, the Health Services Board, in formulating proposals under that section for the revocation of authorisations given under section 58(1) in respect of accommodation or services at any particular health service hospital or hospitals, and the Scottish Committee in deciding what advice to give the Board in connection with the formulation of any such proposals—
 - (a) shall have regard to the purposes and specialties for which the accommodation or services in question are available for use in connection with the treatment of non-resident private patients, and

- (b) shall apply the principles set out in section 62 separately in respect of different purposes and specialties,
and the Board may formulate separate proposals in respect of different purposes or specialties accordingly.
- (2) As regards the revocation of authorisations under section 58(1), any proposals under section 60 relating to—
- (a) accommodation available to consultants for the purpose of affording consultations to their private patients, or
 - (b) accommodation and services available for the following specialties, namely, radiotherapy, diagnostic pathology and diagnostic radiology (including scanning, ultrasonics and methods involving the use of radio-isotopes),
- shall be formulated by the Board as separate proposals.
- (3) Without prejudice to section 60 and the preceding provisions of this section, the Health Services Board shall, as regards the revocation of authorisations under section 58(1), submit separate proposals under section 60 relating to—
- (a) accommodation and services available for the specialties other than radiotherapy mentioned in subsection (2)(b), and
 - (b) other accommodation and services available for diagnostic purposes,
- and shall do so not later than the end of the 12 months following the initial period defined by the Health Services Act 1976 (that is the period of 6 months beginning with the date on which that Act was passed), or, if a period longer than the initial period has been allowed under that Act for the submission of the Board's first proposals under this section, the 12 months following that longer period.

62 Principles as to proposals under section 60 or section 61

The principles referred to in sections 60 and 61 are—

- (a) that accommodation or services at any particular health service hospital or hospitals should remain authorised under section 57 or section 58 for use in connection with the treatment of resident or non-resident private patients only while there is a reasonable demand for accommodation and facilities for the private practice of medicine and dentistry in the area or areas served by the hospital or hospitals in question;
- (b) that the authorisation of any such accommodation or services under those provisions for use in that connection should be revoked only if sufficient accommodation and facilities for the private practice of medicine and dentistry are otherwise reasonably available (whether privately or at health service hospitals) to meet the reasonable demand for them in the area or areas served by the hospital or hospitals in question;
- (c) that the continued authorisation of any such accommodation or services under those provisions for use in that connection should depend on there having been or being taken all reasonable steps to provide, otherwise than at health service hospitals, sufficient reasonable accommodation and facilities for the private practice of medicine and dentistry to meet the reasonable demand for them in the area or areas served by the hospital or hospitals in question;
- (d) that failure, in the circumstances mentioned in paragraph (c), to take all reasonable steps that could be taken to provide as mentioned in that paragraph would itself be grounds for the Health Services Board, after giving due warning to persons likely to be affected thereby of the likely consequences

of such failure, to propose the revocation of the authorisations under those provisions relating to accommodation or services at the hospital or hospitals in question.

63 Restrictions on authorisations under section 57 or section 58

- (1) No authorisation under section 57(1) or section 58(1)—
 - (a) shall be granted, except by virtue of subsection (2) or subsection (4); and
 - (b) shall be, other than one granted on a temporary basis as mentioned in subsection (4), to any extent revoked otherwise than in accordance with proposals submitted to the Secretary of State by the Health Services Board under section 60.
- (2) The Health Services Board may submit to the Secretary of State proposals for securing that in any case where one or more beds authorised under section 57(1) cease to be available to resident private patients, or any accommodation or services authorised under section 58(1) cease to be available to non-resident private patients, in consequence of the permanent closure of any health service hospital accommodation in Scotland independently of any proposals submitted by the Board under section 60, the total number of effective beds, or the total amount of effective accommodation or services, as the case may be, so authorised in Scotland is not thereby reduced below what it would be if—
 - (a) the closed accommodation had remained in use, but
 - (b) effect had been given by the Secretary of State to all proposals under section 60 which were received by him before the submission of the proposals in question under this subsection.
- (3) It shall be the Secretary of State's duty to grant such authorisations under section 57(1) or section 58(1), as the case may be, as are needed to give effect to any proposals submitted to him under subsection (2).
- (4) Where any health service hospital accommodation in Scotland is temporarily closed (whether at the instance of the Secretary of State or not) for physical or other reasons outside his control, the Secretary of State shall, without the need for any proposals by the Board, grant on a temporary basis such authorisations under section 57(1) or section 58(1) as he would have been able to grant by virtue of subsections (2) and (3) if—
 - (a) the closure had been permanent; and
 - (b) the Board had submitted to him any proposals which it could in that case have submitted to him under subsection (2).
- (5) Subject to the restrictions imposed by this section, section 57 or, as the case may be, section 58 shall continue to have effect in relation to any accommodation or services to which an authorisation under section 57(1) or section 58(1) relates.

Use by practitioners of health service accommodation and facilities for private practice

64 Permission for use of facilities in private practice

- (1) A person to whom this section applies who wishes to use any relevant health service accommodation or facilities for the purpose of providing medical, dental,

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pharmaceutical, ophthalmic or chiropody services to non-resident private patients may apply in writing to the Secretary of State for permission under this section.

- (2) Any application for permission under this section must specify—
 - (a) which of the relevant health service accommodation or facilities the applicant wishes to use for the purpose of providing services to such patients; and
 - (b) which of the kinds of services mentioned in subsection (1) he wishes the permission to cover.
- (3) On receiving an application under this section the Secretary of State—
 - (a) shall consider whether anything for which permission is sought would interfere with the giving of full and proper attention to persons seeking or afforded access otherwise than as private patients to any services provided under this Act; and
 - (b) shall grant the permission applied for unless in his opinion anything for which permission is sought would so interfere.
- (4) Any grant of permission under this section shall be on such terms (including terms as to the payment of charges for the use of the relevant health service accommodation or facilities pursuant to the permission) as the Secretary of State may from time to time determine.
- (5) The persons to whom this section applies are—
 - (a) persons of any of the following descriptions who provide services under Part II, namely, medical practitioners, dental practitioners, registered pharmacists, and ophthalmic or dispensing opticians ; and
 - (b) other persons who provide pharmaceutical or ophthalmic services under Part II; and
 - (c) chiropodists who provide services under this Act at premises where services are provided under Part II.
- (6) In this section—
 - (a) "relevant health service accommodation or facilities", in relation to a person to whom this section applies, means any accommodation or facilities available at premises provided by the Secretary of State by virtue of this Act, being accommodation or facilities which that person is for the time being authorised to use for the purposes of Part II; or
 - (b) in the case of a person to whom this section applies by virtue of paragraph (c) of subsection (5), accommodation or facilities which that person is for the time being authorised to use for purposes of this Act at premises where services are provided under Part II.

Information and reports

65 Information for Health Services Board

It shall continue to be the Secretary of State's duty to furnish the Health Services Board with such information as they may reasonably require for the proper discharge of their functions under sections 60 to 63.

66 Publication of matters under sections 60 and 63

The Secretary of State shall cause every set of proposals submitted to him under sections 60 and 63, and every report submitted to him under section 60(2), to be published as soon as practicable after its submission, and shall lay a copy of every such set of proposals or report before each House of Parliament.

67 Reports on extent of facilities for private patients

- (1) There shall be prepared by the Secretary of State on the matters mentioned in subsection (2), an annual report relating to Scotland, and he shall lay a copy of every report under this section before each House of Parliament.
- (2) The matters referred to under subsection (1) are—
 - (a) the accommodation and services at health service hospitals which in the period covered by the report were available for use in connection with the treatment of private patients by virtue of authorisations under sections 57(1) and 58(1);
 - (b) the extent to which " the section 50 power " (as defined in section 51(1)) was exercised in that period;
 - (c) the extent to which the powers to which section 54 applies were exercised in that period otherwise than by way of affording persons admission or access to accommodation or services at health service hospitals as resident or non-resident private patients; and
 - (d) the extent to which progress has been made in implementing the common waiting-lists referred to in section 6 of the Health Services Act 1976, and in section 68.

68 " Common waiting lists "

- (1) The reference in paragraph (d) of section 67(2) to common waiting-lists is to the recommendations made to the Secretary of State by the Health Services Board under section 6(1) of the Health Services Act 1976.
- (2) Those recommendations—
 - (a) related to arrangements for affording persons admission or access as resident patients (authorised under section 57) or non-resident patients (authorised under section 58) to accommodation and services; and
 - (b) were in the Board's opinion the ones best suited for securing that all persons admitted or afforded access to accommodation or services at health service hospitals as resident or non-resident patients are, so far as is practicable, admitted or afforded access thereto on the basis of medical priority alone, whether coming as private patients or not.

Regulations as to certain charges

69 Charges for drugs, medicines or appliances or pharmaceutical services

- (1) Regulations may provide for the making and recovery in such manner as may be prescribed of such charges as may be prescribed in respect of—
 - (a) the supply under this Act (otherwise than under Part II) of drugs, medicines or appliances (including the replacement and repair of those appliances),

- (b) such of the pharmaceutical services referred to in Part II as may be prescribed.
- (2) Regulations under subsection (1) may provide for the grant, on payment of such sums as may be prescribed by those regulations, of certificates conferring on the persons to whom the certificates are granted exemption from charges otherwise exigible under the regulations in respect of drugs, medicines and appliances supplied during such period as may be prescribed, and different sums may be so prescribed in relation to different periods.
- (3) The additional provisions of paragraphs 1 and 4 of Schedule 11 have effect in relation to this section.

70 Charges for dental or optical appliances

- (1) Regulations may provide for the making and recovery in such manner as may be prescribed of charges of such amounts as are mentioned in sub-paragraph (1) of paragraph 2 of Schedule 11, in respect of the supply under this Act of such dental or optical appliances as are mentioned in that sub-paragraph.
- (2) If the Secretary of State, after consultation with the university associated with any hospital providing facilities for clinical dental teaching, is satisfied that it is expedient in the interests of dental training or education that the charges imposed by subsection (1) should be remitted in the case of dental services provided at that hospital, either generally or subject to limitations or conditions, he may by order provide for that purpose.

Any order made under this subsection may be revoked or varied by a subsequent order made by the Secretary of State after such consultation as is mentioned above.

- (3) The additional provisions of paragraphs 2 and 5 of Schedule 11 have effect in relation to this section.

71 Charges for dental treatment

- (1) A charge of the amount authorised by this section may be made and recovered, in such manner as may be prescribed, in respect of any services provided as part of the general dental services under Part II, not being—
 - (a) the supply or replacement of appliances mentioned in paragraph 2(1) of Schedule 11;
 - (b) the repair of appliances other than prescribed appliances;
 - (c) the arrest of bleeding; or
 - (d) the clinical examination of a patient and any report on that examination.

The additional provisions of paragraphs 3 and 5 of Schedule 11 have effect in relation to this subsection.

- (2) Regulations may provide that, in the case of such special dental treatment as may be prescribed, being treatment provided as part of the general dental services, such charges as may be prescribed may be made and recovered by the person providing the services.

72 Charges in respect of services etc. provided under sections 37, 38 and 41

Regulations may provide for the recovery of such charges as may be prescribed—

- (a) in respect of such services provided under section 37 (prevention of illness, care and after-care) as may be prescribed, not being services provided in a hospital;
- (b) in respect of such articles or services provided under section 38 (care of mothers and young children) as may be prescribed, not being articles or services provided in a hospital, and not being a drug, a medicine or an appliance of a type normally supplied;
- (c) from persons availing themselves of any service under section 41 (except advice on contraception),

and may provide for the remission of any such charge, in whole or in part, in such circumstances as may be prescribed.

73 Charges for more expensive supplies

Regulations may provide for the making and recovery of such charges as may be prescribed—

- (a) by the Secretary of State in respect of the supply by him of any appliance or vehicle which is, at the request of the person supplied, of a more expensive type than the prescribed type, or in respect of the replacement or repair of any such appliance, or the replacement of any such vehicle, or the taking of any such action in relation to the vehicle as is mentioned in section 46(2).
- (b) by persons providing general dental services or general ophthalmic services in respect of the supply, as part of those services, of any dental or optical appliance which is, at the request of the person supplied, of a more expensive type than the prescribed type or in respect of replacement or repair of any such appliance.

74 Charges for repairs and replacements in certain cases

Regulations may provide for the making and recovery of such charges as may be prescribed—

- (a) by the Secretary of State in respect of the replacement or repair of any appliance or vehicle supplied by him, or
- (b) by persons providing general dental services or general ophthalmic services in respect of the replacement or repair of any dental or optical appliance supplied as part of those services,

if it is determined in the prescribed manner that the replacement or repair is necessitated by an act or omission of the person supplied or (if the act or omission occurred when the person supplied was under 16 years of age) of the person supplied or of the person having charge of him when the act or omission occurred.

75 Sums otherwise payable to those providing services

Regulations made—

- (a) under sections 69 to 71 and under sections 73 and 74 providing for the making and recovery of charges in respect of any services, may provide for the reduction of the sums which would otherwise be payable by a Health Board to the persons by whom those services are provided by the amount of the charges authorised by the regulations in respect of those services;

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- (b) for the purposes of section 70(1) in relation to appliances provided as part of the general dental services or the general ophthalmic services under Part II, may provide for the reduction of the sums which would otherwise be payable by a Health Board to the persons by whom those services are provided by the amount of the charges authorised by section 70(1) in respect of those appliances.

Inquiries, and default and emergency powers

76 Inquiries

- (1) The Secretary of State may cause an inquiry to be held in any case where he deems it advisable to do so in connection with any matter arising under this Act.
- (2) The provisions of Schedule 12 shall have effect with regard to any inquiry which the Secretary of State is, under this Act, required or authorised to hold.

77 Default powers

- (1) Where the Secretary of State is of the opinion, on representations made to him or otherwise, that—
- (a) any Health Board;
 - (b) the Medical Practices Committee; or
 - (c) the Dental Estimates Board ;
- have failed to carry out any functions conferred or imposed on them by or under this Act, or have in carrying out those functions failed to comply with any regulations, schemes, proposals or directions relating to those functions, he may after holding an inquiry make an order declaring them to be in default.
- (2) When such an order is made, the members of the body shall forthwith vacate their office, and the order—
- (a) shall provide for the appointment, in accordance with the provisions of this Act, of new members of the body; and
 - (b) may contain such provisions as seem to the Secretary of State expedient for authorising any person to act in the place of the body in question pending the appointment of new members.
- (3) An order made under this section may contain such supplementary and incidental provisions as appear to the Secretary of State to be necessary or expedient.

78 Emergency powers

If the Secretary of State is of the opinion that an emergency exists, and thinks it necessary in order to secure the effective continuance of any service under this Act, he shall have power to direct that any function conferred by or under this Act on any body or person shall, during the period of the emergency, be performed by such other body or person as he may specify in the direction.