

*These notes refer to the Health Act 2009 (c.21)  
which received Royal Assent on 12 November 2009*

# HEALTH ACT 2009

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 3 – Miscellaneous

#### Pharmaceutical services in Wales

#### *Section 31: Breach of terms of arrangements: notices and penalties*

312. **Section 31** inserts before Chapter 2 of Part 8 of the NHS (Wales) Act a new Chapter 1A, consisting of new section 106A, that concerns the issuing by LHBs of notices to certain NHS contractors and the withholding of payments to such contractors by LHBs.
313. Section 106A enables regulations to provide that where a contractor breaches a term of arrangements for providing NHS pharmaceutical services or arrangements for providing general ophthalmic services (for example, of a term of service, such as agreed quality standards or of performance in the provision of services) then LHBs will have the power to issue remedial notices, requiring corrective action to be taken or requiring the contractor to refrain from continuing with actions which have led to the breach, within a specified period. The regulations may also enable LHBs to withhold all or part of any payments due to the contractor for a prescribed period in view of such a breach. Powers to withhold payments could be used on their own or in conjunction with the issue of remedial notices.
314. Section 106A(2) requires that any regulations under this section must include prescribed rights of appeal for the contractor against decisions made by the LHB under this section.
315. Section 106A(3) provides definitions for this section.