



National Health Service Act 2006

2006 CHAPTER 41

PART 13

MISCELLANEOUS

Price of medical supplies

261 Powers relating to voluntary schemes

- (1) The powers under this section may be exercised where there is in existence a scheme (referred to in this section and sections 262 [F¹, 263 and 264A] as a “voluntary scheme”) made by the Secretary of State and the industry body for [F²one or more of the following purposes] —
- (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, F³...
 - (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,
 - [F⁴(c) providing for any manufacturer or supplier to whom the scheme relates to pay to the Secretary of State an amount calculated by reference to sales or estimated sales of any health service medicines (whether on the basis of net prices, average selling prices or otherwise).]
- (2) For the purposes of this section and sections 262 and 263, a voluntary scheme must 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- (a) he has consented to the scheme being so treated (and has not withdrawn that consent), and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.

Changes to legislation: National Health Service Act 2006, Section 261 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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 [^{F5}any] 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 does not 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.
- ^{F6}(7)
- (8) The Secretary of State may—
- (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.
- [^{F7}(9) The Secretary of State may provide for any amount payable in accordance with a voluntary scheme by any manufacturer or supplier to whom the scheme applies to be paid to the Secretary of State within a specified period.
- (10) Neither of the following affects any liability of a manufacturer or supplier to pay amounts to the Secretary of State arising during a period when a health service medicine was covered by a voluntary scheme treated as applying to the person or the taking of any action in relation to any such liability—
- (a) the withdrawal of consent by the person to the scheme being treated as applying to the person;
 - (b) the giving of notice to the person under subsection (4).]

Textual Amendments

- F1** Words in s. 261(1) substituted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 3\(2\)\(a\), 12\(3\); S.I. 2017/809, reg. 2\(b\)](#)
- F2** Words in s. 261(1) substituted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 3\(2\)\(b\), 12\(3\); S.I. 2017/809, reg. 2\(b\)](#)
- F3** Word in s. 261(1) omitted (7.8.2017) by virtue of [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 3\(2\)\(c\), 12\(3\); S.I. 2017/809, reg. 2\(b\)](#)
- F4** S. 261(1)(c) inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 3\(2\)\(d\), 12\(3\); S.I. 2017/809, reg. 2\(b\)](#)
- F5** Word in s. 261(4) substituted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 3\(3\), 12\(3\); S.I. 2017/809, reg. 2\(b\)](#)
- F6** S. 261(7) omitted (7.8.2017) by virtue of [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 10\(4\), 12\(3\); S.I. 2017/809, reg. 2\(h\) \(with reg. 3\)](#)

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F7 S. 261(9)(10) inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\)](#), [ss. 3\(4\)](#), [12\(3\)](#); [S.I. 2017/809](#), [reg. 2\(b\)](#)

Commencement Information

I1 S. 261(8) in force at 7.8.2017 immediately after 1999 c. 8, s. 33(8) comes into force by [S.I. 2017/810](#), [art. 2\(a\)](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3B(1)(aa) inserted by [2022 c. 31 Sch. 3 para. 2\(b\)](#)
- s. 3B(1)(za) inserted by [2022 c. 31 Sch. 3 para. 2\(a\)](#)
- s. 13G(4) words omitted by virtue of 2012 c. 7, Sch. 14 para. 4A (as inserted) by [2014 c. 23 s. 120\(18\)\(a\)](#)
- s. 35(3A)(3B) inserted by [2012 c. 7 s. 159\(4\)](#)
- s. 35(3A) words substituted by [2022 c. 31 Sch. 5 para. 12\(4\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 35(3A) by 2012 c. 7 s.159(4) not yet in force.)
- s. 40(4)-(4B) substituted for s. 40(4) by [2012 c. 7 Sch. 14 para. 5](#)
- s. 42(1A) inserted by [2012 c. 7 Sch. 14 para. 6](#)
- s. 65F(2A)-(2F) inserted by [2012 c. 7 Sch. 14 para. 15\(4\)](#) (This amendment is itself amended before it comes into force by 2014 c. 23, ss. 85(15), 120(18)(b)(c), 127(1); S.I. 2014/1714, art. 3(2)(b)(c))
- s. 65H(10A) inserted by [2012 c. 7 Sch. 14 para. 17\(4\)](#)
- s. 65H(10A) omitted by [2022 c. 31 Sch. 8 para. 7\(7\)](#) (This amendment not applied to legislation.gov.uk. 2012 c. 7 Sch. 14 revoked at 1.7.2022 by 2022 c. 31, s. 186(6), Sch. 7 para. 13 before the insertion of s. 65H(10A) could come into effect.)
- s. 82A-83A and cross-heading substituted for s. 83 and cross-heading by [2022 c. 31 Sch. 3 para. 3](#)
- s. 84(4)-(4B) substituted for s. 84(4) by [2022 c. 31 Sch. 3 para. 4\(4\)](#)
- s. 92(5A) inserted by [2022 c. 31 Sch. 3 para. 9\(4\)](#)
- s. 94(3)(ca)(cb) substituted for s. 94(3)(ca) by [2022 c. 31 Sch. 3 para. 11\(3\)](#)
- s. 98A98B substituted for s. 98A by [2022 c. 31 Sch. 3 para. 14](#)
- s. 98BC-99B and cross-heading substituted for s. 99 and cross-heading by [2022 c. 31 Sch. 3 para. 15](#)
- s. 100(3A)(3B) inserted by [2022 c. 31 Sch. 3 para. 16\(4\)](#)
- s. 109(3)(ca)(cb) substituted for s. 109(3)(ca) by [2022 c. 31 Sch. 3 para. 23\(3\)](#)
- s. 112(1)(za) inserted by [2022 c. 31 Sch. 3 para. 24\(2\)\(b\)](#)
- s. 114A114B substituted for s. 114A by [2022 c. 31 Sch. 3 para. 26](#)
- s. 114C and cross-heading inserted by [2022 c. 31 Sch. 3 para. 27](#)
- s. 116A116B and cross-heading inserted by [2022 c. 31 Sch. 3 para. 30](#)
- s. 117(4)(4A) substituted for s. 117(4) by [2022 c. 31 Sch. 3 para. 31\(4\)](#)
- s. 125A125B substituted for s. 125A by [2022 c. 31 Sch. 3 para. 39](#)
- s. 223C(1)(c)(d) inserted by [2022 c. 31 s. 28](#)
- s. 223LA inserted by [2022 c. 31 s. 30\(3\)](#)
- Sch. 15 para. 4(1)(b) and word omitted by [2012 c. 7 Sch. 14 para. 39\(3\)](#)