



Health Act 2006

2006 CHAPTER 28

PART 3 U.K.

DRUGS, MEDICINES AND PHARMACIES

CHAPTER 1 U.K.

SUPERVISION OF MANAGEMENT AND USE OF CONTROLLED DRUGS

17 Accountable officers and their responsibilities as to controlled drugs U.K.

- (1) The relevant authority may by regulations make provision for or in connection with requiring designated bodies to nominate or appoint persons who are to have prescribed responsibilities in relation to the safe, appropriate and effective management and use of controlled drugs in connection with—
 - (a) activities carried on by or on behalf of the designated bodies, and
 - (b) activities carried on by or on behalf of bodies or persons providing services under arrangements made with the designated bodies.

- (2) The person who is to be so nominated or appointed by a designated body is to be known as its accountable officer.

This is subject to any regulations made by virtue of subsection (5)(e).

- (3) In this Chapter “designated body” means—
 - (a) a body falling within any description of bodies prescribed as designated bodies for the purposes of this section, or
 - (b) a body prescribed as a designated body for those purposes.
- (4) The descriptions of bodies, or bodies, that may be so prescribed are descriptions of bodies, or bodies, appearing to the relevant authority—
 - (a) to be directly or indirectly concerned with the provision of health care (whether or not for the purposes of the health service), or

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- (b) to be otherwise carrying on activities that involve, or may involve, the supply or administration of controlled drugs.
- (5) Regulations under this section may make provision—
- (a) for conditions that must be satisfied in relation to a person if he is to be nominated or appointed by a designated body as the body's accountable officer;
 - (b) for a single person to be nominated or appointed as the accountable officer for each of two or more designated bodies where those bodies are satisfied as to the prescribed matters;
 - (c) requiring a designated body that has an accountable officer to provide the officer with funds and other resources necessary for enabling the officer to discharge his responsibilities as accountable officer for the body;
 - (d) for ensuring that an accountable officer, in discharging his responsibilities, has regard to best practice in relation to the use of controlled drugs;
 - (e) for the persons required to be nominated or appointed as mentioned in subsection (1) to be known by such name as is prescribed;
 - (f) for making such amendments of any enactment as appear to the relevant authority to be required in connection with any provision made in pursuance of paragraph (e);
 - (g) for creating offences punishable on summary conviction by a fine not exceeding level 5 on the standard scale or for creating other procedures for enforcing any provisions of the regulations.
- (6) The responsibilities that may be imposed on a designated body's accountable officer by regulations under this section include responsibilities as to the establishment and operation of arrangements for—
- (a) securing the safe management and use of controlled drugs;
 - (b) monitoring and auditing the management and use of such drugs;
 - (c) ensuring that relevant individuals receive appropriate training and that their training needs are regularly reviewed;
 - (d) monitoring and assessing the performance of such individuals in connection with the management or use of such drugs;
 - (e) making periodic inspections of premises used in connection with the management or use of such drugs;
 - (f) recording, assessing and investigating concerns expressed about incidents that may have involved improper management or use of such drugs;
 - (g) ensuring that appropriate action is taken for the purpose of protecting patients or members of the public in cases where such concerns appear to be well-founded;
 - (h) where required by regulations under section 18, the sharing of information.
- (7) The arrangements mentioned in subsection (6) may be arrangements established (according to the circumstances)—
- (a) by the accountable officer,
 - (b) by the designated body (or any of the designated bodies) for which he is the accountable officer, or
 - (c) by a body or person acting on behalf of, or providing services under arrangements made with, the designated body (or any of the designated bodies).

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- (8) In subsection (6)—
- (a) references to the management or use of controlled drugs are to the management or use of drugs in connection with activities carried on by a body or person within subsection (7)(b) or (c), and
 - (b) “relevant individual” means an individual who, whether as—
 - (i) a health care professional, or
 - (ii) an employee who is not a health care professional, or
 - (iii) otherwise,is engaged in any activity carried on by a body or person within subsection (7) (b) or (c) that involves, or may involve, the management or use of controlled drugs.
- (9) A designated body may confer on its accountable officer such powers as it thinks appropriate to enable him to discharge any of the responsibilities imposed on him as accountable officer for the body by regulations under this section.
- (10) Nothing in subsections (5) to (7) is to be read as prejudicing the generality of subsection (1).
- (11) In this section “prescribed” means prescribed by regulations under this section.

Commencement Information

- II** S. 17 in force for certain purposes at Royal Assent, see s. 83

18 Co-operation between health bodies and other organisations **U.K.**

- (1) The relevant authority may by regulations make provision for or in connection with requiring responsible bodies to co-operate with each other in connection with—
- (a) the identification of cases in which action may need to be taken in respect of matters arising in relation to the management or use of controlled drugs by relevant persons (see section 19);
 - (b) the consideration of issues relating to the taking of action in respect of such matters;
 - (c) the taking of action in respect of such matters.
- (2) In this Chapter “responsible body” means—
- (a) a body falling within any description of bodies prescribed as responsible bodies for the purposes of this section, or
 - (b) a body prescribed as a responsible body for those purposes.
- (3) The descriptions of bodies, or bodies, that may be so prescribed are—
- (a) descriptions of bodies, or bodies, which fall within subsection (4); and
 - (b) police forces.
- (4) Descriptions of bodies, or bodies, fall within this subsection if they appear to the relevant authority—
- (a) to be directly or indirectly concerned with the provision of health care (whether or not for the purposes of the health service),
 - (b) to be otherwise carrying on activities that involve, or may involve, the supply or administration of controlled drugs,

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- (c) to have powers of inspection in relation to the management or use of controlled drugs,
 - (d) to be public or local authorities with responsibilities in relation to social care, or
 - (e) to be public or local authorities (not within paragraphs (a) to (d)) whose responsibilities include responsibilities with respect to matters such as are mentioned in subsection (1).
- (5) Regulations under this section may make provision—
- (a) for requiring a responsible body to disclose information to any other such body or bodies in prescribed circumstances, or in circumstances where it appears to the responsible body that the prescribed conditions are satisfied, whether or not the disclosure of information has been requested;
 - (b) in relation to a responsible body which has an accountable officer, for requiring disclosures to be made by or to that officer instead of by or to the body;
 - (c) in relation to a responsible body which is a police force, for imposing duties on the chief officer;
 - (d) for requiring a responsible body, in prescribed circumstances, to consult the prescribed accountable officer in connection with any requirement imposed on the body under the regulations;
 - (e) for imposing duties on accountable officers in relation to the taking of action for the purpose of protecting the safety of patients or the general public.
- (6) The duties that may be imposed on an accountable officer in pursuance of subsection (5)(e) include a duty to make recommendations to a responsible body as to any action which the officer considers that the body should take for the purpose mentioned in that provision.
- (7) The action that may be so recommended includes action in relation to the institution of disciplinary proceedings.
- (8) Nothing in subsections (5) to (7) is to be read as prejudicing the generality of subsection (1).
- (9) In this section—
- (a) “chief officer” means—
 - (i) in relation to a police force in England and Wales, the chief officer of police;
 - (ii) in relation to a police force in Scotland, the chief constable;
 - (iii) in relation to the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve, the Chief Constable of the Police Service of Northern Ireland;
 - (b) “police force” means—
 - (i) a police force in England, Wales or Scotland, or
 - (ii) the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;
 - (c) “prescribed” means prescribed by regulations under this section.

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Commencement Information

I2 S. 18 in force for certain purposes at Royal Assent, see s. 83

19 Meaning of “relevant person” in section 18 U.K.

- (1) In section 18 “relevant person” means—
- (a) a person falling within any description of persons prescribed as relevant persons for the purposes of that section, or
 - (b) an individual to whom subsection (3) applies.
- (2) The descriptions of persons that may be prescribed for the purposes of section 18 are descriptions of persons appearing to the relevant authority to be carrying on, or engaged in, activities that involve, or may involve, the supply or administration of controlled drugs.
- (3) This subsection applies to an individual who, whether as—
- (a) a health care professional, or
 - (b) an employee who is not a health care professional, or
 - (c) otherwise,
- is engaged in any activity carried on by a designated body, or by a body or person acting on behalf of, or providing services under arrangements made with, a designated body that involves, or may involve, the management or use of controlled drugs.
- (4) In this section “prescribed” means prescribed by regulations under section 18.

Commencement Information

I3 S. 19 in force for certain purposes at Royal Assent, see s. 83

20 Controlled drugs: power to enter and inspect U.K.

- (1) A constable or an authorised person may, for the purpose of securing the safe, appropriate and effective management and use of controlled drugs—
- (a) enter any relevant premises;
 - (b) inspect any precautions taken on the premises for the safe custody of controlled drugs;
 - (c) inspect any stocks of controlled drugs kept on the premises;
 - (d) require any relevant records kept on the premises to be produced for his inspection.
- (2) The powers conferred by subsection (1) may be exercised only—
- (a) at a reasonable hour, and
 - (b) on production (if required) of the written authority of the person exercising them.
- (3) The power conferred by subsection (1)(a) may be exercised by an authorised person to enter relevant premises which are or form part of a private dwelling only if he is accompanied by a constable.

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But this subsection does not apply in such circumstances as may be prescribed by regulations made by the relevant authority.

- (4) The power conferred by subsection (1)(d) includes power—
- (a) to take copies of or extracts from relevant records, and
 - (b) to take possession of any relevant records kept on the premises and retain them for so long as the person exercising the power considers necessary.
- (5) In this section “authorised person” means (subject to subsection (6))—
- (a) a person authorised by the relevant authority,
 - (b) an accountable officer, or
 - (c) where a designated body is required by regulations under section 17 to nominate or appoint an accountable officer, a member of the staff of the designated body authorised by it.

Authorisations given under this subsection may be general or specific.

- (6) The accountable officer of a designated body specified, or of a description specified, in directions given by the relevant authority is not an authorised person for the purposes of this section; and such a designated body may not authorise members of its staff under subsection (5)(c).
- (7) The relevant authority may by regulations prescribe descriptions of premises which are to be “relevant premises” for the purposes of this section in relation to constables and authorised persons of descriptions prescribed in the regulations.
- (8) The descriptions of premises that may be so prescribed are descriptions of premises (or parts thereof) appearing to the relevant authority to be used in connection with—
- (a) the provision of health care (whether or not for the purposes of the health service), or
 - (b) the supply or administration of controlled drugs.
- (9) In this Chapter “relevant records” means records kept with respect to controlled drugs in pursuance of regulations under section 10 of the Misuse of Drugs Act 1971 (c. 38).
- (10) Directions under subsection (6) are to be given by regulations or in writing; but any such directions which relate to more than one designated body are to be given by regulations.
- (11) Directions under subsection (6) given in writing may be varied or revoked by subsequent directions under that subsection.

Commencement Information

I4 S. 20 in force for certain purposes at Royal Assent, see s. 83

VALID FROM 01/01/2007

21 Offences in connection with power to enter and inspect **U.K.**

- (1) A person commits an offence if he—

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- (a) intentionally obstructs a person in the exercise of his powers under section 20(1),
 - (b) conceals from a person acting under section 20(1) anything which that person is entitled to inspect, or
 - (c) without reasonable excuse fails to produce any relevant records which a person acting under section 20(1) requires to be produced.
- (2) A person guilty of an offence under subsection (1) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both.
- (3) In the application of this section to Scotland and Northern Ireland, the reference to 12 months in subsection (2)(b) is to be read as a reference to 6 months.

VALID FROM 01/01/2007

22 Guidance **U.K.**

- (1) The relevant authority may issue guidance to designated bodies in connection with—
 - (a) determining whether conditions specified in regulations under section 17 have been satisfied in relation to the nomination or appointment of a person as a designated body's accountable officer;
 - (b) the discharge by a designated body's accountable officer of any responsibilities imposed on him by regulations under section 17;
 - (c) the exercise by designated bodies of their powers under section 17(9);
 - (d) the exercise by designated bodies of their powers under section 20(5)(c).
- (2) The relevant authority may issue guidance to responsible bodies in connection with their discharge of any duties imposed on them by regulations under section 18.
- (3) Guidance under this section may make different provision for different cases or circumstances.
- (4) Designated bodies and responsible bodies must have regard to any guidance under this section in exercising any functions to which the guidance relates.

VALID FROM 01/01/2007

23 Crown application **U.K.**

- (1) This Chapter binds the Crown.
- (2) No contravention by the Crown of any provision of this Chapter shall make the Crown criminally liable; but the High Court (or, in Scotland, the Court of Session) may declare unlawful any act or omission of the Crown which constitutes such a contravention.

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(3) The provisions of this Chapter apply to persons in the public service of the Crown as they apply to other persons.

24 Relevant authorities **U.K.**

- (1) This section applies to functions conferred on the relevant authority by this Chapter.
- (2) Subject to subsection (4), any functions to which this section applies are exercisable in relation to England by the Secretary of State.
- (3) Subject to subsection (4), any functions to which this section applies are exercisable in relation to Wales by the National Assembly for Wales.
- (4) Any power of the relevant authority to make regulations under this Chapter is exercisable in relation to cross-border bodies by the Secretary of State after consultation with the Assembly.
- (5) A “cross-border body” is a body which—
 - (a) performs (and only performs) functions in respect of England and Wales, and
 - (b) does not perform functions mainly in respect of England or mainly in respect of Wales.
- (6) Any functions to which this section applies are exercisable in relation to Scotland by the Secretary of State after consultation with the Scottish Ministers.
- (7) Any functions to which this section applies are exercisable in relation to Northern Ireland by the Department of Health, Social Services and Public Safety.

Commencement Information

I5 S. 24 in force for certain purposes at Royal Assent, see s. 83

25 Interpretation **U.K.**

- (1) In this Chapter—
 - “accountable officer” is to be read in accordance with section 17(2);
 - “body” includes an unincorporated association;
 - “controlled drug” has the meaning given by section 2 of the Misuse of Drugs Act 1971 (c. 38);
 - “designated body” has the meaning given by section 17(3);
 - “health care” means—
 - (a) services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness, and
 - (b) the promotion and protection of public health;
 - “health care professional”—
 - (a) in relation to England and Wales, has the meaning given by section 28X(3)(a) of the National Health Service Act 1977 (c. 49) (referred to in this Act as “the 1977 Act”),
 - (b) in relation to Scotland, has the meaning given by section 17D(2) of the National Health Service (Scotland) Act 1978 (c. 29), and

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- (c) in relation to Northern Ireland, has the meaning given by Article 15C of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14));
- “illness”—
- (a) in relation to England and Wales, has the meaning given by section 128(1) of the 1977 Act,
- (b) in relation to Scotland, has the meaning given by section 108(1) of the National Health Service (Scotland) Act 1978, and
- (c) in relation to Northern Ireland, has the meaning given by Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972;
- “relevant authority” is to be read in accordance with section 24;
- “relevant records” has the meaning given by section 20(9);
- “responsible body” has the meaning given by section 18(2).
- (2) In this Chapter any reference to the management or use of controlled drugs includes—
- (a) the storage, carriage and safe custody of such drugs,
- (b) the prescribing and supply of such drugs,
- (c) the administration of such drugs,
- (d) the recovery of such drugs when no longer needed, and
- (e) the disposal of such drugs.

Commencement Information

I6 S. 25 in force for certain purposes at Royal Assent, see s. 83

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