



# Health and Social Security Act 1984

## 1984 CHAPTER 48

An Act to amend the Opticians Act 1958; to make amendments of the National Health Service Act 1977 and the National Health Service (Scotland) Act 1978 in relation to general ophthalmic services, finance in the National Health Service and certain functions of the Secretary of State; to make amendments of the National Health Service Act 1977 in relation to Family Practitioner Committees; to make provision for the reimbursement of the cost of certain treatment in the European Economic Community; to amend the law relating to social security, statutory sick pay and contracted-out occupational pension schemes; and for connected purposes. [26th July 1984]

### Editorial Information

X1 The base date version of this Act is as revised to 1.7.1992 and takes account of the effects on it of the consolidating legislation which came into force at that date

### Modifications etc. (not altering text)

C1 Words of enactment omitted under authority of [Statute Law Revision Act 1948 \(c. 62\), s. 3](#)

## PART I

### HEALTH

#### *Optical appliances*

#### 1 Supply etc. of optical appliances.

(1) . . . . .<sup>F1</sup>

(3) In section 38 of the <sup>M1</sup>National Health Service Act 1977 (arrangements for general ophthalmic services) for the words from “ophthalmic”, in the first place where it occurs, to the end of the first paragraph there shall be substituted the words “ and ophthalmic opticians for securing the testing of sight by them. ”.

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Security Act 1984. (See end of Document for details)*

- (4) In paragraph (c) of section 39 of that Act (regulations as to arrangements for general ophthalmic services) the words “and the ophthalmic or dispensing optician who is to supply the appliances” shall cease to have effect.
- (5) The following provisions of section 26 of the <sup>M2</sup>National Health Service (Scotland) Act 1978 (arrangements for provision of general ophthalmic services) shall cease to have effect—
  - (a) subsection (1)(b); and
  - (b) in subsection (2)(c), the words “and the ophthalmic or dispensing optician who is to supply the appliances”.
- (6) The amendments of the <sup>M3</sup>National Health Service Act 1977 contained in Part I of Schedule 1 to this Act shall have effect in consequence of subsections (3) and (4) above.
- (7) The amendments of the <sup>M4</sup>National Health Service (Scotland) Act 1978 contained in Part II of that Schedule shall have effect in consequence of subsection (5) above.

<p><b>Textual Amendments</b></p> <p><b>F1</b> S. 1(1)(2) repealed (16.2.1990) by <a href="#">Opticians Act 1989 (c. 44)</a>, s. 37, <a href="#">Sch. 2</a></p>
<p><b>Modifications etc. (not altering text)</b></p> <p><b>C2</b> The text of s. 1(3)–(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991</p>
<p><b>Marginal Citations</b></p> <p><b>M1</b> <a href="#">1977 c. 49</a>.</p> <p><b>M2</b> <a href="#">1978 c. 29</a>.</p> <p><b>M3</b> <a href="#">1977 c. 49</a>.</p> <p><b>M4</b> <a href="#">1978 c. 29</a>.</p>

2–4 ..... F2

<p><b>Textual Amendments</b></p> <p><b>F2</b> Ss. 2–4 repealed (16.2.1990) by <a href="#">Opticians Act 1989 (c. 44)</a>, s. 37, <a href="#">Sch. 2</a></p>
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*National Health Service*

**5 Family Practitioner Committees.**

- (1) The following section shall be substituted for section 10 of the <sup>M5</sup>National Health Service Act 1977—

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*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Security Act 1984. (See end of Document for details)*

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### **“10 Family Practitioner Committees.**

- (1) It is the duty of the Secretary of State by order to establish, in accordance with Part II of Schedule 5 to this Act, authorities to be called Family Practitioner Committees.
  - (2) Family Practitioner Committees shall be known by such names, in addition to that title, as the order may specify.
  - (3) When the Secretary of State makes an order under subsection (1) above establishing a Family Practitioner Committee, he shall also (either in the same or another instrument) make an order in relation to that Committee specifying a locality for which the Committee is to act.
  - (4) The Secretary of State may by order—
    - (a) vary a Committee’s locality;
    - (b) abolish a Committee;
    - (c) establish a new one.
  - (5) The Secretary of State shall so exercise his powers under subsections (3) and (4) above as to secure—
    - (a) that the localities for which Family Practitioner Committees are at any time acting together comprise the whole of England and Wales; but
    - (b) that none of them extends both into England and into Wales.
  - (6) Without prejudice to the generality of section 126(4) below, the power to make incidental or supplemental provision conferred by that subsection includes, in its application to orders under this section, power to make provision for the transfer of staff, property, rights and liabilities.
  - (7) It is the Secretary of State’s duty before he makes an order under subsection (4) above to consult with respect to the order—
    - (a) such bodies as he may recognise as representing officers who in his opinion are likely to be affected by the order; and
    - (b) such other bodies as he considers are concerned with the order.”.
- (2) In subsection (1) of section 15 of that Act (duty of Family Practitioner Committee) the following paragraph shall be substituted for paragraph (a)—
- “(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 locality;”.
- (3) In Part III of Schedule 1 to the <sup>M6</sup>House of Commons Disqualification Act 1975 (disqualifying offices), in the entry beginning “Chairman in receipt of remuneration of any Regional Health Authority” after the words “District Health Authority” there shall be inserted the words “Family Practitioner Committee”.
- (4) Schedule 3 to this Act shall have effect.
- (5) The Secretary of State shall by order specify a date not later than 1st April 1985 on which Family Practitioner Committees established by orders under section 10(1) of the <sup>M7</sup>National Health Service Act 1977 are to begin to act for their localities.

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Security Act 1984. (See end of Document for details)*

- (6) Notwithstanding the substitution made by subsection (1) above, Family Practitioner Committees established or adopted by District Health Authorities shall continue to discharge their functions until the date specified by an order under subsection (5) above but shall cease to exist on that date.
- (7) The Secretary of State may by order make such repeals in or other modifications of any enactment or instrument as appear to him to be necessary or expedient in consequence of subsection (1), (2) or (4) above.
- (8) An order under subsection (5) or (7) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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

- C3** The text of ss. 5(1)–(4), 6, 7(1)–(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Marginal Citations**

- M5** 1977 c. 49.  
**M6** 1975 c. 24.  
**M7** 1977 c. 49.

**6 Finance in National Health Service.**

- (1) The following subsection shall be inserted after subsection (2) of section 97 of the National Health Service Act 1977 (means of meeting expenditure of health authorities)

“(2A) The date on which an allotment to an authority under subsection (1) or (2) above (including an allotment increasing or reducing an allotment previously made) takes effect is the date on which the authority are notified of its amount by the Secretary of State or, as the case may be, the Regional Health Authority.”.

- (2) The following subsection shall be inserted after subsection (2) of section 98 of that Act (accounts and audit)—

“(2A) The accounts prepared and transmitted by a District Health Authority in pursuance of subsection (2) above shall include annual accounts of a Community Health Council if—

- (a) the Council is established for the Authority’s district; or  
 (b) the Authority is the prescribed Authority in relation to the Council.”.

- (3) The following subsection shall be inserted after subsection (1) of section 85 of the <sup>M8</sup>National Health Service (Scotland) Act 1978 (expenses)—

“(1A) The date on which an allotment under subsection (1) above (including an allotment increasing or reducing an allotment previously made) takes effect is the date on which the body receiving the allotment are notified of its amount by the Secretary of State.”.

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- (4) In subsection (11) of section 121 of the <sup>M9</sup>Mental Health Act 1983 (Mental Health Act Commission) for the words “sub-paragraphs (4) and (5) were omitted” there shall be substituted the words “the reference to a member in sub-paragraph (4) included a reference to the chairman.”.

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

- C4** The text of ss. 5(1)–(4), 6, 7(1)–(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Marginal Citations**

- M8** 1978 c. 29.  
**M9** 1983 c. 20.

**7 Professional remuneration in National Health Service.**

- (1) The following shall be inserted after section 43 of the <sup>M10</sup>National Health Service Act 1977—

*“ Remuneration for services*

**43A Regulations as to remuneration.**

- (1) Regulations shall make provision as to the remuneration to be paid to persons who provide general medical services, general dental services, general ophthalmic services or pharmaceutical services under this Part of this Act.
- (2) Subject to sections 29(4) and 35(2) above, remuneration under the regulations may consist of payments by way of—
- salary;
  - fees;
  - allowances;
  - reimbursement (in full or in part) of expenses incurred or expected to be incurred in connection with the provision of the services,
- and the regulations may provide that the remuneration shall be determined from time to time by such authority as may be specified.
- (3) If section 10 of the National Health Service Act 1966 is brought into operation, upon the date of its commencement the words “section 10 of the National Health Service Act 1966 and section” shall be substituted for the words “sections 29(4) and” in subsection (2) above.”.
- (2) The following shall be inserted after section 28 of the <sup>M11</sup>National Health Service (Scotland) Act 1978—

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*“ Remuneration for services*

**28A Regulations as to remuneration.**

- (1) Regulations shall make provision as to the remuneration to be paid to persons who provide general medical services, general dental services, general ophthalmic services or pharmaceutical services under this Part of this Act.
- (2) Subject to sections 19(3) and 25(3), remuneration under the regulations may consist of payments by way of—
  - (a) salary;
  - (b) fees;
  - (c) allowances;
  - (d) reimbursement (in full or in part) of expenses incurred or expected to be incurred in connection with the provision of the services,
 and the regulations may provide that the remuneration shall be determined from time to time by such authority as may be specified.
- (3) If section 10 of the National Health Service Act 1966 is brought into operation, upon the date of its commencement the words “section 10 of the National Health Service Act 1966 and section” shall be substituted for the words “sections 19(3) and” in subsection (2) above.”.
- (3) The following section shall be added after each of the sections inserted by subsections (1) and (2) above, as section 43B of the <sup>M12</sup>National Health Service Act 1977 and section 28B of the <sup>M13</sup>National Health Service (Scotland) Act 1978—

**Remuneration—supplementary.**

- (1) The authority specified in regulations under the preceding section may be the Secretary of State or some other person or persons and is referred to in this section as a “determining authority”.
- (2) The power conferred by the preceding section includes power to make regulations providing for a determination in more than one stage and by more than one determining authority.
- (3) Regulations under the preceding section shall provide—
  - (a) that a determination may be made with respect either to any of the descriptions of services mentioned in subsection (1) of the preceding section generally or to any category of services falling within such a description;
  - (b) that, before making such a determination, the determining authority shall consult—
    - (i) a prescribed body established to provide advice in connection with the matters to be determined; or
    - (ii) an organisation appearing to the Secretary of State to be representative of persons to whose remuneration the determination would relate.
 or both such a body and such an organisation.
- (4) Regulations under the preceding section may provide—

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- (a) that a determination such as is mentioned in subsection (3) above shall have effect in relation to remuneration in respect of a period beginning on or after a date specified in the determination, which may be the date of the determination or an earlier or later date, but may be an earlier date only if, taking the determination as a whole, it is not detrimental to the persons to whose remuneration it relates; and
  - (b) that any such determination which does not specify such a date shall have effect in relation to remuneration in respect of a period beginning—
    - (i) if it is required to be published, on the date of publication;
    - (ii) if it is not so required, on the date on which it is made.
- (5) Regulations under the preceding section may provide—
- (a) for determinations of the remuneration of particular persons or descriptions of persons for particular items of service or in particular circumstances;
  - (b) that a determining authority shall have a discretion, when making a determination by virtue of this subsection,—
    - (i) as to the amount of remuneration to be paid; and
    - (ii) as to the persons to whom and conditions on which it is to be paid; and
  - (c) that a determination made by virtue of this subsection may be revised—
    - (i) to correct an error; or
    - (ii) where it appears to the determining authority that it was made in ignorance of or under a mistake as to a relevant fact.
- (6) Regulations under the preceding section may provide—
- (a) that determinations may be made by reference to any of the following—
    - (i) rates or conditions of remuneration of any persons or any descriptions of persons which are fixed or determined, or to be fixed or determined, otherwise than by way of a determination under the regulations;
    - (ii) scales, indices or other data of any description specified in the regulations; and
  - (b) that any determination which in accordance with regulations made by virtue of paragraph (a)(ii) above falls to be made by reference to a scale or an index or to any other data may be made not only by reference to that index or scale or those data in the form current at the time of the determination but also by reference to the scale, index or data in any subsequent form attributable to amendment or revision taking effect after that time or to any other cause.
- (7) Any determination under regulations under the previous section shall be made after taking into account all the matters which are considered to be relevant by the determining authority and, without prejudice to the generality of this subsection, such matters may include—
- (a) the amount or estimated amount of expenses (taking into account any discounts) incurred in the past or likely to be incurred in the future (whether or not by persons to whose remuneration the determination

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- will relate) in connection with the provision of services of a kind to which the determination will relate;
- (b) the amount or estimated amount of any remuneration paid or likely to be paid to persons providing such services;
  - (c) the amount or estimated amount of any other payments or repayments or other benefits received or likely to be received by any such persons;
  - (d) the extent to which it is desirable to encourage the provision of particular descriptions of services either generally or in particular localities;
  - (e) the desirability of promoting services which are—
    - (i) economic and efficient; and
    - (ii) of an appropriate standard.”.
- (4) Any determination in relation to remuneration in respect of services under Part II of the <sup>M14</sup>National Health Service Act 1977 or Part II of the <sup>M15</sup>National Health Service (Scotland) Act 1978 which was made—
- (a) before the passing of this Act; or
  - (b) after it but at a time before the coming into force of a provision inserted by this section,
- shall be deemed to be validly made if regulations authorising such a determination could have been made had that provision been in force at that time.

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

- C5** The text of ss. 5(1)–(4), 6, 7(1)–(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991
- C6** S. 7(4) amended (E.W.) (*prosp.*) by 1999 c. 8, ss. **10(3)**, 67(1)  
S. 7(4) amended (S.) (1.10.1999) by 1999 c. 8, s. **57(3)**; S.S.I. 1999/90, art. 2(a), **Sch. 1**

#### Marginal Citations

- M10** 1977 c. 49.  
**M11** 1978 c. 29.  
**M12** 1977 c. 49.  
**M13** 1978 c. 29.  
**M14** 1977 c. 49.  
**M15** 1978 c. 29.

8

F3

#### Textual Amendments

- F3** S. 8 repealed by Health and Medicines Act 1988 (c. 49), s. 25(2), **Sch. 3**

## 9 Holidays for patients etc.

- (1) The following subsection shall be added after section 5(2A) of the National Health Service Act 1977—



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“(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.”.

(2) The following section shall be added after section 99 of the National Health Service (Scotland) Act 1978—

**“99A Holidays for patients etc.**

The Secretary of State’s functions may be performed outside Scotland, in so far as they relate—

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

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

- C7** The text of s. 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

*Treatment in European Economic Community*

**10 Reimbursement of cost of medical and maternity treatment in member States of European Economic Community.**

- (1) The Secretary of State may pay to a competent institution in a member State the cost of treatment to which this section applies provided by that institution under the social security scheme of that State for a person who, at the relevant time—
- (a) was ordinarily resident in Great Britain; and
  - (b) was a national of a member State or a dependant of such a national.
- (2) The Secretary of State may only make a payment under this section of the cost of treatment—
- (a) which is given to a person during a temporary stay in a member State because his condition required immediate treatment;
  - (b) which—
    - (i) is given in continuance of treatment commenced in the United Kingdom; and
    - (ii) follows an agreement between the Secretary of State and the person treated that, on his subsequent return to, or transfer of residence to, the member State, his treatment for the same condition would be at the expense of the Secretary of State for a period agreed with the Secretary of State; or

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- (c) which is given following an agreement between the Secretary of State and the person treated that he should go to the member State to receive treatment to which this section applies appropriate to his condition.
- (3) This section applies—
- (a) to treatment for sickness or injury; and
  - (b) to treatment in connection with pregnancy or maternity,
- which is given to a person to whom the 1971 Community regulation did not apply at the relevant time.
- (4) In this section—
- “competent institution” has the meaning assigned to it by the 1971 Community regulation;
- “the 1971 Community regulation” means Council Regulation (EEC) No. 1408/71 as it has effect from time to time; and
- “the relevant time” means the time when treatment was given.

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

**C8** S. 10: transfer of functions (W.) (1.7.1999) by S.I. 1999/672, arts. 1(2), 2, Sch. 1

**PART II**

SOCIAL SECURITY

**11–14** ..... <sup>F4</sup>

**Textual Amendments**

**F4** Ss. 11–14 repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6)

**15 Attendance allowance: daily entitlement.**

- (1) In this section—
- “the 1975 Regulations” means the <sup>M16</sup>Social Security (Claims and Payments) Regulations 1975;
- “the 1977 amendment Regulations” means the <sup>M17</sup>Social Security (Attendance Allowance) Amendment Regulations 1977
- “the 1979 Regulations” means the <sup>M18</sup>Social Security (Claims and Payments) Regulations 1979
- ;
- “the 1980 amendment Regulations” means the <sup>M19</sup>Social Security (Attendance Allowance) Amendment Regulations 1980;
- “regulation 16A” means regulation 16A of the 1975 Regulations, which was added by regulation 9 of the 1977 amendment Regulations;

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“regulation 18” means regulation 18 of the 1979 Regulations, both as originally made and as substituted by regulation 6(2) of the 1980 amendment Regulations;

“appropriate pay day” means a day for payment under regulation 15(7) of the 1975 Regulations or regulation 16(7) of the 1979 Regulations of weekly sums on account of an attendance allowance; and

“13 week period” means the period mentioned in regulation 16A or regulation 18.

- (2) Regulation 16A and regulation 18 shall be deemed always to have had effect as if—
- (a) the words “Notwithstanding anything in the foregoing provisions of these regulations” were inserted at the beginning;
  - (b) any reference to attendance allowance being payable for a period were a reference to attendance allowance which would have been payable for that period but for—
    - (i) regulation 15(9) or (10) of the 1975 Regulations; or
    - (ii) regulation 16(10) or (11) of the 1979 Regulations; and
  - (c) in relation to any case where a 13 week period does not end on an appropriate pay day, any reference to a 13 week period in paragraph (1) were a reference to that period together with any days after its end but before the next appropriate pay day.

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

- C9** The text of s. 15 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Marginal Citations**

- M16** [S.I. 1975/560](#).  
**M17** [S.I. 1977/1361](#).  
**M18** [S.I. 1979/628](#)  
**M19** [S.I. 1980/1136](#)

**16–18** ..... <sup>F5</sup>

**Textual Amendments**

- F5** [Ss. 16–18](#) repealed (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#)

**19** **Accrued rights and entitlement to benefits under occupational pension schemes.**

- (1) The following subsections shall be substituted for section 38(1) and (2) of the <sup>M20</sup>Social Security Pensions Act 1975—

“(1) Regulations may prescribe circumstances in which and conditions subject to which—

- (a) an earner’s accrued rights to the requisite benefits under a contracted-out scheme; or

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- (b) the liability for the payment of such benefits to or in respect of any person who has become entitled to them, may be transferred to another occupational pension scheme.
- (1A) Any such regulations may be made so as to apply to earners who are not in employment at the time of the transfer.
- (1B) Regulations under subsection (1) above may provide that any provision of this Part of this Act shall have effect, where there has been a transfer to which they apply, subject to such modifications as may be specified in the regulations.
- (1C) Regulations under subsection (1) above shall have effect in relation to transfers whenever made unless they provide that they are only to have effect in relation to transfers which take place after they come into force.
- (1D) The power conferred by subsection (1) above is without prejudice to the generality of section 166(2) of the principal Act.”.
- (2) In section 44 of that Act (premium on termination of contracted-out scheme)—
- (a) the following subsections shall be inserted after subsection (1)—
- “(1A) Regulations may provide that any provision of this Part of this Act shall have effect where the Occupational Pensions Board have approved arrangements under subsection (1) above subject to such modifications as may be specified in the regulations.
- (1B) Any such regulations shall have effect in relation to arrangements whenever approved, unless they provide that they are only to have effect in relation to arrangements approved after they come into force.”; and
- (b) the following subsection shall be inserted after subsection (9)—
- “(10) Any reference to earners in this section includes, in relation to any particular time, not only a reference to earners who are in employment at that time but also a reference to earners who are not in employment at that time but who have been in employment before it or will be in employment after it.”.

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

**C10** The text of ss. 19–21 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Marginal Citations**

**M20** 1975 c. 60.

**20 Protection of pensions.**

The <sup>M21</sup>Security Pensions Act 1975 shall be amended in accordance with Schedule 6 to this Act for the purpose of protecting pensions under occupational pension schemes which are or have been contracted-out.

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

**C11** The text of ss. 19–21 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Marginal Citations**

**M21** [1975 c. 60.](#)

**21 Miscellaneous social security amendments.**

The enactments specified in Schedule 7 to this Act shall have effect subject to the amendments there specified.

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

**C12** The text of ss. 19–21 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**22** ..... <sup>F6</sup>

**Textual Amendments**

**F6** [S. 22](#) repealed (11.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 11](#)

**PART III**

SUPPLEMENTARY

**23 Expenses.**

Any expenses of the Secretary of State incurred in consequence of the provisions of this Act, including any increase attributable to those provisions in sums provided under any other Act, shall be defrayed out of money provided by Parliament.

**24 Repeals.**

The enactments specified in Schedule 8 to this Act are repealed to the extent specified in the third column of that Schedule.

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

**C13** The text of s. 24 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

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## 25 Northern Ireland.

- (1) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the <sup>M22</sup>Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which states that it is made only for purposes to which this section applies—
- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but
  - (b) shall be subject to annulment in pursuance of a resolution of either House.
- (2) The purposes to which subsection (1) above applies are purposes corresponding to those—
- (a) of section 1(3), (4) and (6) above;
  - (b) of section 7(1), (3) and (4) above;
  - (c) of Part II above; and
  - (d) of this Part.

### Marginal Citations

**M22** 1974 c. 28.

## 26 Extent.

- (1) The following provisions of this Act—
- section 1(3), (4) and (6);
  - section 5, except subsection (3), and Schedule 3;
  - section 6(1), (2) and (4);
  - in section 7—
    - (a) subsection (1); and
    - (b) subsections (3) and (4), so far as they relate to the <sup>M23</sup>National Health Service Act 1977;
  - section 9(1),
- extend to England and Wales only.
- (2) The following provisions of this Act—
- section 1(5) and (7);
  - section 6(3);
  - in section 7—
    - (a) subsection (2); and
    - (b) subsections (3) and (4), so far as they relate to the <sup>M24</sup>National Health Service (Scotland) Act 1978;
  - section 9(2),
- extend to Scotland only.
- (3) Section 25 above extends to Northern Ireland only.
- (4) The following provisions of this Act—
- section 8;
  - section 10; and Part II, except the provisions mentioned in subsection (5) below,

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extend to England and Wales and Scotland.

- (5) Section 11(2) above, so far as it relates to paragraph 2 of Schedule 4, [<sup>F7</sup>extends] to England and Wales, Scotland and Northern Ireland.
- (6) The following provisions of this Act also extend to England and Wales, Scotland and Northern Ireland—
- ... <sup>F8</sup>
  - ... <sup>F8</sup>
  - section 5(3);
  - section 23;
  - this section;
  - sections 27 to 29.
- (7) Where any enactment repealed by this Act extends to any part of the United Kingdom, the repeal extends to that part.

#### Textual Amendments

- F7** Word substituted by [Social Security Act 1985 \(c. 53\)](#), [Sch. 5](#), para. 39
- F8** Words repealed (16.2.1990) by [Opticians Act 1989 \(c. 44\)](#), [Sch. 2](#)

#### Marginal Citations

- M23** [1977 c. 49](#).
- M24** [1978 c. 29](#).

## 27 Commencement.

- (1) Subject to the following provisions of this section, the provisions of this Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different purposes.
- (2) The following provisions of this Act shall come into force on the day this Act is passed—
- section 6(4);
  - section 7(4);
  - section 9;
  - section 10;
  - section 15;
  - section 18(1) and (2);
  - section 21, so far as it relates to paragraph 6 or 8 of Schedule 7;
  - section . . . <sup>F9</sup>23;
  - sections 25 and 26;
  - this section;
  - sections 28 and 29.
- (3) The following provisions of this Act shall come into force at the end of the period of two months beginning with the day on which this Act is passed—
- section 8;
  - section 16;

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section 19;  
 section 21, so far as it relates to paragraphs 4, 5, 7 and 9 of Schedule 7;  
 section 24, so far as it relates to section 38 of the <sup>M25</sup>Social Security Pensions Act 1975.

#### Textual Amendments

**F9** Words revoked (11.4.1988) by [Social Security Act 1986 \(c. 50\)](#), [Sch. 11](#)

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

**C14** Power of appointment under s. 27(1) partly exercised by S.I.s 1984/1302, 1984/1467, 1986/974

#### Marginal Citations

**M25** [1975 c. 60](#).

## 28 Transitional.

- (1) The Secretary of State may by regulations made by statutory instrument make such transitional provision or saving as he considers necessary or expedient in connection with the coming into force of any provision of this Act or the operation of any enactment which is repealed or amended by a provision of this Act during any period when the repeal or amendment is not wholly in force.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may provide that references to dispensing opticians in the <sup>M26</sup>National Health Service Act 1977 or the <sup>M27</sup>National Health Service (Scotland) Act 1978 shall be treated as including suppliers of optical appliances who are not dispensing opticians as defined in those Acts.
- (3) Section 126(4) of the National Health Service Act 1977 and section 105(7) of the National Health Service (Scotland) Act 1978 shall have effect in relation to the power to make regulations under this section containing any such provision as is mentioned in subsection (2) above as if that subsection were contained in each of those Acts.
- (4) Regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Marginal Citations

**M26** [1977 c. 49](#).

**M27** [1978 c. 29](#).

## 29 Citation.

- (1) This Act may be cited as the Health and Social Security Act 1984.
- (2) Part II of this Act and section 24 above, so far as it relates to Part II of Schedule 8 to this Act, may be cited together with the Social Security Acts 1975 to 1982 as the Social Security Acts 1975 to 1984.



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## SCHEDULES

### SCHEDULE 1

Section 1.

#### OPTICAL APPLIANCES

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

- C15** The text of Sch. 1 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

#### PART I

##### AMENDMENTS OF NATIONAL HEALTH SERVICE ACT 1977

- 1 In section 39 of the <sup>M28</sup>National Health Service Act 1977 (regulations as to arrangements for general ophthalmic services)—
- (a) in paragraph (a), for the words “ophthalmic opticians and dispensing” there shall be substituted the words “and ophthalmic”;
  - (b) in paragraph (b), for the words “ophthalmic optician or dispensing” there shall be substituted the words “or ophthalmic”; and
  - (c) in paragraph (d), for the words “ophthalmic opticians or dispensing” there shall be substituted the words “or ophthalmic”.

##### Marginal Citations

**M28** 1977 c. 49.

- 2 In sub-paragraph (1) of paragraph 2 of Schedule 12 to that Act (regulations for the making and recovery of charges), the following entry shall be substituted for the words from “Glasses” to “cost”, in the first place where it occurs—

“Glasses.	Such sum as may be determined by or in accordance with directions given by the Secretary of State.”.
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- 3 The following paragraph shall be inserted after that paragraph—

“2A (1) It shall be the duty of the Secretary of State to provide by regulations for payments to be made by him or by any authority established under this Act to meet, or to contribute towards, the cost incurred (whether by way of charge under this Act or otherwise) for the supply of optical appliances for which a prescription has been given in consequence of a testing of sight under this Act—

- (a) for a child;

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- (b) for a person whose resources fall to be treated under the regulations as being less than his requirements; or
  - (c) for a person of such other description as may be prescribed.
- (2) In sub-paragraph (1) above "child" means-
- (a) a person who is under the age of 16 years; or
  - (b) a person who is under the age of 19 years and receiving qualifying full-time education.
- (3) Regulations under this paragraph may direct how a person's resources and requirements are to be calculated and, without prejudice to the generality of this sub-paragraph, may direct that they shall be calculated—
- (a) by reference—
    - (i) to any enactment; or
    - (ii) to the person's being or having been entitled to payments under any enactment,
 either as it has effect at the time when the regulations are made or as amended subsequently; or
  - (b) by reference to a scale or an index or to any other data either in the form current when the regulations are made or in any subsequent form attributable to amendment or revision taking effect after that time or to any other cause.
- (4) If regulations under this paragraph provide for payments to be made by an authority established under this Act, it shall be the duty of the Secretary of State to pay to the authority, in respect of each financial year, the sum attributable to the authority's disbursements under the regulations.
- (5) Sums falling to be paid in pursuance of regulations made under this paragraph shall be payable subject to compliance with such conditions as to records, certificates or otherwise as the Secretary of State may determine.”.

## PART II

### AMENDMENTS OF NATIONAL HEALTH SERVICE (SCOTLAND) ACT 1978

- 1 In subsection (1) of section 26 (general ophthalmic services) of the <sup>M29</sup>National Health Service (Scotland) Act 1978, for the words “with ophthalmic opticians and with dispensing opticians” there shall be substituted the words “ and with ophthalmic opticians ”.

#### Marginal Citations

M29 1978 c. 29.

- 2 In subsection (2)(a) of the said section, for the words “, ophthalmic optician's and dispensing optician's” there shall be substituted the words “ and ophthalmic opticians ”.
- 3 In subsection (2)(b), for the words “any ophthalmic optician or any dispensing optician” there shall be substituted the words “ or any ophthalmic optician ”.
- 4 In subsection (2)(d)—

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- (a) for the words “ophthalmic opticians or dispensing opticians” there shall be substituted the words “ or ophthalmic opticians ”; and
  - (b) for the words “ophthalmic optician or dispensing optician” there shall be substituted the words “ or ophthalmic optician ”.
- 5 In sub-paragraph (1) of paragraph 2 of Schedule 11 to that Act (charges for dental or optical appliances) the following entry shall be substituted for the words from “Glasses” to the end—

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“Glasses.	Such sum as may be determined by or in accordance with directions given by the Secretary of State.”.
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- 6 In paragraph 2 of Schedule 11, in sub-paragraph (7), for the words from the beginning to “testing” there shall be substituted—

“(7) In sub-paragraph (4), “the relevant time” means—

- (a) in relation to a dental appliance supplied otherwise than under Part II, the time of the examination leading to the supply of the appliance, or the first such examination;”.

- 7 The following paragraph shall be inserted after that paragraph—

“2A (1) It shall be the duty of the Secretary of State to provide by regulations for payments to be made by him or by a Health Board to meet, or to contribute towards, the cost incurred (whether by way of charge under this Act or otherwise) for the supply of optical appliances for which a prescription has been given in consequence of a testing of sight under this Act—

- (a) for a child;
- (b) for a person whose resources fall to be treated under the regulations as being less than his requirements; or
- (c) for a person of such other description as may be prescribed.

(2) In sub-paragraph (1) above “child” means—

- (a) a person who is under the age of 16 years; or
- (b) a person who is under the age of 19 years and receiving qualifying full-time education.

(3) Regulations under this paragraph may direct how a person’s resources and requirements are to be calculated and, without prejudice to the generality of this sub-paragraph, may direct that they shall be calculated—

- (a) by reference—
  - (i) to any enactment; or
  - (ii) to the person’s being or having been entitled to payments under any enactment,

either as it has effect at the time when the regulations are made or as amended subsequently; or

- (b) by reference to a scale or an index or to any other data either in the form current when the regulations are made or in any subsequent form attributable to amendment or revision taking effect after that time or to any other cause.

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- (4) If regulations under this paragraph provide for payments to be made by a Health Board, it shall be the duty of the Secretary of State to pay to the Board, in respect of each financial year, the sum attributable to the Board's disbursements under the regulations.
- (5) Sums falling to be paid in pursuance of regulations made under this paragraph shall be payable subject to compliance with such conditions as to records, certificates or otherwise as the Secretary of State may determine.”.

## SCHEDULE

2. . . . .  
 F10

### Textual Amendments

**F10** Sch. 2 repealed (16.2.1990) by [Opticians Act 1989 \(c. 44\)](#), s. 37, [Sch. 2](#)

## SCHEDULE 3

Section 5.

### FAMILY PRACTITIONER COMMITTEES

### Modifications etc. (not altering text)

**C16** The text of Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

- 1 The <sup>M30</sup>National Health Service Act 1977 shall have effect subject to the following amendments.

### Marginal Citations

**M30** [1977 c. 49](#).

- 2 The following section shall be substituted for section 17—

**“17 Directions as to exercise of functions.**

- (1) The Secretary of State may give directions with respect to the exercise of any functions exercisable by virtue of sections 13 to 16 above; and, subject to any directions given by the Secretary of State by virtue of this section, a Regional Health Authority may give directions with respect to the exercise by a District Health Authority of which the district is included in its region, of any functions exercisable by the District Health Authority by virtue of section 14 above.

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(2) It shall be the duty of a body to whom directions are given under subsection (1) above to comply with the directions.”.

- 3 In section 22 (co-operation between health authorities and local authorities)—
- (a) in subsection (1), after the words “health authorities” there shall be inserted the words “, Family Practitioner Committees”;
  - (b) in subsection (2), for the words from “advise” to “below” there shall be substituted the words “bodies represented on them”;
  - (c) in the Table at the end of that subsection, the following paragraph shall be inserted in the second column at the end of each of the three two-column entries— “ Any Family Practitioner Committee whose locality is wholly or partly in the District Health Authority’s district. ”; and
  - (d) in section (4)(b), after the word “Authority”—
    - (i) in the first place where it occurs, there shall be inserted the words “or a Family Practitioner Committee”; and
    - (ii) in the second place where it occurs, there shall be added the words “or the locality of the Family Practitioner Committee”.
- 4 The following subsection shall be inserted after subsection (1) of section 30 (applications to provide general medical services)—
- “(1A) No medical practitioner who is a national of a member State and is registered by virtue of a qualification granted in a member State shall be entitled to have his application for the inclusion of his name in the list kept by any Family Practitioner Committee referred to the Medical Practices Committee unless he satisfies the Family Practitioner Committee that he has that knowledge of English which, in the interests of himself and his patients, is necessary for the provision of general medical services in the Committee’s locality; and where a Family Practitioner Committee is not so satisfied with respect to any applicant the Family Practitioner Committee shall not refer his application to the Medical Practices Committee.”.
- 5 (1) Section 36 (regulations as to arrangements for general dental services) shall be re-numbered so as to become section 36(1).
- (2) At the end of the resulting subsection (1) there shall be added as subsection (2)—
- “(2) No dental practitioner who is a national of a member State and is registered by virtue of a qualification granted in a member State shall be entitled to have his name included in the list kept by any Family Practitioner Committee unless he satisfies the Committee that he has that knowledge of English which, in the interests of himself and his patients, is necessary for the provision of general dental services in the Committee’s locality.”.
- 6 In subsection (1) of section 44 (recognition of local representative committees)—
- (a) for the words from “area”, in the first place where it occurs, to “Authority”, in the second place where it occurs, there shall be substituted the words “locality of any Family Practitioner Committee”;

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- (b) the word “locality” shall be substituted for the words “area or district”, in each place where they occur.

7 In section 45 (functions of local representative committees)—

- (a) in subsection (1), for the words “the area of an Area Health Authority or for the district of a District Health Authority” there shall be substituted the words “a locality”;
- (b) in subsection (2)—
- (i) for the words “area or district” there shall be substituted the word “locality”; and
- (ii) the words “with the Secretary of State’s approval” shall be omitted; and
- (c) in subsection (3), the words “with the Secretary of State’s approval” shall be omitted.

8 The following paragraph shall be substituted for paragraph (i) of section 56 (inadequate services)—

“(i) he may authorise the Family Practitioner Committee to make such other arrangements as he may approve, or may himself make such other arrangements, and”.

9 In section 97 (means of meeting expenditure of health authorities out of public funds)

- (a) the following paragraph shall be substituted for subsection (1)(b)—
- “(b) to each Family Practitioner Committee—
- (i) sums not exceeding the amount allotted by him to the Committee for that year towards meeting the expenditure attributable to the performance by the Committee of their functions in that year;
- (ii) sums equal to the expenditure by them in that year which is attributable to disbursements to persons providing services in pursuance of Part II of this Act;”;
- (b) the following subsection shall be substituted for subsection (3)—
- “(3) The Secretary of State may give directions to a Regional Health Authority or Family Practitioner Committee or to a District Health Authority whose district is in Wales with respect to the application of sums paid to them under subsection (1) above.”; and
- (c) in subsection (5), after the words “health authority” there shall be inserted the words “or Family Practitioner Committee”.

10 The following section shall be inserted after section 97A—

**“97B Financial duties of Family Practitioner Committees.**

- (1) It is the duty of every Family Practitioner Committee, in respect of each financial year, so to perform their functions as to secure that the expenditure

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attributable to the performance of those functions in that year, other than expenditure attributable to disbursements to persons providing services in pursuance of Part II of this Act, in respect of their provision of such services, does not exceed the aggregate of—

- (a) the amounts allotted to the Committee for that year under section 97(1) above;
  - (b) any other sums received by the Committee under this Act in that year; and
  - (c) any sums received otherwise than under this Act in that year by the Committee for the purpose of enabling the Committee to defray any such expenditure.
- (2) The Secretary of State may give such directions to a Family Practitioner Committee as appear to him to be requisite to secure that the Committee comply with the duty imposed on them by subsection (1) above and it shall be the duty of the Committee to comply with the direction.
- (3) Directions under subsection (2) above may be specific in character.
- (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 Family Practitioner Committee for the purposes of their functions;
  - (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 a Family Practitioner Committee's performance of their functions; or
  - (c) the extent to which and the circumstances in which sums received but not yet spent by a Family Practitioner Committee under section 97(1) above are to be treated for the purposes of this section as part of the expenditure of the Committee attributable to the performance of their functions and to which financial year's expenditure in the performance of such functions they are to be attributed."

11 In section 128(1) (interpretation and construction) the following definition shall be substituted for the definition of "health authority"—

““health authority” means a Regional or District Health Authority or a special health authority but does not include a Family Practitioner Committee;”.

12 For Part II of Schedule 5 there shall be substituted the following Part—

## “PART II

### FAMILY PRACTITIONER COMMITTEES

- 6 (1) Subject to paragraph 7 below, a Family Practitioner Committee shall consist of a chairman and 30 other members.
- (2) The chairman shall be appointed by the Secretary of State.

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- (3) The other members shall be appointed by the Secretary of State, as follows—
- (a) 8 shall be appointed from persons nominated by the Local Medical Committee for the locality of the Family Practitioner Committee, and one of them shall be, a medical practitioner having the qualifications prescribed in pursuance of section 38 above;
  - (b) 3 shall be appointed from persons nominated by the Local Dental Committee for that locality;
  - (c) 2 shall be appointed from persons nominated by the Local Pharmaceutical Committee for that locality;
  - (d) 1 shall be an ophthalmic optician appointed from persons nominated by such members of the Local Optical Committee for that locality as are ophthalmic opticians;
  - (e) 1 shall be a dispensing optician appointed from persons nominated by such members of the Local Optical Committee as are dispensing opticians;
  - (f) 4 shall be appointed from persons nominated by local authorities any part of whose area is in the locality of the Family Practitioner Committee;
  - (g) 4 shall be appointed from persons nominated by District Health Authorities any part of whose district is in the locality of the Family Practitioner Committee; and
  - (h) 7 shall be appointed after such consultations with such bodies as the Secretary of State considers appropriate.
- (4) One member must be a person who—
- (a) is registered in the register of qualified nurses, midwives and health visitors—
    - (i) as a nurse recorded in the register as having an additional qualification in district nursing;
    - (ii) as a midwife; or
    - (iii) as a health visitor; and
  - (b) has recent experience of providing services to patients (other than patients resident in hospital) in any such capacity.
- (5) If a nomination required for the purposes of sub-paragraph (3) above is not made before such date as the Secretary of State may determine, he may appoint a member without waiting any longer for the nomination.
- (6) No person—
- (a) shall be nominated for appointment to a Family Practitioner Committee under sub-paragraph (3)(f) or (g) above or sub-paragraph (5) above; or
  - (b) shall be appointed to such a Committee under sub-paragraph (3) (f), (g) or (h) above,
- if he is—
- (i) a medical practitioner;
  - (ii) a dental practitioner;
  - (iii) an ophthalmic optician;



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- (iv) a dispensing optician;
  - (v) a registered pharmacist; or
  - (vi) a person conducting a business providing any service for the purposes of Part II of this Act.
- (7) If a Local Medical Committee so require, the Secretary of State shall appoint from among medical practitioners having the qualifications prescribed in pursuance of section 38 above and nominated by the Local Medical Committee under sub-paragraph (3)(a) above a medical practitioner to be the deputy of such a practitioner appointed from among persons nominated by them under sub-paragraph (3)(a) above.
- (8) If a Local Optical Committee so require, the Secretary of State shall appoint from among ophthalmic opticians nominated by the Committee under sub-paragraph (3)(d) above an ophthalmic optician to be the deputy of such an optician appointed from among persons nominated by them under sub-paragraph (3)(d) above.
- (9) If a Local Optical Committee so require, the Secretary of State shall appoint from among dispensing opticians nominated by the Committee under sub-paragraph (3)(e) above a dispensing optician to be the deputy of such an optician appointed from among persons nominated by them under sub-paragraph (3)(e) above.
- (10) A deputy may, while the member for whom he is deputy is absent from any meeting of the relevant Family Practitioner Committee, act as a member of that Committee in the place of the absent member.
- (11) The Committee shall appoint one of their members to be vice-chairman.
- 7 (1) If it appears to the Secretary of State that, by reason of special circumstances affecting a locality, it is appropriate that the Family Practitioner Committee for that locality should not be in accordance with paragraph 6 above, he may by order provide that that paragraph shall apply in relation to the Committee for that locality with such modifications as are specified in the order.
- (2) Subject to sub-paragraph (3) below, it is the Secretary of State's duty, before he makes an order under sub-paragraph (1) above, to consult the Family Practitioner Committee for the locality and any District Health Authority any part of whose district is in the locality of the Family Practitioner Committee with respect to the order.
- (3) It shall also be his duty, in making any such order, to have regard to the desirability of maintaining, so far as practicable, the same numerical proportion as between members falling to be appointed in pursuance of paragraph 6 above as there would be if no modification were made.
- 7A (1) Any member of a Family Practitioner Committee appointed by virtue of paragraph 6(3)(e) above shall cease to be a member of the Committee on the day on which the repeal of that paragraph by section 24 of the Health and Social Security Act 1984 comes into force.
- (2) The following paragraph shall be substituted on that day for paragraph 6(3)(e) above—
- (e) 1 shall be appointed from persons nominated—

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- (i) by the Local Medical Committee for the locality of the Family Practitioner Committee;
- (ii) by the Local Dental Committee for that locality;
- (iii) by the Local Pharmaceutical Committee for that locality; or
- (iv) by the Local Optical Committee for that locality;”

13 In paragraph 9 of Schedule 5 (pay and allowances of chairmen of certain authorities)

- (a) in sub-paragraph (1) the words “other than a Family Practitioner Committee” shall cease to have effect; and
- (b) in sub-paragraphs (2) and (3) the words “other than such a Committee” shall cease to have effect.

41.

14 In paragraph 10(1) of that Schedule (employment of officers by certain authorities) (as amended by paragraph 3(1) of Schedule 6 to the <sup>M31</sup>Health and Social Services and Social Security Adjudications Act 1983) the words “(other than a Family Practitioner Committee)” shall cease to have effect.

**Marginal Citations**

**M31** 1983 c

15 The following sub-paragraphs shall be substituted for paragraph 2(d) to (g) of Schedule 7 (additional provisions as to Community Health Councils)—

- “(d) the consultation of Councils by District Health Authorities or relevant Family Practitioner Committees with respect to such matters, and on such occasions, as may be prescribed;
- (e) the furnishing of information to Councils by such Authorities and Committees, and the right of members of Councils to enter and inspect premises controlled by such Authorities;
- (f) the consideration by Councils of matters relating to the operation of the health service within their districts, and the giving of advice by Councils to such Authorities and Committees on such matters;
- (g) the preparation and publication of reports by Councils on such matters, and the furnishing and publication by such Authorities or Committees of comments on the reports; and”.

16 In paragraph 3(d) of that Schedule, for the words “Area or District Health Authority” there shall be substituted the words “District Health Authority or Family Practitioner Committee”.

17 The following paragraph shall be added at the end of that Schedule—

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“8 A Family Practitioner Committee is a relevant Family Practitioner Committee in relation to a Council’s district if any part of the Committee’s locality is in that district, but is only a relevant Committee in relation to that Council to the extent that the Council performs its functions in relation to that part.”.

SCHEDULES 4,  
5. ....  
F11

**Textual Amendments**

**F11** Schs. 4, 5 repealed (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#)

SCHEDULE 6

Section 20.

PROTECTION OF PENSIONS

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

**C17** The text of Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

The following provisions shall be inserted after section 41 of the <sup>M32</sup>Social Security Pensions Act 1975—

*“ Protection of pensions*

**41A Earners’ pensions.**

- (1) If—
- (a) there is an interval between—
    - (i) the date on which an earner ceases to be in employment which is contracted-out by reference to an occupational pension scheme (“the termination of employment date”); and
    - (ii) the date on which his guaranteed minimum pension under that scheme commences (“the commencement of payment date”);
  - (b) the relevant sum exceeds his guaranteed minimum on the day after the termination of employment date; and
  - (c) on the commencement of payment date or at any time thereafter his guaranteed minimum pension under the scheme exceeds the amount of his guaranteed minimum under it on the day after the termination of employment date,

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the weekly rate on the commencement of payment date and at any time thereafter of the pension payable to him under the scheme shall be an amount not less than the aggregate of the following—

- (i) the relevant sum;
- (ii) the excess mentioned in paragraph (c) above; and
- (iii) any amount which is an appropriate addition at that time.

(2) In subsection (1) above “appropriate addition” means—

- (a) where a scheme provides that part of an earner’s pension shall accrue after the termination of employment date by reason of employment after that date, an amount equal to the part which has so accrued; and
- (b) where a scheme provides that an earner’s pension which has accrued before that date shall be enhanced after it if payment of the pension is postponed, the amount by which the excess of the pension on the day after the termination of employment date over the earner’s guaranteed minimum on the day after the termination of employment date has been enhanced by reason of the postponement.

(3) Subject to subsections (6) to (8) below, in this section “the relevant sum” means—

- (a) if the earner reaches normal pension age on or before the termination of employment date, an amount equal to the weekly rate of his pension on the day after the termination of employment date; and
- (b) if he reaches normal pension age after the termination of employment date, an amount equal to the weekly rate of—
  - (i) any short service benefit which has accrued to him on the termination of employment date; or
  - (ii) where no short service benefit has then accrued to him, any other benefit to which this paragraph applies and which has then accrued to him.

(4) The benefit other than short service benefit to which sub-section (3)(b) above applies is benefit—

- (a) which would have been provided as either the whole or part of the earner’s short service benefit; or
- (b) of which the earner’s short service benefit would have formed part,

if paragraph 6(1) of Schedule 16 to the Social Security Act 1973 had effect with the substitution—

- (i) in paragraph (a), of a reference to the earner’s age on the termination of employment date (as defined in subsection (1)(a)(i) above) for the reference to the age of 26; and
- (ii) in paragraph (b), of a reference to the service which the earner had on that date for the reference to 5 years’ qualifying service.

(5) Any such benefit is only to be included in the relevant sum to the extent that it does not exceed the amount which the scheme would have had to provide as short service benefit if paragraph 6(1) of Schedule 16 to the Social Security Act 1973 had effect as mentioned in subsection (4) above.

(6) To the extent that amounts attributable to transfer credits have accrued by reason of any transfer before the commencement of this section they are to be disregarded for the purposes of subsection (1)(c) and (ii) above.

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*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Security Act 1984. (See end of Document for details)*

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- (7) If any part of the earner's pension is postponed beyond the termination of employment date, the relevant sum is an amount equal to what would have been the weekly rate of his pension on the day after the termination of employment date if there had been no such postponement.
- (8) If—
- (a) an earner's employment ceases to be contracted-out by reference to an occupational pension scheme but the scheme continues to apply to it; or
  - (b) an earner transfers from employment which is contracted-out by reference to an occupational pension scheme to employment to which the scheme applies but which is not contracted-out by reference to it,
- the amount of any short service or other benefit which has accrued to the earner shall be computed for the purposes of subsection (3)(b) above as it would be computed if he had ceased on the termination of employment date to be in employment to which the scheme applies.
- (9) An earner shall be treated for the purposes of this section as if benefit under a scheme had accrued to him—
- (a) if—
    - (i) one of the events mentioned in subsection (8) above occurs before he has attained the age at which, if he had attained it, that benefit would have accrued to him; and
    - (ii) he continues to be in employment to which the scheme applies until he attains that age; or
  - (b) if—
    - (i) one of those events occurs before he has a particular period of service; and
    - (ii) that benefit would have accrued to him if he had that period; and
    - (iii) he continues to be in employment to which the scheme applies until he has it.
- (10) Nothing in this section shall be construed as entitling an earner who has not reached normal pension age to any portion of a pension under a scheme to which he would not otherwise be entitled.
- (11) In this section, "short service benefit" is to be construed in accordance with Schedule 16 to the Social Security Act 1973.

#### **41B Widows' pensions.**

- (1) If—
- (a) there is an interval between the earner's termination of employment date and whichever of the following is the earlier—
    - (i) the date of his death;
    - (ii) his commencement of payment date; and
  - (b) the relevant sum exceeds one half of the earner's guaranteed minimum on the day after the termination of employment date; and
  - (c) at any time when a pension under the occupational pension scheme is required to be paid to his widow her guaranteed minimum pension under the scheme exceeds one half of his guaranteed minimum on the day after the termination of employment date,

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the weekly rate of the pension to be paid to her at that time shall be an amount not less than the aggregate of the following—

- (i) the relevant sum;
- (ii) the excess mentioned in paragraph (c) above; and
- (iii) any amount which is an appropriate addition at that time.

- (2) In subsection (1) above “appropriate addition” means—
  - (a) where a scheme provides that part of a widow’s pension shall accrue after the termination of employment date by reason of the earner’s employment after that date, an amount equal to the part which has so accrued; and
  - (b) where a scheme provides that a widow’s pension which has accrued before that date shall be enhanced after it if payment of the earner’s pension is postponed, the amount by which the excess of the widow’s pension on the day after the termination of employment date over one half of the earner’s guaranteed minimum on the day after the termination of employment date has been enhanced by reason of the postponement.
- (3) Subject to subsection (5) below, in this section “the relevant sum” means an amount equal to the weekly rate at which, on the assumption specified in subsection (4) below, a pension would have commenced to be paid to the widow if she had satisfied the conditions for entitlement to a pension which are specified in the scheme.
- (4) The assumption mentioned in subsection (3) above is that the earner died on the day after the termination of employment date, and no other assumption which is contrary to the facts is to be made for the purpose of calculating the relevant sum in a particular case.
- (5) To the extent that amounts attributable to transfer credits have accrued by reason of any transfer before the commencement of this section they are to be disregarded for the purposes of subsection (1)(c) and (ii) above.

#### **41C Provisions supplementary to sections 41A and 41B.**

- (1) Subject to subsection (2) below, sections 41A and 41B above override any provision of a scheme to the extent that it conflicts with them.
- (2) Sections 41A and 41B above do not override a protected provision of a scheme.
- (3) In subsection (2) above “protected provision” means—
  - (a) any provision contained in a scheme by virtue of—
    - (i) paragraph 9(2), 15(2), (3) or (4), 16(2), (3) or (4), 17(2) or 18 of Schedule 16 to the Social Security Act 1973; or
    - (ii) section 36(7), (8) or (9) or 39 above; and
  - (b) any provision of a scheme to the extent that it deals with priorities on a winding-up; and
  - (c) any provision of a scheme which is included in it for the purpose of effecting a transfer of rights or liabilities authorised by regulations under section 38(1) above.
- (4) In making any calculation for the purposes of section 41A or 41B above—
  - (a) any commutation, forfeiture or surrender of the whole or part of a pension;
  - (b) any charge or lien on the whole or part of a pension; and
  - (c) any set-off against the whole or part of a pension,

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shall be disregarded.

- (5) Any reference in section 41A or 41B above to the weekly rate of a pension is to be construed, in relation to a pension payable otherwise than weekly, as a reference to the weekly sum which would be payable in respect of a pension of that amount payable weekly.
- (6) Sections 41A and 41B above do not apply to a pension to which an earner or his widow is entitled in respect of employment if before the commencement of this section—
  - (a) he left the employment, or left it for the last time; or
  - (b) the employment ceased, or ceased for the last time, to be contracted-out in relation to him.
- (7) The Secretary of State may by regulations direct that sections 41A and 41B above and this section shall have effect, in such cases as he may specify in the regulations, subject to such modifications as he may there specify.
- (8) In subsection (7) above “modification” includes, without prejudice to the generality of that subsection, addition, omission and amendment.

#### **41D Advice of Occupational Pensions Board on questions whether section 41A or 41B overrides provisions of schemes.**

The Occupational Pensions Board may at any time, and shall if requested by the trustees or managers of an occupational pension scheme, advise on any question whether or not any provision of section 41A or 41B above (including, without prejudice to section 20(2) of the Interpretation Act 1978, any such provision as modified by regulations under section 41C(7) above) does or does not override any provision of the scheme.

#### **41E Determination of questions whether schemes conform with sections 41A to 41C.**

- (1) On an application made to them in respect of an occupational pension scheme (other than a public service pension scheme) by persons competent to make such an application in respect of it, the Occupational Pensions Board shall issue a determination on any such question as is mentioned in section 41D above.
- (2) The persons competent to make an application under this section in respect of a scheme are—
  - (a) the trustees or managers of the scheme;
  - (b) any person other than the trustees or managers who has power to alter any of the rules of the scheme;
  - (c) any person who is an employer of persons in service in an employment to which the scheme applies;
  - (d) any member or prospective member of the scheme;
  - (e) such other persons as regulations may specify, in relation to any category of schemes into which the scheme falls, as being proper persons to make an application for the purposes of this section in respect of a scheme of that category.”.

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Security Act 1984. (See end of Document for details)*

**Marginal Citations**

**M32** 1975 c. 60.

SCHEDULE 7

Section 21.

MISCELLANEOUS SOCIAL SECURITY AMENDMENTS

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

**C18** The text of Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

1, 2. . . . . **F12**

**Textual Amendments**

**F12** Sch. 7 paras. 1–3, 6–8 repealed (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#)

*Social Security Pensions Act 1975 (c. 60)*

3 . . . . . **F13**

**Textual Amendments**

**F13** Sch. 7 paras. 1–3, 6–8 repealed (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#)

4 The following subsection shall be inserted after section 43(2) of that Act—

“(2A) For the purposes of this Act any period of an earner’s service in an employment is linked qualifying service in relation to a later period of service (whether in the same or another employment) if—

(a) under the rules of a scheme applying to him in the earlier period of service there was made a transfer of his accrued rights under that scheme to another scheme applying to him in the later period of service; and

(b) in consequence of that transfer, there are (or were) allowed to him transfer credits under the rules of that other scheme,

except that, for any service to be taken into account as linked qualifying service, it must be actual service and no regard shall be had to any scheme rule which provides for service to be treated for any purposes of benefit or otherwise as longer or shorter than it actually was.”.

5 In section 66(1) of that Act (interpretation)—



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- (a) in the definition of “linked qualifying service” for “38(4)” there shall be substituted “43(2A)”; and
- (b) the following definition shall be substituted for the definition of “transfer credits”—
  - ““transfer credits” means rights allowed to an earner under the rules of an occupational pension scheme by reference to a transfer to that scheme of his accrued rights from another scheme.”.

6–8 ..... F14

**Textual Amendments**

**F14** Sch. 7 paras. 1–3, 6–8 repealed (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#)

*Health and Social Services and Social Security Adjudications Act 1983 (c. 41)*

- 9 In Schedule 8 to the Health and Social Services and Social Security Adjudications Act 1983 (social security adjudications)—
- (a) in sub-paragraph (1) of paragraph 31 (transitional regulations) for the words “and this Schedule” there shall be substituted the words “ this Schedule and section 16 of the Health and Social Security Act 1984 ”; and
  - (b) in sub-paragraph (3), for the words from “and this Schedule”, in the first place where they occur, to the end of the sub-paragraph there shall be substituted the words “ this Schedule and section 16 of the Health and Social Security Act 1984 and before the expiry of the period of six months beginning with their commencement ”.

SCHEDULE 8

Section 24.

REPEALS

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

**C19** The text of Sch. 8 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**PART I**

HEALTH

Chapter	Short title	Extent of repeal
6 & 7 Eliz. 2 c. 32.	Opticians Act 1958.	In section 13(3), the words from “and” onwards.
1971 c. 62.	Tribunals and Inquiries Act 1971.	In Schedule 1, in paragraph 17(a) the words from “or established” to “1980”.

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1977 c. 49.	National Health Service Act 1977.	<p>In section 12(b), the words “or under section 2 of the Health Services Act 1980”. In section 15, in subsection (1), the words from “This subsection” to the end and subsection (2). In section 19(1)(e), the words “and dispensing”. In section 39(c), the words “and the ophthalmic or dispensing optician who is to supply the appliances”. In section 44(1)(c), the words “and dispensing opticians”. In section 45(2) and (3), the words “with the Secretary of State’s approval”. Section 46(1)(e). In section 72(5)(a), the words “or dispensing”. In section 81(b), the words “or general ophthalmic services” and the words “or optical”. In section 82(b), the words “or general ophthalmic services” and the words “or optical”. In section 83(b), the words “or the general ophthalmic services”. In section 97(1)(a) and (c) and (2), the words “or further allotted”. In section 98(2), the second paragraph. In section 128(1), the definition of “dispensing optician”. In Schedule 5, in paragraph 1(2)(c), the words “and dispensing”, in paragraph 2(2)(a), the words “and dispensing”, in paragraph 6, as originally enacted, sub-paragraph (1)(g) and in sub-paragraph (3)(a), the words “or, as the case may be, a dispensing”, in paragraph 6, as substituted by paragraph 12 of Schedule 3 above, sub-paragraph (3)(e), sub-paragraph (5)(iv) and sub-paragraph (8), in paragraph 9, in sub-paragraph (1), the words “other than a Family Practitioner Committee”</p>
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**Changes to legislation:** *There are currently no known outstanding effects for the Health and Social Security Act 1984. (See end of Document for details)*

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1978 c. 29.	National Health Service (Scotland) Act 1978.	<p>and in sub-paragraphs (2) and (3), the words “other than such a Committee” and in paragraph 10, the words “other than a Family Practitioner Committee”. In Schedule 9, paragraph 4(e). In Schedule 12, in paragraph 2(1), the words from “In this sub-paragraph” to the end, in paragraph 2, sub-paragraph (2)(iii), sub-paragraph (5), in sub-paragraph (6), the words “or sub-paragraph (5)” and in sub-paragraph (7), the words “and (5)”, in paragraph (a), the words “or to an optical appliance supplied under this Act”, the words “or testing of sight” and the words “or testing” and in sub-paragraph (8), the words “or lenses” and in paragraph 5, the words “or optical”.</p> <p>In section 9(1)(e), the words “and dispensing”. In section 26, subsection (1) (b) and the word “and” immediately preceding it and in subsection (2) (c), the words “and the ophthalmic or dispensing optician who is to supply the appliances”. In section 29(1), paragraph (e). In section 64(5) (a), the words “or dispensing”. In section 73(b), the words “or general ophthalmic services” and the words “or optical”. In section 74(b), the words “or general ophthalmic services” and the words “or optical”. In section 75(b), the words “or the general ophthalmic services”. In section 85(1), the words “or further allotted”. In section 108(1), the definition of “dispensing optician”. In Schedule 8, paragraph 5(e). In Schedule 11, in paragraph</p>
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*Changes to legislation: There are currently no known outstanding effects for the Health and Social Security Act 1984. (See end of Document for details)*

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1980 c. 53.	Health Services Act 1980.	2, sub-paragraph (2)(iii), sub-paragraph (5), in sub-paragraph (6), the words “or sub-paragraph (5)” and in sub-paragraph (8), the words “or lenses”, and in paragraph 5, the words “or optical”.  In section 1, in subsection (6) the words “Subject to section 2 below”.Section 2.Section 18.In Schedule 1, paragraph 30, in paragraph 35, the words from “and in subsection (2)” to the end, paragraph 37, paragraphs 56 and 57, in paragraph 69, sub-paragraph (b) and the word “and” immediately preceding it, paragraph 77(b), paragraph 79, paragraph 82(2) and (3), and paragraphs 87 to 99.In Schedule 5, paragraph 2(2) and (4) and paragraph 6(2) and (4).
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## PART II

### SOCIAL SECURITY

Chapter	Short title	Extent of repeal
1975 c.14.	Social Security Act 1975.	In section 12(1)(d), the words “and child”.Section 41(2)(d) and (3).Section 57(2).In Schedule 4, Part IV, in paragraph 1(a) and (c) and in paragraph 3, the entries relating to increases for qualifying children.
1975 c. 60.	Social Security Pensions Act 1975.	In section 4(1), the words “in respect of any period”.In section 38, in subsection (3), the definition of “transfer credits” and subsection (4).
1975 c. 61.	Child Benefit Act 1975.	In Schedule 4, paragraph 25.
1977 c. 5.	Social Security (Miscellaneous Provisions) Act 1977.	In section 22(2), the words “36(2)(b)”.
1980 c.30.	Social Security Act 1980.	Section 3(5).

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*Changes to legislation: There are currently no known outstanding effects for the Health and Social Security Act 1984. (See end of Document for details)*

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1982 c.24.

Social Security and Housing  
Benefits Act 1982.

In Schedule 4, paragraph  
18(4).

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**Status:**

Point in time view as at 01/02/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Health and Social Security Act 1984.