



Health Act 1999

1999 CHAPTER 8

PART II

THE NATIONAL HEALTH SERVICE: SCOTLAND

Finance

52 Expenditure of Health Boards and other bodies

For section 85 of the 1978 Act there is substituted—

“85AA Means of meeting expenditure of Health Boards out of public funds

- (1) The Secretary of State shall pay to each Health Board sums equal to their general Part II expenditure.
- (2) “General Part II expenditure” is expenditure which—
 - (a) is attributable to the payment of remuneration to persons providing services in pursuance of Part II; but
 - (b) does not fall within paragraphs (b) to (e) of subsection (4).
- (3) The Secretary of State shall pay to each Health Board, in respect of each financial year, sums not exceeding the amount allotted for that year by the Secretary of State to the Board towards meeting their main expenditure.
- (4) In subsection (3) “main expenditure” means expenditure which is attributable to—
 - (a) the performance by the Board of their functions in that year, but—
 - (i) is not general Part II expenditure; and
 - (ii) does not fall within paragraphs (b) to (d);
 - (b) the reimbursement of expenses of persons providing services in pursuance of Part II which are designated expenses incurred in

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- connection with the provision of the services (or in giving instruction in matters relating to the services);
- (c) remuneration which is paid to persons providing additional pharmaceutical services (in accordance with directions under section 27A) in respect of such of those services as are designated;
 - (d) remuneration which is—
 - (i) paid to persons providing general medical services under Part II;
 - (ii) determined by the Health Board concerned; and
 - (iii) of a designated description; or
 - (e) remuneration which is referable to the cost of drugs for which the Health Board is accountable in that year (whether paid by it or by another Health Board).
- (5) In paragraphs (b) to (e) of subsection (4), “designated” means designated in writing by the Secretary of State for the purposes of that paragraph and in relation to the allotment in question.
- (6) An amount is allotted to a Health Board for a year under this section when they are notified by the Secretary of State that it is allotted to them for that year; and the Secretary of State may make an allotment under this section increasing or reducing an allotment previously so made.
- (7) Where the Secretary of State proposes to pay any sum to a Health Board, he may, with the consent of the Treasury, instead pay that sum to an NHS trust in discharge of the whole or any part of any liability of the Health Board to the NHS trust.
- (8) The Secretary of State may give directions to a Health Board with respect to the application of sums paid to them and a Board to whom directions have been given under this subsection shall comply with the directions.
- (9) The expenditure of a University Liaison Committee shall, for the purposes of this section, be deemed to be the expenditure of the Health Board for whose area it is constituted, and, where a University Liaison Committee is constituted for the areas of more than one Health Board, its expenditure shall be apportioned between the Boards concerned in such manner as may be determined by the Secretary of State.
- (10) Payments under this section shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Secretary of State may determine.
- (11) In this section and section 85AB, “drugs” includes medicines and listed appliances (within the meaning of section 27).

85AB Further provision as to expenditure on drugs

- (1) For each financial year, the Secretary of State shall apportion, in such manner as he thinks appropriate, among all Health Boards the total of the remuneration referable to the cost of drugs which is paid by each Health Board in that year.

- (2) A Health Board is accountable in any year for remuneration referable to the cost of drugs to the extent (and only to the extent) that such remuneration is apportioned to it under subsection (1).
- (3) Where in any financial year any remuneration referable to the cost of drugs for which a Health Board is accountable is paid by another Health Board, the remuneration is to be treated (for the purposes of this section) as having been paid by the first Health Board in the performance of its functions.
- (4) The Secretary of State may, in particular, exercise his discretion under subsection (1)—
 - (a) so that any apportionment reflects, in the case of each Health Board, the financial consequences of orders for the provision of drugs, being orders which in his opinion are attributable to the Board in question;
 - (b) by reference to averaged or estimated amounts.
- (5) The Secretary of State may make provision for any remuneration referable to the cost of drugs which is paid by a Health Board other than the Health Board which is accountable for the payment to be reimbursed in such manner as he may determine.
- (6) The Secretary of State shall determine what remuneration paid by Health Boards to persons providing pharmaceutical services is to be treated for the purposes of section 85AA and this section as remuneration referable to the cost of drugs.

85 Expenses of certain bodies

- (1) There shall, in respect of each financial year, be paid by the Secretary of State sums not exceeding the amount allotted by him for that year to each of the following bodies towards meeting the expenditure attributable to the performance by that body of their functions in that year—
 - (a) the Agency;
 - (b) every Special Health Board;
 - (c) the Medical Practices Committee;
 - (d) the Dental Estimates Board;
 - (e) the tribunal;
 - (f) every local health council.
- (2) The date on which an allotment under subsection (1) (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.
- (3) The Secretary of State may give directions to a body referred to in subsection (1) with respect to the application of the sums paid to them under that subsection and it shall be the duty of any body to whom directions have been given under this subsection to comply with the directions.
- (4) Payments under subsection (1) shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Secretary of State may determine.”

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53 Public dividend capital

- (1) Section 12E of the 1978 Act (originating capital debt of, and other financial provisions relating to, NHS trusts) is amended as provided in subsections (2) to (5).
- (2) In subsections (1), (2) and (3), for “originating capital debt” there is substituted “originating capital”.
- (3) For subsection (4) there is substituted—
 - “(4) An NHS trust’s originating capital shall be public dividend capital.”
- (4) Subsections (5) and (6) are omitted.
- (5) In subsection (7), for the words from “the terms” to the end there is substituted—
 - (a) the dividend which is to be payable at any time on any public dividend capital issued, or treated as issued, under this Act;
 - (b) the amount of any such public dividend capital which is to be repaid at any time;
 - (c) any other terms on which any public dividend capital is so issued, or treated as issued”.
- (6) In Schedule 7B to that Act—
 - (a) in paragraph 3 (limits on indebtedness), sub-paragraph (2) is omitted,
 - (b) in paragraph 5 (additional public dividend capital), sub-paragraph (2) is omitted.

54 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 12E(5) of the 1978 Act.

55 Borrowing

- (1) Schedule 7B to the 1978 Act is amended as follows.
- (2) In paragraph 1 (borrowing powers of NHS trusts), in sub-paragraph (1), after “Subject to” there is inserted “any direction given by the Secretary of State, to”.
- (3) Sub-paragraphs (3) to (5) of that paragraph are omitted.

(4) For sub-paragraph (6) there is substituted—

“(6) It shall be for the Secretary of State, with the consent of the Treasury, to determine the terms of any loan made by him to an NHS trust (including terms as to the payment of interest, if any).”