



# National Health Service Reorganisation Act 1973

## 1973 CHAPTER 32

### PART IV

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### **40 Special hospitals**

- (1) The duty imposed on the Secretary of State by section 1 of the principal Act to provide services for the purposes of the health service shall include a duty to provide and maintain establishments (in this Act referred to as "special hospitals") for persons subject to detention under the Mental Health Act 1959 who in his opinion require treatment under conditions of special security on account of their dangerous, violent or criminal propensities.
- (2) Any institution provided under section 97 of the Mental Health Act 1959 or deemed to be so provided when that section came into force shall be deemed to be provided in pursuance of the preceding subsection.

#### **41 Nursing homes and mental nursing homes**

- (1) There are hereby transferred to the Secretary of State the functions which, immediately before this subsection comes into force, were exercisable by local authorities by virtue of any provision of the following enactments (which relate to the supervision of nursing homes and mental nursing homes), namely, sections 187 and 188 of the Act of 1936 (and section 298 of that Act so far as it relates to those sections) and sections 14 to 18 of the Act of 1959 (and section 23 of that Act so far as it relates to those sections); and any reference in any of the said sections to a local authority shall be construed accordingly.
- (2) The Secretary of State may make regulations—

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*Status: This is the original version (as it was originally enacted).*

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- (a) with respect to the registration of persons under Part VI of the Act of 1936 in respect of nursing homes and mental nursing homes (and in particular, without prejudice to the generality of the preceding provisions of this paragraph, with respect to the making of applications for registration, the refusal and cancellation of registration and appeals to magistrates' courts against refusals and cancellations of registration);
  - (b) with respect to the keeping of records relating to nursing homes and mental nursing homes and with respect to the notification of events occurring in such homes;
  - (c) with respect to entry into and the inspection of premises used or reasonably believed to be used as a nursing home;
  - (d) containing such provisions (including provisions for the transfer of staff and provisions applying with prescribed modifications any provision made by virtue of section 19(2) of this Act) as the Secretary of State considers appropriate for the purpose of securing continuity between the system of supervising nursing homes and mental nursing homes which was in operation before the coming into force of the preceding subsection and the system of supervising such homes thereafter;
  - (e) providing that a contravention or failure to comply with any specified provisions of the regulations shall be an offence against the regulations.
- (3) Subsections (2) and (3) of section 1 of the Nursing Homes Act 1963 (which provide for an offence against regulations under that section to be punishable on summary conviction with a fine not exceeding £20, for cancellation of a person's registration in respect of a nursing home if he has been convicted of such an offence and for making officers of a body corporate which is guilty of such an offence also guilty of the offence) shall apply to an offence against regulations made by virtue of the preceding subsection as they apply to an offence against regulations under that section; and the said subsection (3) shall apply to an offence under section 187 of the Act of 1936 as it applies to an offence against regulations under the said section 1.
- (4) In this section—
- " the Act of 1936 " means the Public Health Act 1936;
  - " the Act of 1959 " means the Mental Health Act 1959;
  - " local authority " means the council of a county, county borough, county district or London borough, the Common Council of the City of London, the Sub-Treasurer of the Inner Temple and the Under Treasurer of the Middle Temple;
  - " mental nursing home " has the same meaning as in Part III of the Act of 1959 ; and
  - " nursing home " has the same meaning as in the Act of 1936.
- (5) Sections 189 to 191, 194 and 195 of the Act of 1936 (which contain provisions which are superseded by subsections (2) and (3) of this section) shall cease to have effect.

## 42 Pharmaceutical services

For subsection (1) of section 38 of the principal Act (which relates to arrangements for pharmaceutical services) there shall be substituted the following subsection—

(1) It shall be the duty of every Area Health Authority to make in accordance with regulations arrangements as respects its area for the supply to persons who are in that area of—

- (a) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown (excluding forces of a Commonwealth country and forces raised in a colony); and
- (b) listed drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of such functions;

and the services provided in accordance with the arrangements are in this Act referred to as " pharmaceutical services".

In this subsection—

" the health service " means the service established by section 1 of this Act;

" listed " means included in a list for the time being approved by the Secretary of State for the purposes of this subsection; and

" the Scottish health service " and " the Northern Ireland health service " mean respectively the health service established in pursuance of section 1 of the National Health Service (Scotland) Act 1947 or any service provided in pursuance of Article 4(a) of the Health and Personal Social Services (Northern Ireland) Order 1972.

and in subsection (2) of the said section 38 for the words from " receiving general medical services" to " dental practitioner rendering those services " there shall be substituted the words " for whom they are ordered as mentioned in the last foregoing subsection to receive the drugs, medicines and appliances there mentioned ".

#### **43 Miscellaneous functions of Secretary of State**

- (1) If the Secretary of State considers that any accommodation provided by him by virtue of the Health Service Acts is suitable for use in connection with the provision of general medical services, general dental services, general ophthalmic services or pharmaceutical services he may make the accommodation available on such terms as he thinks fit to persons providing any of those services.
- (2) The Secretary of State may permit any person who is a medical or dental practitioner, a registered pharmacist, an ophthalmic or dispensing optician or a person of any other description determined by him and who provides services under the Health Service Acts to use for the purpose of private practice, on such terms as the Secretary of State may determine, facilities available at accommodation provided by the Secretary of State by virtue of the Health Service Acts.
- (3) Where the Secretary of State makes arrangements with medical practitioners for the vaccination or immunisation of persons against disease, he shall so far as reasonably practicable give every medical practitioner providing general medical services an opportunity to participate in the arrangements.
- (4) It shall be the duty of the Secretary of State to make available, in premises provided by him by virtue of the Health Service Acts, such facilities as he considers are reasonably required, by any university which has a medical or dental school, in connection with clinical teaching and with research connected with clinical medicine or, as the case may be, clinical dentistry.

- (5) Nothing in this section shall be construed as prejudicing any powers exercisable by the Secretary of State apart from this section.

#### **44 Provision for early retirement in lieu of compensation for loss of office**

- (1) In order to facilitate the early retirement of certain persons who might otherwise suffer, in consequence of this Act, loss of employment or loss or diminution of emoluments, any person who—
- (a) is in any such employment as may be prescribed for the purposes of this subsection ; and
  - (b) attains or has attained the age of fifty on or before a prescribed date; and
  - (c) fulfils such other conditions as may be prescribed ;
- may by notice given before a prescribed date and in the prescribed manner elect that this section shall apply to him.
- (2) Where any person has made an election under the preceding subsection, then, unless within a prescribed period notice of objection to the election is given to him by a prescribed person, this section shall apply to him on his retirement within a prescribed period and before attaining the normal retiring age and compensation on his retirement shall not be payable to or in respect of him in pursuance of section 24 of the Superannuation Act 1972 (which among other things relates to compensation for loss of office).
- (3) Subject to the following subsection, the Secretary of State shall by regulations provide for the payment by him to or in respect of a person to whom this section applies of benefits corresponding, as near as may be, to those which would have been paid to or in respect of that person under the relevant superannuation scheme if—
- (a) at the date of his retirement he had attained the normal retiring age; and
  - (b) the actual period of his reckonable service were increased by such period as may be prescribed, not exceeding the period beginning on the date of his retirement and ending on the date on which he would attain the normal retiring age.
- (4) Regulations in pursuance of the preceding subsection shall be so framed as to secure that the sums which would otherwise be payable under the regulations in accordance with that subsection to or in respect of any person are reduced to take account of any benefits payable to or in respect of him under the relevant superannuation scheme.
- (5) Any sums payable under regulations made in pursuance of subsection (3) of this section shall be treated for the purposes of section 73 of the Finance Act 1972 (under which compensation for loss of office or employment is chargeable to tax as a payment made on retirement or removal from office or employment) in like manner as compensation paid in pursuance of the said section 24.
- (6) In this section—
- " normal retiring age " means—
  - (a) in relation to any person to whom an age of compulsory retirement applies by virtue of the relevant superannuation scheme, that age ; and
  - (b) in relation to any other person, the age of sixty five in the case of a man and sixty in the case of a woman or, in either case, such other age as may be prescribed;

" reckonable service ", in relation to any person, means service in respect of which benefits are payable under the relevant superannuation scheme ; and

" relevant superannuation scheme ", in relation to any person, means the instrument which is applicable in the case of his employment and which makes provision with respect to the pensions, allowances or gratuities which, subject to the fulfilment of certain requirements and conditions, are to be, or may be, paid to or in respect of persons in that employment.

#### **45 Overseas aid**

Each Regional and Area Health Authority, each special health authority and the Public Health Laboratory Service Board shall have power—

- (a) with the consent of the Secretary of State, to enter into and carry out agreements with the relevant Minister under which, at the expense of that Minister, the authority or board acts as the instrument by means of which he furnishes technical assistance in the exercise of the power conferred on him by section 1(1) of the Overseas Aid Act 1966 ;
- (b) with the consent of the Secretary of State and the relevant Minister, to enter into and carry out agreements under which the authority or board furnishes, for any purpose specified in the said section 1(1), technical assistance (excluding financial assistance) in any country or territory outside the United Kingdom against reimbursement to the authority or board of the cost of furnishing the assistance;

and in this section " the relevant Minister " means the Minister of the Crown by whom is exercisable the power conferred on the Minister for Overseas Development by the said section 1(1) as originally enacted.

#### **46 Notices of births and deaths**

- (1) It shall be the duty of each registrar of births and deaths to furnish, to the prescribed medical officer of the Area Health Authority of which the area includes the whole or part of the sub-district of the registrar, such particulars of each birth and death which occurred in the area of the Authority as are entered after this subsection comes into force in a register of births or deaths kept for that sub-district; and regulations may make provision as to the manner in which and the times at which particulars are to be furnished in pursuance of this subsection.
- (2) In section 203 of the Public Health Act 1936 (which among other things provides for the notification of births to medical officers of health of welfare authorities), in subsections (1) and (2) for references to the medical officer of health of the welfare authority there shall be substituted references to the prescribed medical officer of the Area Health Authority, and in subsection (2) for the reference to a welfare authority there shall be substituted a reference to an Area Health Authority and references to a residence shall be omitted.