



Health Services Act 1980

1980 CHAPTER 53

PART I

THE NATIONAL HEALTH SERVICE

Financial provisions relating to the health services in England, Wales and Scotland

- 3 Extension of the powers to make services available to local authorities etc. under s. 26 of the Act of 1977 and s. 15 of the Scottish Act of 1978**
- (1) At the end of section 26 of the Act of 1977 (which confers functions on the Secretary of State for the supply of goods and services to local authorities and others) there shall be added the following subsection—
- “(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, and
 - (b) persons providing health authorities 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.”
- (2) In section 15 of the Scottish Act of 1978 (which empowers the Secretary of State, Health Boards and the Agency to supply goods and services to local authorities and others), in subsection (1), in paragraph (c), after the word " by " there shall be inserted the words " or having contracts with ".
- 4 Power to make grants towards expenditure on services of common concern to health authorities etc. and local authorities**
- (1) After section 28 of the Act of 1977 there shall be inserted the following section—

Status: This is the original version (as it was originally enacted).

“28A Power to make grants towards expenditure on services of common concern to health authorities and local authorities.

- (1) An Area Health Authority or District Health Authority may, if they think fit, make grants subject to and in accordance with the provisions of this section to the following local authorities towards expenditure to be incurred by them in connection with the performance of the following functions, that is to say—
 - (a) to any local social services authority, in respect of expenditure in connection with the performance of any function which, by virtue of section 2(1) or (2) of the Local Authority Social Services Act 1970, is to be performed through the social services committee of the authority ;
 - (b) to any district council in respect of expenditure in connection with the performance by the council of any function of theirs under section 8 of the Residential Homes Act 1980 or the corresponding enactment repealed by that Act (meals and recreation for old people).
- (2) A grant 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.
- (3) No grant shall be made under subsection (1) above in respect of any expenditure unless—
 - (a) the expenditure has been recommended for a grant under this section by the joint consultative committee on which, in accordance with section 22 above, the health authority and the local authority concerned are represented and the conditions subject to which the grant is to be made accord with the advice given by that committee in making the recommendation; and
 - (b) the conditions subject to which it is to be made conform with the conditions prescribed for grants of that description by the Secretary of State in directions under this paragraph.
- (4) Where expenditure which has been recommended in pursuance of the said section 22 for a grant under this section is expenditure in connection with the provision of services to be provided by a voluntary organisation then, subject to subsection (5) below—
 - (a) the Area Health Authority or District Health Authority may, instead of or in addition to making grants under subsection (1) above to the local authority concerned in the provision of the services, make grants to the voluntary organisation towards the expenditure to be incurred by the organisation in connection with the provision of those services; or
 - (b) the local authority may, out of the sums payable to the authority under subsection (1) above, make grants to the voluntary organisation towards expenditure to be incurred by the organisation in connection with the provision of those services.
- (5) No grant shall be made under subsection (4) above in respect of any expenditure except subject to conditions which conform with the conditions prescribed for grants of that description by the Secretary of State under subsection (3)(b) above and which accord with the advice given by the joint consultative committee in recommending the expenditure for a grant under this section.

- (6) In subsection (1)(a) above the reference to functions which, by virtue of section 2(1) of the Act of 1970, are to be performed through the social services committee of a local authority does not include a reference to the functions of a local authority under section 3 of the Disabled Persons (Employment) Act 1958 (facilities for enabling disabled persons to be employed or work under special conditions).”.
- (2) After section 16 of the Scottish Act of 1978 there shall be inserted the following section—

“16A Power to make grants towards expenditure on services of common concern to Health Boards and local authorities.

- (1) A Health Board may, if they think fit, make grants subject to and in accordance with the provisions of this section to any regional or islands council towards expenditure to be incurred by them in connection with the performance of the following functions, that is to say—
- (a) any function relating to a matter which, by virtue of section 2(2) of the Social Work (Scotland) Act 1968 or any other enactment, stands referred to the social work committee of the council;
 - (b) any function of the council under—
 - (i) Part III of the National Assistance Act 1948;
 - (ii) section 10 of the Mental Health Act 1959;
 - (iii) section 1 or 2 of the Chronically Sick and Disabled Persons Act 1970;
 - (iv) section 23 or 297 of the Criminal Procedure (Scotland) Act 1975 ;
 - (v) Schedule 5 to the Supplementary Benefits Act 1976.
- (2) A grant 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.
- (3) No grant shall be made under subsection (1) in respect of any expenditure unless the conditions subject to which it is to be made conform with the conditions prescribed for grants of that description by the Secretary of State in directions under this subsection.
- (4) Where a voluntary organisation provides services which are similar to the functions referred to in subsection (1), then—
- (a) the Health Board may, instead of or in addition to making grants under that subsection to the council performing those functions, make grants to the voluntary organisation towards the expenditure to be incurred by the organisation in connection with the provision of those services;
 - (b) the council may, out of the sums payable to them under subsection (1), make grants to the voluntary organisation towards expenditure to be incurred by the organisation in connection with the provision of those services;
- but no grant shall be made under paragraph (a) or (b) except subject to conditions which conform with the conditions prescribed for grants of that description by the Secretary of State under subsection (3).

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- (5) In subsection (1)(a) the reference to functions relating to matters which, by virtue of section 2(2) of the Social Work (Scotland) Act 1968 or any other enactment, stand referred to the social work committee of a regional or islands council does not include a reference to the functions of such a council under section 3 of the Disabled Persons Employment Act 1958 (facilities for enabling disabled persons to be employed or work under special conditions).”.

5 Power of health authorities, etc. to raise money etc. by appeals, collections, etc.

- (1) After section 96 of the Act of 1977 there shall be inserted the following section—

“96A Power of health authorities, etc. to raise money, etc., by appeals, collections, etc.

- (1) A health authority shall have power to engage in activities intended to stimulate the giving (whether on trust or otherwise) of money or other property to assist the authority in providing or improving any services or any facilities or accommodation which is or are or is or are to be provided as part of the health service or to assist them in connection with their functions with respect to research.
- (2) A Board of Governors of a teaching hospital shall, so long as it is a preserved Board by virtue of section 15 of the National Health Service Reorganisation Act 1973, have the like power in relation to services, facilities or accommodation provided or to be provided at or by the hospital or their functions with respect to research.
- (3) Subject to any directions of the Secretary of State excluding specified descriptions of activity, the activities authorised by this section include public appeals or collections and competitions, entertainments, bazaars, sales of produce or other goods and other similar activities and the activities may involve the use of land, premises or other property held by or for the benefit of the health authority or Board exercising the power subject however to any restrictions on the purposes for which trust property may be used.
- (4) Subject to the following provisions of this section, the health authority or Board at whose instance property is given in pursuance of this section shall, after defraying out of it any expenses incurred in obtaining it, hold, administer and apply the property on trust for or for the purpose for which it was given.
- (5) Where property is given in pursuance of this section to or on trust for any purposes of a hospital for which special trustees have been appointed, the property may be held, administered and applied by the special trustees instead of by the Area or District Health Authority exercising functions on behalf of the Secretary of State in respect of the hospital if the special trustees and the Authority agree.
- (6) Property given in pursuance of this section on trust may be transferred to another health authority or to special trustees by order of the Secretary of State under section 92 above in the same circumstances as other trust property may be transferred under that section, and sections 94 and 96 above shall apply as they apply to other trust property transferred under the said section 92.

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- (7) Where property held by a health authority or Board under this section is more than sufficient to enable the purpose for which it was given to be fulfilled the excess shall be applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property comprising the excess was given, for such purposes connected with any of the functions of the authority or Board as the authority or Board think fit.
- (8) Where property held by a health authority or Board under this section is insufficient to enable the purpose for which it was given to be fulfilled then—
- (a) the authority or Board may apply so much of the capital or income at their disposal as is needed to enable the purpose to be fulfilled subject, however, in the case of trust property, to any restrictions on the purpose for which the trust property may be applied and, in the case of money paid or payable by the Secretary of State or by a Regional Health Authority under section 97 below, to any directions he or that Authority may give; but
 - (b) where the capital or income applicable under paragraph (a) above is insufficient or is not applied to enable the purpose to be fulfilled, the property so held by the health authority or Board shall be applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property was given, for such purposes connected with any of the functions of the authority or Board as the authority or Board think fit.
- (9) Where under subsection (7) or (8) above property becomes applicable for purposes other than that for which it was given the authority or Board shall have regard to the desirability of applying the property for a purpose similar to that for which it was given.
- (10) In this section " special trustees " has the same meaning as in section 95 above and references to the purposes for which trust property may be used or applied are to be taken, in the case of trust property which has been transferred under section 92 above, to include references to those purposes as enlarged by section 94 above.”.
- (2) After section 84 of the Scottish Act of 1978 there shall be inserted the following section—

“84A Power to raise money, etc., by appeals, collections, etc.

- (1) A Health Board shall have power to engage in activities intended to stimulate the giving (whether on trust or otherwise) of money or other property to assist them in providing or improving any services or any facilities or accommodation which is or are or is or are to be provided as part of the health service or to assist them in connection with their functions with respect to research.
- (2) A local health council shall have power to engage in activities intended to stimulate the giving (whether on trust or otherwise) of money or other property to assist them in carrying out any function conferred upon them by or under any enactment.
- (3) Subject to any directions of the Secretary of State excluding specified descriptions of activity, the activities authorised by this section include public

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appeals or collections and competitions, entertainments, bazaars, sales of produce or other goods and other similar activities and the activities may involve the use of land, premises or other property held by or for the benefit of the Board or local health council exercising the power subject however to any restrictions on the purposes for which trust property may be used.

- (4) Subject to subsections (5) and (6), the Health Board or local health council at whose instance property is given in pursuance of this section shall, after defraying out of it any expenses incurred in obtaining it, hold, administer and apply the property on trust for or for the purpose for which it was given.
- (5) Where property held by a Health Board or local health council under this section is more than sufficient to enable the purpose for which it was given to be fulfilled, the excess shall be applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property comprising the excess was given, for such purposes connected with any of the functions of the Board or council as the Board or council think fit.
- (6) Where property held by a Health Board or local health council under this section is insufficient to enable the purpose for which it was given to be fulfilled then—
 - (a) the Board or the council may apply so much of the capital or income at their disposal as is needed to enable the purpose to be fulfilled subject, however, in the case of trust property, to any restrictions on the purposes for which the trust property may be applied, and in the case of money paid or payable by the Secretary of State under section 85(1), to any directions he may give; but
 - (b) where the capital or income applicable under paragraph (a) is insufficient or is not applied to enable the purpose to be fulfilled, the property so held by the Board or the council shall be applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property was given, for such purposes connected with any of the functions of the Board or council as the Board or council think fit.
- (7) Where under subsections (5) or (6) property becomes applicable for purposes other than that for which it was given, the Health Board or local health council shall have regard to the desirability of applying the property for a purpose similar to that for which it was given.”.

6 Provision of public money for, and financial duties of, health authorities, Health Boards, etc.

- (1) For section 97 of the Act of 1977 (under which the Secretary of State and Regional Health Authorities are required to pay to other health authorities the sums needed to defray their approved expenditure or, in the case of special health authorities, sums equal to their expenses) there shall be substituted the following sections—

“97 Means of meeting expenditure of health authorities out of public funds.

- (1) It is the Secretary of State's duty to pay in respect of each financial year—

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- (a) to each Regional Health Authority or, in Wales, to each Area Health Authority and each District Health Authority sums not exceeding the amount allotted or further allotted by him to the Authority for that year towards meeting the expenditure attributable to the performance by the Authority of their functions in that year;
 - (b) to each Family Practitioner Committee sums equal to the expenditure which he determines is attributable to the performance by the Committee in that year of their functions under this Act;
 - (c) to each special health authority sums not exceeding the amount allotted or further allotted by him to the authority for that year towards meeting the expenditure attributable to the performance by the authority in that year of their functions under this Act.
- (2) Subject to subsection (3) below, it is the duty of every Regional Health Authority to pay in respect of each financial year to each Area Health Authority and each District Health Authority whose area or district is included in the region sums not exceeding the amount allotted or further allotted by the Regional Health Authority to the Area or District Health Authority for that year towards meeting the expenditure attributable to the performance by the Authority of their functions in that year.
- (3) The Secretary of State may give directions to a Regional Health Authority or an Area Health Authority or District Health Authority whose area or district is in Wales with respect to the application of the sums paid to them under subsection (1) above.
- (4) Where directions have been given under subsection (3) above to a Regional Health Authority with respect to the application of the sums paid to the Authority under subsection (1) above, the Regional Health Authority may give directions to an Area Health Authority or District Health Authority whose area or district is in the region with respect to the application of any sums paid out of those sums to the Area Health Authority or District Health Authority under subsection (2) above.
- (5) It shall be the duty of any health authority to whom directions have been given under subsection (3) or (4) above to comply with the directions.
- (6) Where an order establishing a special health authority provides for any expenditure of the authority to be met by a Regional, Area or District Health Authority or by two or more such Authorities in portions determined by or in accordance with the order, it is the duty of each Authority in question to pay to the special health authority sums equal to, or to the appropriate portion of, that expenditure.
- (7) Sums falling to be paid under this section shall be payable subject to compliance with such conditions as to records, certificates or otherwise as the Secretary of State may determine.

97A Financial duties of health authorities.

- (1) It is the duty of every Regional Health Authority, in respect of each financial year, so to perform their functions as to secure that the expenditure attributable to the performance by the Regional Health Authority and the Area Health

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Authorities and District Health Authorities whose areas or districts are in the region of their functions in that year does not exceed the aggregate of—

- (a) the amounts allotted to the Regional Health Authority for that year under section 97(1) above;
- (b) any other sums received under this Act in that year by the Regional Health Authority or the Area Health Authorities or District Health Authorities whose areas or districts are in the region; and
- (c) any sums received otherwise than under this Act in that year by any of those Authorities for the purpose of enabling the Authority to defray any such expenditure.

(2) It is the duty of every Area Health Authority and every District Health Authority, in respect of each financial year, so to perform their functions as to secure that the expenditure attributable to the performance of their functions in that year does not exceed the aggregate of—

- (a) the amounts allotted to the Authority for that year under section 97(1) or (2) above ;
- (b) any other sums received by the Authority under this Act in that year; and
- (c) any sums received otherwise than under this Act in that year by the Authority for the purpose of enabling the Authority to defray any such expenditure.

(3) It is the duty of every special health authority, in respect of each financial year, so to perform their functions under this Act as to secure that the expenditure attributable to the performance of their functions in that year does not exceed the aggregate of—

- (a) the amounts allotted to the authority for that year under section 97(1) above ;
- (b) any other sums received by the Authority under this Act in that year; and
- (c) any sums received otherwise than under this Act in that year by the authority for the purpose of enabling the authority to defray any such expenditure.

(4) The Secretary of State may give such directions to a health authority as appear to him to be requisite to secure that the authority comply with the duty imposed on them by subsection (1), (2) or (3) above and it shall be the duty of the authority to comply with the directions.

Directions under this subsection may be specific in character.

(5) To the extent to which—

- (a) any expenditure is defrayed by a health authority as trustee or on a health authority's behalf by special trustees; or
- (b) any sums are received by a health authority as trustee or under section 96A above,

that expenditure and, subject to subsection (6) below, those sums shall be disregarded for the purposes of this section and, for those purposes, sums which, in the hands of an authority, cease to be trust funds and become applicable by the authority otherwise than as trustee shall be treated, on their

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becoming so applicable, as having been received by the authority otherwise than as trustee.

- (6) Of the sums received by a health authority under section 96A above so much only as accrues to the authority after defraying any expenses incurred in obtaining them shall be disregarded under subsection (5) above.
- (7) Subject to subsection (5) above, the Secretary of State may, by directions, determine—
- (a) whether sums of a description specified in the directions are or are not to be treated for the purposes of this section as being receivable under this Act by an authority of a description so specified ;
 - (b) whether expenditure of a description specified in the directions is or is not to be treated for the purposes of this section as being attributable to the performance of functions by an authority of a description so specified; or
 - (c) the extent to which and the circumstances in which sums received but not yet spent by an authority under section 97(1) or (2) above are to be treated for the purposes of this section as part of the expenditure of the authority and to which financial year's expenditure they are to be attributed.”.
- (2) For the purposes of section 15(3) of the National Health Service Reorganisation Act 1973 (which relates to a preserved Board of Governors) the sections 97 and 97A substituted for section 97 of the Act of 1977 by subsection (1) above shall be treated as if they were enactments repealed by that Act which applied to preserved Boards and may be modified accordingly in their application to such Boards by an order under the said section 15(3).
- (3) For subsections (1) and (2) of section 85 of the Scottish Act of 1978 there shall be substituted the following subsections—
- “(1) Subject to subsection (2), there shall, in respect of each financial year, be paid by the Secretary of State sums not exceeding the amount allotted or further allotted by him for that year to each of the following bodies towards meeting the expenditure attributable to the performance by that body of their functions in that year—
- (a) the Planning Council;
 - (b) every Health Board ;
 - (c) the Agency;
 - (d) the Medical Practices Committee ;
 - (e) the Dental Estimates Board ;
 - (f) the Tribunal;
 - (g) every local health council.
- (2) Subsection (1) does not apply in respect of the expenditure of a Health Board which is attributable to the performance of their functions under Part II, but in that respect there shall, in respect of each financial year, be paid by the Secretary of State sums equal to the expenditure which he determines is attributable to the performance of those functions in that year.
- (2A) The Secretary of State may give directions to a body referred to in subsection (1) with respect to the application of the sums paid to them under

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that subsection and it shall be the duty of any body to whom directions have been given under this subsection to comply with the directions.”.

(4) After the said section 85 there shall be inserted the following section—

“85A Financial duties of bodies referred to in section 85.

- (1) It is the duty of each such body as is referred to in section 85(1), in respect of each financial year, so to perform their functions as to secure that the expenditure attributable to the performance of their functions in that year does not exceed the aggregate of—
 - (a) the amounts allotted to that body for that year under section 85(1);
 - (b) any other sums received under this Act in that year by that body ; and
 - (c) any sums received otherwise than under this Act in that year by that body for the purposes of enabling them to defray any such expenditure.
- (2) Subsection (3) of section 85 shall apply for the purposes of this section as it applies for the purposes of that section.
- (3) The Secretary of State may give such directions to a body referred to in section 85(1) as appear to him to be requisite to secure that the body comply with the duty imposed on them by subsection (1) and it shall be the duty of the body to comply with the directions.

Directions under this subsection may be specific in character.

- (4) To the extent to which—
 - (a) any expenditure of a Health Board or a local health council is defrayed by that body as trustee; or
 - (b) any sums are received by such a body as trustee or under section 84A, that expenditure and, subject to subsection (5), those sums shall be disregarded for the purposes of this section, and, for those purposes, sums which, in the hands of such a body, cease to be trust funds and become applicable by the body otherwise than as trustee shall be treated, on their becoming so applicable, as having been received by the body otherwise than as trustee.
- (5) Of the sums received by a body under section 84A so much only as accrues to the body after defraying any expenses incurred in obtaining them shall be disregarded under subsection (4).
- (6) Subject to subsection (4), the Secretary of State may, by directions, determine—
 - (a) whether sums of a description specified in the directions are or are not to be treated for the purposes of this section as being receivable under this Act by a body of a description so specified;
 - (b) whether expenditure of a description specified in the directions is or is not to be treated for the purposes of this section as being attributable to the performance of functions by a body of a description so specified; or
 - (c) the extent to which and the circumstances in which sums received but not yet spent by a body under section 85(1) are to be treated for the

purposes of this section as part of the expenditure of the body and to which financial year's expenditure they are to be attributed.”.

- (5) The foregoing provisions of this section shall have effect in relation to the financial year 1980 to 1981 and subsequent years.

7 Services provided by relatives of doctors providing general medical services

The following subsection shall be added at the end of section 29 of the Act of 1977 (arrangements and regulations for general medical services) as subsection (5) of that section and at the end of section 19 of the Scottish Act of 1978 (which makes corresponding provision for Scotland) as subsection (4) of that section: —

“Regulations shall—

- (a) include provision for the making to a medical practitioner providing general medical services of payments in respect of qualifying services provided by a spouse or other relative of his ; and
- (b) provide that the rates and conditions of payment and the qualifying services in respect of which the payments may be made shall be such as may be determined by the Secretary of State after consultation with such bodies as he may recognise as representing such medical practitioners.”