



# Health Act 1999

## 1999 CHAPTER 8

### PART I

#### THE NATIONAL HEALTH SERVICE

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

- C1** Pt. I (ss. 1-45 except 20(1), 22, 33-38): transfer of functions (1.7.1999) by [S.I. 1999/672, art. 2, Sch. 1](#) (as inserted (30.6.1999) by [1999 c. 8, ss. 66\(4\)\(5\)\(c\), 67\(4\)](#))  
Pt. I applied to Isles of Scilly (with modifications) (14.3.2001) by [S.I. 2001/448, art. 2](#)

#### *Fund-holding practices*

### 1 Repeal of law about fund-holding practices.

In the <sup>M1</sup>National Health Service and Community Care Act 1990, sections 14 to 17 (which make provision in relation to fund-holding practices) are to cease to have effect.

##### Commencement Information

- II** [S. 1](#) wholly in force at 1.4.2000; [S. 1](#) not in force at Royal Assent see [s. 67\(1\)](#); [s. 1](#) in force for E. at 1.10.1999 by [S.I. 1999/2540, art. 2\(1\)\(a\), Sch. 1](#); [s. 1](#) in force for W. at 1.4.2000 by [S.I. 2000/1026, art. 2\(1\), Sch.](#)

##### Marginal Citations

- M1** [1990 c.19](#)

*Status: Point in time view as at 01/03/2007. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Health Act 1999, Part I. (See end of Document for details)*

*Local administration*

**2 Primary Care Trusts.**

F1 .....

**Textual Amendments**  
F1 Ss. 2-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1)

**3 Primary Care Trusts: finance.**

F2 .....

**Textual Amendments**  
F2 Ss. 2-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1)

**4 Expenditure of Health Authorities and Primary Care Trusts.**

F3 .....

**Textual Amendments**  
F3 Ss. 2-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1)

**5 Primary Care Trusts: provision of services etc.**

F4 .....

**Textual Amendments**  
F4 Ss. 2-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1)

**6 Delegation of Health Authority functions relating to pilot schemes and section 28C arrangements.**

F5 .....

**Textual Amendments**  
F5 Ss. 2-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1)

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## 7 Primary Care Trusts: trust-funds and trustees.

F6 .....

### Textual Amendments

**F6** Ss. 2-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1)

## 8 Payments relating to past performance.

F7 .....

### Textual Amendments

**F7** Ss. 2-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1)

## 9 Indemnity cover for Part II services.

F8 .....

### Textual Amendments

**F8** Ss. 2-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1)

## 10 Remuneration for Part II services.

F9 .....

### Textual Amendments

**F9** Ss. 2-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1)

## 11 Local representative committees.

F10 .....

### Textual Amendments

**F10** Ss. 2-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1)

## 12 Directions.

F11 .....

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### Textual Amendments

- F11** Ss. 2-12 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 6, 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#))

## *NHS trusts*

### 13 Establishment orders.

- (1) <sup>F12</sup> .....
- (2) <sup>F12</sup> .....
- (3) <sup>F12</sup> .....
- (4) <sup>F12</sup> .....
- (5) An order under section 63 may—
- (a) provide for any provision made by it for the purposes of, in consequence of or for giving full effect to this section to be treated as having had effect from a time before the commencement of this section,
- (b) make such provision about an NHS trust dissolved before that commencement.
- (6) <sup>F13</sup> .....
- (7) <sup>F13</sup> .....
- (8) <sup>F13</sup> .....
- (9) <sup>F13</sup> .....
- (10) <sup>F13</sup> .....
- (11) <sup>F13</sup> .....

### Textual Amendments

- F12** S. 13(1)-(4) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 6, 8(2), [Sch. 4](#) (with [Sch. 2 para. 19](#))

- F13** S. 13(6)-(11) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 6, 8(2), [Sch. 4](#) (with [Sch. 2 para. 19](#))

### Commencement Information

- I2** S. 13 wholly in force at 1.11.1999; s. 13 not in force at Royal Assent see [s. 67\(1\)](#); s. 13 in force for E. at 1.10.1999 by [S.I. 1999/2540](#), [art. 2\(1\)\(a\)](#), [Sch. 1](#); s. 13 in force for W. at 1.11.1999 by [S.I. 1999/3184](#), [art. 2\(1\)](#), [Sch. 1](#)

### 14 Exercise of powers.

- <sup>F14</sup> .....

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*Changes to legislation: There are currently no known outstanding effects for the Health Act 1999, Part I. (See end of Document for details)*

**Textual Amendments**

**F14** S. 14 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 6, 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#))

**15 Public dividend capital.**

**F15** .....

**Textual Amendments**

**F15** S. 15 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 6, 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#))

**16 Existing NHS trusts: conversion of initial loan.**

- (1) This section applies to any NHS trust in existence immediately before commencement.
- (2) On commencement so much of the originating capital debt of the NHS trust as remains outstanding immediately before commencement is to be treated as the originating capital of the NHS trust and accordingly is public dividend capital.
- (3) Any reference in any enactment, instrument or other document to the originating capital debt of the NHS trust is to be construed (except where the context otherwise requires) as a reference to its originating capital.
- (4) The Secretary of State may with the consent of the Treasury determine the amount and time for payment of interest on the NHS trust’s initial loan in respect of the period ending with commencement.
- (5) In this section—
  - “commencement” means the coming into force of this section,
  - “initial loan” has the meaning given by section 9(5) of [<sup>F16</sup>the National Health Service and Community Care Act 1990, prior to the repeal of that section by the National Health Service (Consequential Provisions) Act 2006]

**Textual Amendments**

**F16** Words in s. 16(5) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 195](#) (with [Sch. 3 Pt. 1](#))

**Commencement Information**

**I3** S. 16 wholly in force at 1.11.1999; s. 16 not in force at Royal Assent see [s. 67\(1\)](#); s. 16 in force for E. at 1.9.1999 by [S.I. 1999/2342, art. 2\(1\)](#), [Sch. 1](#); s. 16 in force for W. at 1.11.1999 by [S.I. 1999/3184, art. 2\(1\)](#), [Sch. 1](#)

**17 Borrowing.**

**F17** .....

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*Changes to legislation: There are currently no known outstanding effects for the Health Act 1999, Part I. (See end of Document for details)*

**Textual Amendments**

**F17** S. 17 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 6, 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#))

*Quality etc*

**18 Duty of quality.**

**F18** .....

**Textual Amendments**

**F18** Ss. 18-24 repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 196, 199, [Sch. 14 Pt. 2](#); S.I. 2004/759, [art. 13\(2\)\(g\)](#)

**19 The Commission for Health Improvement.**

**F19** .....

**Textual Amendments**

**F19** Ss. 18-24 repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 196, 199, [Sch. 14 Pt. 2](#); S.I. 2004/759, [art. 13\(2\)\(g\)](#)

**20 Functions of the Commission.**

**F20** .....

**Textual Amendments**

**F20** Ss. 18-24 repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 196, 199, [Sch. 14 Pt. 2](#); S.I. 2004/759, [art. 13\(2\)\(g\)](#)

**21** .....

**F21** .....

**Textual Amendments**

**F21** Ss. 18-24 repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 196, 199, [Sch. 14 Pt. 2](#); S.I. 2004/759, [art. 13\(2\)\(g\)](#)

**22 Arrangements with Ministers.**

**F22** .....

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**Changes to legislation:** There are currently no known outstanding effects for the Health Act 1999, Part I. (See end of Document for details)

**Textual Amendments**

**F22** Ss. 18-24 repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003](#) (c. 43), ss. 196, 199, [Sch. 14 Pt. 2](#); S.I. 2004/759, [art. 13\(2\)\(g\)](#)

**23 Obtaining information etc.**

**F23** .....

**Textual Amendments**

**F23** Ss. 18-24 repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003](#) (c. 43), ss. 196, 199, [Sch. 14 Pt. 2](#); S.I. 2004/759, [art. 13\(2\)\(g\)](#)

**24 Restrictions on disclosure of information.**

**F24** .....

**Textual Amendments**

**F24** Ss. 18-24 repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003](#) (c. 43), ss. 196, 199, [Sch. 14 Pt. 2](#); S.I. 2004/759, [art. 13\(2\)\(g\)](#)

**25 Abolition of Clinical Standards Advisory Group.**

**F25** .....

**Textual Amendments**

**F25** [S. 25](#) repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004](#) (c. 14), [s. 1\(1\)](#), {[Sch. 1 Pt. 5 Group 9](#)}

*Partnership*

**26 Co-operation between NHS bodies.**

**F26** .....

**Textual Amendments**

**F26** Ss. 26-32 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), ss. 6, 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#))

**27 Co-operation between NHS bodies and local authorities.**

**F27** .....

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**Textual Amendments**

**F27** Ss. 26-32 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 6, 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#))

**28 Plans for improving health etc.**

**F28** .....

**Textual Amendments**

**F28** Ss. 26-32 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 6, 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#))

**29 Payments by NHS bodies to local authorities.**

**F29** .....

**Textual Amendments**

**F29** Ss. 26-32 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 6, 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#))

**30 Payments by local authorities to NHS bodies.**

**F30** .....

**Textual Amendments**

**F30** Ss. 26-32 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 6, 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#))

**31 Arrangements between NHS bodies and local authorities.**

**F31** .....

**Textual Amendments**

**F31** Ss. 26-32 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 6, 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#))

**32 Joint consultative committees.**

**F32** .....



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### Textual Amendments

**F32** Ss. 26-32 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 6, 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#))

### *Control of prices of medicines and profits*

#### [<sup>F33</sup>33 Powers relating to voluntary schemes.

- (1) The powers conferred by this section may be exercised where there is in existence a scheme (referred to in this section and sections 34 and 35 as a voluntary scheme) made by the Secretary of State and the industry body for the purpose of—
  - (a) limiting the prices which may be charged by any manufacturer or supplier to whom the scheme relates for the supply of any health service medicines, or
  - (b) limiting the profits which may accrue to any manufacturer or supplier to whom the scheme relates in connection with the manufacture or supply of any health service medicines.
- (2) For the purposes of this section and sections 34 and 35, a voluntary scheme is to be treated as applying to a manufacturer or supplier to whom it relates if—
  - (a) he has consented to the scheme being so treated (and has not withdrawn that consent), and
  - (b) no notice is in force in his case under subsection (4).
- (3) For the purposes of this section a voluntary scheme has effect, in relation to a manufacturer or supplier to whom it applies, with any additions or modifications made by him and the Secretary of State.
- (4) If any acts or omissions of any manufacturer or supplier to whom a voluntary scheme applies (a “scheme member”) have shown that, in the scheme member’s case, the scheme is ineffective for either of the purposes mentioned in subsection (1), the Secretary of State may by a written notice given to the scheme member determine that the scheme is not to apply to him.
- (5) A notice under subsection (4) must give the Secretary of State’s reasons for giving the notice; and the Secretary of State may not give a notice under that subsection until he has given the scheme member an opportunity to make representations about the acts or omissions in question.
- (6) Consent under subsection (2)(a) must be given, or withdrawn, in the manner required by the Secretary of State.
- (7) The Secretary of State may after consultation with the industry body require any manufacturer or supplier to whom a voluntary scheme applies to—
  - (a) record and keep any information, and
  - (b) provide any information to the Secretary of State,which the Secretary of State may require for the purpose of enabling the scheme to operate or facilitating its operation or for the purpose of giving full effect to any provision made under subsection (8).
- (8) The Secretary of State may—

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- (a) prohibit any manufacturer or supplier to whom a voluntary scheme applies from increasing any price charged by him for the supply of any health service medicine covered by the scheme without the approval of the Secretary of State, and
- (b) provide for any amount representing any increase in contravention of that prohibition in the sums charged by that person for that medicine, so far as the increase is attributable to supplies to the health service, to be paid to the Secretary of State within a specified period.]

#### Textual Amendments

**F33** S. 33 repealed by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 6, Sch. 4](#) (with [Sch. 2 Pt. 1](#)), the repeal coming into force at 1.3.2007 to the extent that s. 33 is already in force at that date, and otherwise in accordance with s. 8(2)(4)(a)(5) of the repealing Act

#### Commencement Information

**I4** S. 33 partly in force; s. 33 not in force at Royal Assent see [s. 67\(1\)](#); [s. 33\(1\)-\(6\)](#) in force for certain purposes at 1.9.1999 by [S.I. 1999/2177, art. 2\(3\)\(a\)](#); [s. 33\(7\)](#) in force for certain purposes at 3.4.2007 by [S.I. 2007/1179, art. 2\(a\)](#)

### 34 Power to control prices.

F34 .....

#### Textual Amendments

**F34** S. 34 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), ss. 6, 8\(2\), Sch. 4](#) (with [Sch. 2 Pt. 1](#))

VALID FROM 07/08/2017

#### [<sup>F35</sup>35 Statutory schemes.

- (1) The Secretary of State may, after consultation with the industry body, make a scheme (referred to in this section and section 36 as a statutory scheme) for the purpose of—
  - (a) limiting the prices which may be charged by any manufacturer or supplier for the supply of any health service medicines, or
  - (b) limiting the profits which may accrue to any manufacturer or supplier in connection with the manufacture or supply of any health service medicines.
- (2) A statutory scheme may, in particular, make any provision mentioned in subsections (3) to (6).
- (3) The scheme may require any manufacturer or supplier to whom it applies to—
  - (a) record and keep information, and
  - (b) provide information to the Secretary of State.
- (4) The scheme may provide for any amount representing sums charged by any manufacturer or supplier to whom the scheme applies, in excess of the limits

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determined under the scheme, for health service medicines covered by the scheme to be paid by that person to the Secretary of State within a specified period.

- (5) The scheme may provide for any amount representing the profits, in excess of the limits determined under the scheme, accruing to any manufacturer or supplier to whom the scheme applies in connection with the manufacture or supply of health service medicines covered by the scheme to be paid by that person to the Secretary of State within a specified period.
- (6) The scheme may—
- (a) prohibit any manufacturer or supplier to whom the scheme applies from increasing, without the approval of the Secretary of State, any price charged by him for the supply of any health service medicine covered by the scheme, and
  - (b) provide for any amount representing any increase in contravention of that prohibition in the sums charged by that person for that medicine, so far as the increase is attributable to supplies to the health service, to be paid to the Secretary of State within a specified period.
- (7) A statutory scheme may not apply to a manufacturer or supplier to whom a voluntary scheme applies.]

#### Textual Amendments

**F35** S. 35 repealed by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 6, Sch. 4](#) (with [Sch. 2 Pt. 1](#)), the repeal coming into force in accordance with s. 8(2)(4)(a)(5) of the repealing Act. [Note: the repeal is therefore wholly prospective as at the in-force date of the repealing Act, s. 35 not having been brought into force to any extent by that date]

### 36 Statutory schemes: supplementary.

**F36** .....

#### Textual Amendments

**F36** S. 36 repealed by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 6, Sch. 4](#) (with [Sch. 2 Pt. 1](#)), the repeal coming into force at 1.3.2007 to the extent that s. 36 is already in force at that date, and otherwise at 3.4.2007 in accordance with s. 8(2)(4)(a)(5) of the repealing Act

#### Commencement Information

**I5** S. 36 wholly in force at repeal; s. 36 not in force at Royal Assent; s. 36 in force for certain purposes at 3.8.1999 by [S.I. 1999/2177, art. 2\(2\)\(b\)](#); s. 36 otherwise in force at 3.4.2007 by [S.I. 2007/1179, art. 2\(b\)](#)

### [<sup>F37</sup> 37 Enforcement.

- (1) Regulations may provide for a person who contravenes any provision of regulations or directions under sections 33 to 36 to be liable to pay a penalty to the Secretary of State.
- (2) The penalty may be—
- (a) a single penalty not exceeding £100,000, or

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- (b) a daily penalty not exceeding £10,000 for every day on which the contravention occurs or continues.
- (3) Regulations may provide for any amount required to be paid to the Secretary of State by virtue of section 33(8)(b), 34(1)(b) or 35(4) or (6)(b) to be increased by an amount not exceeding 50 per cent.
- (4) Regulations may provide for any amount payable to the Secretary of State by virtue of provision made under section 33(8)(b), 34(1)(b) or 35(4), (5) or (6)(b) (including such an amount as increased under subsection (3)) to carry interest at a rate specified or referred to in the regulations.
- (5) Provision may be made by regulations for conferring on manufacturers and suppliers a right of appeal against enforcement decisions taken in respect of them in pursuance of sections 33 to 36 and this section.
- (6) The provision which may be made by virtue of subsection (5) includes any provision which may be made by model provisions with respect to appeals under section 6 of the <sup>M2</sup>Deregulation and Contracting Out Act 1994, reading—
- (a) the references in subsections (4) and (5) of that section to enforcement action as references to action taken to implement an enforcement decision,
  - (b) in subsection (5) of that section, the references to interested persons as references to any persons and the reference to any decision to take enforcement action as a reference to any enforcement decision.
- (7) In subsections (5) and (6), “enforcement decision” means a decision of the Secretary of State or any other person to—
- (a) require a specific manufacturer or supplier to provide information to him,
  - (b) limit, in respect of any specific manufacturer or supplier, any price or profit,
  - (c) refuse to give his approval to a price increase made by a specific manufacturer or supplier,
  - (d) require a specific manufacturer or supplier to pay any amount (including an amount by way of penalty) to him,
- and in this subsection “specific” means specified in the decision.
- (8) A requirement or prohibition, or a limit, under sections 33 to 36 may only be enforced under this section and may not be relied on in any proceedings other than proceedings under this section.
- (9) In this section “regulations” means regulations made by the Secretary of State, and the Secretary of State must consult the industry body before making any regulations under this section.
- (10) The Secretary of State may by order increase (or further increase) either of the sums mentioned in subsection (2).]

#### **Textual Amendments**

- F37** S. 37 repealed by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 6, [Sch. 4](#) (with [Sch. 2 Pt. 1](#)), the repeal coming into force at 1.3.2007 to the extent that s. 37 is already in force at that date, and otherwise in accordance with s. 8(2)(4)(a)(5) of the repealing Act

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#### Commencement Information

**I6** S. 37 partly in force; s. 37 not in force at Royal Assent see s. 67(1); s. 37 in force for certain purposes at 3.8.1999 by S.I. 1999/2177, art. 2(2)(c); s. 37(1)-(9) in force at 1.11.1999 insofar as not already in force by S.I. 1999/2177, art. 2(4)(a)

#### Marginal Citations

**M2** 1994 c.40.

### [<sup>F38</sup>38 Controls: supplementary.

- (1) Any power conferred on the Secretary of State by sections 33(6) to (8) and 34 to 36 may be exercised by—
  - (a) making regulations, or
  - (b) giving directions to a specific manufacturer or supplier,and the regulations may themselves confer power for the Secretary of State to give directions to a specific manufacturer or supplier; and in this subsection “specific” means specified in the direction concerned.
- (2) Any power to make regulations under any of those provisions or section 37 may be exercised generally in relation to manufacturers or suppliers of health service medicines or be exercised in relation to any class of manufacturers or suppliers.
- (3) The powers to refuse approval under section 33(8)(a) or 35(6)(a) or to impose a limit under section 34(1)(a) or 35(1) are exercisable only with a view to limiting by reference to the prices or profits which would be reasonable in all the circumstances—
  - (a) the prices which may be charged for, or
  - (b) the profits which may accrue to any manufacturer or supplier in connection with,the manufacture or supply for the purposes of the health service of health service medicines.
- (4) In so exercising those powers (in the case of sections 34(1)(a) and 35(1) and (6)(a)) the Secretary of State and any other person must bear in mind, in particular, the need for medicinal products to be available for the health service on reasonable terms and the costs of research and development.
- (5) Section 57 of, and Schedule 11 to, the 1977 Act and section 49 of, and Schedule 10 to, the 1978 Act (maximum prices of medical supplies) are to cease to have effect in relation to health service medicines; but the powers conferred by sections 33 to 36 do not affect any other powers of the Secretary of State to control prices or profits.
- (6) This subsection and subsections (7) and (8) apply for the interpretation of sections 33 to 37 and this section—

“health service” means any of the health services within the meaning of the 1977 Act, the 1978 Act or the<sup>M3</sup>Health and Personal Social Services (Northern Ireland) Order 1972,

“health service medicine” means a medicinal product used to any extent for the purposes of the health service,

“the industry body” means any body which appears to the Secretary of State appropriate to represent manufacturers and suppliers,

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“manufacture” includes assemble and “manufacturer” means any person who manufactures health service medicines,

“medicinal product” has the meaning given by section 130 of the M<sup>4</sup>Medicines Act 1968,

“supplier” means any person who supplies health service medicines.

(7) References to contravention of a provision include failure to comply with it.

(8) References to supplying medicines include selling them.]

#### Textual Amendments

**F38** S. 38 repealed by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 6, **Sch. 4** (with **Sch. 2 Pt. 1**), the repeal coming into force at 1.3.2007 to the extent that s. 38 is already in force at that date, and otherwise in accordance with s. 8(2)(4)(a)(5) of the repealing Act

#### Commencement Information

**I7** S. 38 partly in force; s. 38 not in force at Royal Assent see s. 67(1); s. 38(6) in force for certain purposes at 3.8.1999 by S.I. 1999/2177, **art. 2(2)(d)**; s. 38 in force for certain purposes at 1.9.1999 by S.I. 1999/2177, **art. 3(b)**; s. 38(5) in force at 1.11.1999 by S.I. 1999/2177, **art. 2(4)(a)**; s. 38 in force for certain purposes at 1.11.1999 by S.I. 1999/2177, **art. 2(4)(b)**; s. 38 in force for certain purposes at 3.4.2007 by S.I. 2007/1179, **art. 2(c)**

#### Marginal Citations

**M3** S.I. 1972/1265 (N.I.14).  
**M4** 1968 c.67.

*Evasion of charges, fraud etc.*

### 39 Evasion of charges etc.

**F39** .....

#### Textual Amendments

**F39** S. 39 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with **Sch. 2 Pt. 1**)

### <sup>F40</sup>40 Disqualification etc. of Part II practitioners.

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#### Textual Amendments

**F40** S. 40 repealed by 2001 c. 15, ss. 67, 70(2), **Sch. 6 Pt. 1** (with ss. 64(a), 65(4)), the repeal coming into force immediately before the coming into force of the National Health Service Act 2006 (c. 41) (as to which see s. 227 of that 2006 Act) by virtue of The National Health Service (Pre-consolidation Amendments) Order 2006 (S.I. 2006/1407), arts. 1(1), 2, **Sch. 1 Pt. 2 para. 8(c)**

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### Miscellaneous

#### 41 High security psychiatric services.

F41 .....

##### Textual Amendments

**F41** S. 41 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1)

#### 42 Provision of information by Registrar General.

F42 .....

##### Textual Amendments

**F42** S. 42 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1)

#### 43 Health Service Commissioners.

- (1) Section 15 of the <sup>M5</sup>Health Service Commissioners Act 1993 (confidentiality of information) is amended as follows.
- (2) In subsection (1), at the beginning of paragraph (e) there is inserted “ where the information is to the effect that any person is likely to constitute a threat to the health or safety of patients ”.
- (3) Subsection (1A) is omitted.
- (4) In subsection (1B)—
  - (a) for “such a case” there is substituted “ a case within subsection (1)(e) ”,
  - (b) the words following “patients” are omitted.
- (5) In subsection (1C), for paragraphs (a) and (b) there is substituted—
  - “(a) where he knows the identity of the person mentioned in subsection (1) (e), inform that person that he has disclosed the information and of the identity of any person to whom he has disclosed it, and
  - (b) inform the person from whom the information was obtained that he has disclosed it”.

##### Commencement Information

**I8** S. 43 wholly in force at 1.3.2000; s. 43 not in force at Royal Assent see s. 67(1); s. 43 in force for E.W. at 1.10.1999 by S.I. 1999/2540, **art. 2(1)(b)**; s. 43 in force for S. at 1.3.2000 by S.S.I. 2000/38, **art. 2**

##### Marginal Citations

**M5** 1993 c.46.

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### *Rectification of transitional arrangements*

#### **44 Power to rectify transitional provisions etc.**

- (1) The Secretary of State may by order make such provision as he considers appropriate in consequence of the matters mentioned in subsection (2) (the “relevant defects”).
- (2) Those matters are—
  - (a) the omission from Part III of Schedule 2 to the <sup>M6</sup>Health Authorities Act 1995 (Transitional Provisions) Order 1996 (which determined the relevant Health Authority in relation to any Family Health Services Authority in England whose locality comprised or formed part of the area of more than one Health Authority) of an entry for Bromley Family Health Services Authority,
  - (b) the inclusion in Part III or IV of Schedule 1 to that order (which determined the relevant Health Authority in relation to any Family Health Services Authority whose locality comprised or formed part of the area of only one Health Authority) of an entry for any Family Health Services Authority in England or Wales whose locality comprised or formed part of the area of more than one Health Authority (and an entry for which should accordingly have been included in Part III or IV of Schedule 2 to that order),
  - (c) the omission from column 2 of the entry for any Family Health Services Authority in Part III or IV of Schedule 2 to that order (which together with column 3 of that entry specified the relevant Health Authorities in relation to that Family Health Services Authority) of any Health Authority whose area or any part of whose area forms part of the locality of the Family Health Services Authority and which was not included in column 3 of that entry,
  - (d) where—
    - (i) the locality of a Family Health Services Authority and the area of a Health Authority overlap but do not coincide, and
    - (ii) the Family Health Services Authority had compiled a list of persons residing in its locality,  
 the treatment, incorrectly, by a Health Authority of a person included in that list as residing, or as not residing, in their area.
- (3) Provision that may be made under subsection (1) includes, in particular—
  - (a) provision amending the Health Authorities Act 1995 (Transitional Provisions) Order 1996,
  - (b) provision transferring, or adding, the name of any Part II practitioner to any Part II list in which he is (or, at the material time, was) not included because of any of the relevant defects,
  - (c) provision for treating anything done by or in relation to an acting authority or a person of any description identified by reference to an acting authority as having been done by or in relation to the proper authority or a person of that description identified by reference to the proper authority,
  - (d) provision for treating anything done by or in relation to an acting authority or a person of any description identified by reference to an acting authority as having been so done in the exercise by them or him of functions on behalf of the proper authority or a person of that description identified by reference to the proper authority.
- (4) Any provision made by an order under this section may be made with effect from any date after 31st March 1996 specified in the order.



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(5) Provision contained in an order under this section by virtue of section 62(4) may include provision conferring functions on the Secretary of State.

(6) In subsection (3)(b)—

“Part II practitioner” means a person who provides (or, at any time since 31st March 1996, has provided) general medical services, general dental services, general ophthalmic services or pharmaceutical services in accordance with arrangements made or treated as made (or which, but for any of the relevant defects, would have been made or treated as made) under Part II of the 1977 Act,

“Part II list” means a list kept by a Health Authority under section 29(2)(a), 36(1)(a), 39(a) or 42(2)(a) of that Act (lists of persons providing general medical, general dental, general ophthalmic or pharmaceutical services).

(7) In subsection (3)(c) and (d), in relation to anything done by or in relation to a Health Authority or a person identified by reference to a Health Authority—

“acting authority” means the Health Authority by or in relation to whom the thing was done or person was identified because of any of the relevant defects,

“proper authority” means the Health Authority by or in relation to whom the thing should have been done or by reference to whom the person should have been identified.

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**Marginal Citations**

**M6** S.I. 1996/709.

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**Changes to legislation:**

There are currently no known outstanding effects for the Health Act 1999, Part I.