



# Health Services and Public Health Act 1968

## 1968 CHAPTER 46

### PART IV

#### MISCELLANEOUS MATTERS

##### *Provision of general Application*

#### **59 Extension of power of user by Crown of patented invention to user for certain health services.**

- (1) The powers exercisable in relation to a patented invention under section 46 of the <sup>M1</sup>Patents Act 1949 by a government department or a person authorised by a government department shall include power to make, use, exercise and vend the invention for the production or supply of drugs and medicines required for the provision of pharmaceutical services, [<sup>F1</sup>local pharmaceutical services,]<sup>F2</sup>primary medical services,]<sup>F3</sup>general medical services, personal medical services, [<sup>F4</sup>primary dental services,] general dental services or personal dental services], and prescribed for the purposes of this section by regulations made by [<sup>F5</sup>the Secretaries of State respectively concerned with health in England, in Wales and in Scotland] acting jointly; and any reference in that section or in section 47 or 48 of the Patents Act 1949 to the services of the Crown shall be construed accordingly.
- (2) In the foregoing subsection references to pharmaceutical services, general medical services and general dental services shall be construed as referring to services of those respective kinds under [<sup>F6</sup>Chapter 1 of Part 7 of the National Health Service Act 2006 or Chapter 1 of Part 7 of the National Health Service (Wales) Act 2006]<sup>F7</sup>(in the case of pharmaceutical services)], Part [<sup>F8</sup>II] of the <sup>M2</sup>National Health Service (Scotland) Act [<sup>F8</sup>1978]<sup>F9</sup>(in the case of pharmaceutical services or general dental services)] or the corresponding provisions of the law in force in Northern Ireland or the Isle of Man.

<sup>F10</sup>(2A) In subsection (1), references to personal medical services and personal dental services are to be construed as references to services of those <sup>F11</sup>... kinds under <sup>F12</sup>... section 17C

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of the 1978 Act [<sup>F13</sup>(in the case of personal dental services)] or the corresponding provisions of the law in force in Northern Ireland or the Isle of Man.]

[<sup>F14</sup>(2B) In subsection (1) the reference to local pharmaceutical services is a reference to local pharmaceutical services provided under—

- (a) a pilot scheme established under [<sup>F15</sup>section 134 of the National Health Service Act 2006 or section 92 of the National Health Service (Wales) Act 2006];
- (b) an LPS scheme established under [<sup>F16</sup>Schedule 12 to the National Health Service Act 2006 or Schedule 7 to the National Health Service (Wales) Act 2006]; or
- (c) any corresponding provision of the law in force in the Isle of Man.]

[<sup>F17</sup>(2C) In subsection (1), the [<sup>F18</sup>reference to primary medical services is a reference to primary medical services provided under [<sup>F19</sup>the National Health Service Act 2006 or the National Health Service (Wales) Act 2006], Part 1 of the 1978 Act or any corresponding provisions of the law in force in Northern Ireland or the Isle of Man and the reference to primary dental services is a reference to] primary dental services provided under [<sup>F19</sup>the National Health Service Act 2006 or the National Health Service (Wales) Act 2006] or any corresponding provisions of the law in force in Northern Ireland or the Isle of Man.]

(3) The power conferred by subsection (1) above to make regulations shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) This section shall extend to the Isle of Man.

#### Textual Amendments

- F1** Words in s. 59(1) inserted (1.7.2002 for W., 1.1.2003 for E.) by [Health and Social Care Act 2001 \(c. 15\)](#), s. 70(2), [Sch. 5 para. 1\(2\)\(a\)](#) (with ss. 64(9), 65(4)); S.I. 2002/1475; S.I. 2003/53, art. 2(a)
- F2** Words in s. 59(1) inserted (1.4.2004 except for W., 1.4.2004 for W.) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), [Sch. 11 para. 3\(2\)\(a\)](#); S.I. 2004/288, art. 5(2)(c) (with art. 7) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, art. 4(2)(c) (with art. 6) (as amended by S.I. 2004/1019 and S.I. 2006/345); S.I. 2004/288, art. 5(2)(c) (with art. 7) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, art. 4(2)(c) (with art. 6) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- F3** Words in s. 59(1) substituted (1.4.1998) by 1997 c. 46, s. 41(10), [Sch. 2 Pt. I, para. 1\(2\)](#); S.I. 1998/631, art. 2(1), [Sch. 1, Sch. 2](#) (subject as mentioned in art. 3(1)(3)(4))
- F4** Words in s. 59(1) inserted (1.4.2006 for E., 1.4.2006 for W. for specified purposes) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), [Sch. 11 para. 3\(2\)\(b\)](#); S.I. 2005/2925, art. 10(2)(a); S.I. 2006/345, art. 6(2)(a); S.I. 2005/2925, art. 10(2)(a); S.I. 2006/345, art. 6(2)(a)
- F5** Words substituted by S.I. 1969/388, [Sch. 1](#)
- F6** Words in s. 59(2) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 35](#) (with Sch. 3 Pt. 1)
- F7** Words in s. 59(2) inserted (1.4.2004 except for W., 1.4.2004 for W.) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), [Sch. 11 para. 3\(3\)](#); S.I. 2004/288, art. 5(2)(c) (with art. 7) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, art. 4(2)(c) (with art. 6) (as amended by S.I. 2004/1019 and S.I. 2006/345); S.I. 2004/288, art. 5(2)(c) (with art. 7) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, art. 4(2)(c) (with art. 6) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- F8** Words substituted by [National Health Service \(Scotland\) Act 1978 \(c. 29\)](#), [Sch. 16 para. 26\(1\)](#)

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- F9** Words in s. 59(2) inserted (1.4.2004) by The Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), art. 1, **Sch. para. 1(2)(a)**
- F10** S. 59(2A) inserted (1.4.1998) by 1997 c. 46, s. 41(1), **Sch. 2 Pt. I**, para. 1(2); S.I. 1998/631, art. 2(1), **Sch. 1**, **Sch. 2** (subject as mentioned in art. 3)
- F11** Word in s. 59(2A) omitted (1.4.2004) by virtue of The Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), art. 1, **Sch. para. 1(2)(b)(i)**
- F12** Words in s. 59(2A) repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), **Sch. 11 para. 3(4)**, **Sch. 14 Pt. 4**; S.I. 2004/288, arts. 5(2)(c), 6(2)(b) (with art. 7) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, arts. 4(2)(c), 5(2)(b) (with art. 6) (as amended by S.I. 2004/1019 and S.I. 2006/345); S.I. 2004/288, arts. 5(2)(c), 6(2)(b) (with art. 7) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, arts. 4(2)(c), 5(2)(b) (with art. 6) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- F13** Words in s. 59(2A) inserted (1.4.2004) by The Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), art. 1, **Sch. para. 1(2)(b)(ii)**
- F14** S. 59(2B) inserted (1.7.2002 for W., 1.1.2003 for E.) by Health and Social Care Act 2001 (c. 15), s. 70(2), **Sch. 5 para. 1(2)(b)** (with ss. 64(9), 65(4)); S.I. 2002/1475; S.I. 2003/53, art. 2(a)
- F15** Words in s. 59(2B)(a) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 36(a)** (with Sch. 3 Pt. 1)
- F16** Words in s. 59(2B)(b) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 36(b)** (with Sch. 3 Pt. 1)
- F17** S. 59(2C) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), **Sch. 11 para. 3(5)**; S.I. 2004/288, art. 5(2)(c) (with art. 7) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, art. 4(2)(c) (with art. 6) (as amended by S.I. 2004/1019 and S.I. 2006/345); S.I. 2004/288, art. 5(2)(c) (with art. 7) (as amended by S.I. 2004/866 and S.I. 2005/2925); S.I. 2004/480, art. 4(2)(c) (with art. 6) (as amended by S.I. 2004/1019 and S.I. 2006/345)
- F18** Words in s. 59(2C) substituted (1.4.2004) by The Primary Medical Services (Scotland) Act 2004 (Consequential Modifications) Order 2004 (S.I. 2004/957), art. 1, **Sch. para. 1(2)(c)**
- F19** Words in s. 59(2C) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 1 para. 37** (with Sch. 3 Pt. 1)

#### Marginal Citations

- M1** 1949 c. 87.  
**M2** 1978 c. 29.

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