



National Health Service Act 1977

1977 CHAPTER 49

PART VI

MISCELLANEOUS AND SUPPLEMENTARY

General provisions as to charges

121 Charges in respect of non-residents.

Regulations may provide for the making and recovery, in such manner as may be prescribed, of such charges [^{F1}as the Secretary of State may determine]—

- (a) in respect of such services provided under this Act as may be prescribed, being
- (b) services provided in respect of such persons not ordinarily resident in Great Britain as may be prescribed.

Such regulations may provide that the charges are only to be made in such cases as may be determined in accordance with the regulations.

[^{F2}The Secretary of State may calculate charges under this section on any basis that he considers to be the appropriate commercial basis.]

Textual Amendments

- F1** Words inserted by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), [s. 7\(12\)](#)
- F2** Words added by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), [s. 7\(14\)](#)

Modifications etc. (not altering text)

- C1** [S. 121](#): functions of local authority not to be responsibility of an executive of the authority (1.4.2000) by virtue of [S.I. 2000/695, reg. 3\(2\)\(a\)](#), [Sch. 1](#)
- C2** [S. 121](#): transfer of functions (E.) (1.4.2001) by [S.I. 2001/747, regs. 2\(1\), 3, 4](#), [Sch. 1](#)

Status: Point in time view as at 01/10/2002.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service Act 1977. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

122 Recovery of charges.

- (1) All charges recoverable under this Act by the Secretary of State, a local social services authority, or any body constituted under this Act [^{F3}or Part I of the National Health Service and Community Care Act 1990], may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.
- (2) If any person, for the purpose of evading the payment of any charge under this Act, or of reducing the amount of any such charge—
 - (a) knowingly makes any false statement or false representation, or
 - (b) produces or furnishes, or causes or knowingly allows to be produced or furnished, any document or information which he knows to be false in a material particular,
 the charge, or as the case may be the balance of the charge, may be recovered from him [^{F4}as a simple contract debt] by the person by whom the cost of the service in question was defrayed.

Textual Amendments

- F3** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), [Sch. 9 para. 18\(12\)](#)
- F4** Words in s. 122(2) omitted (1.11.1999 for E. and otherwise *prosp.*) by virtue of [1999 c. 8, s. 65, 67\(1\), Sch. 4 para. 36](#); [S.I. 1999/2793, art. 2\(1\)\(a\), Sch. 1](#); and repealed (9.2.2001) by [1999 c. 8, ss. 65, 67, Sch. 5](#); [S.I. 2001/270, art. 2\(c\), Sch.](#)

[^{F5}122A Recovery of other charges and payments.

- (1) Where goods or services to which this section applies are provided and either—
 - (a) any charge payable by any person under this Act in respect of the provision of the goods or services is reduced, remitted or repaid, but that person is not entitled to the reduction, remission or repayment, or
 - (b) any payment under this Act is made to, or for the benefit of, any person in respect of the cost of obtaining the goods or services, but that person is not entitled to, or to the benefit of, the payment,
 the amount mentioned in subsection (2) below is recoverable summarily as a civil debt from the person in question by the responsible authority.
- (2) That amount—
 - (a) in a case within subsection (1)(a) above, is the amount of the charge or (where it has been reduced) reduction,
 - (b) in a case within subsection (1)(b) above, is the amount of the payment.
- (3) Where two or more persons are liable under section 122(1) above or this section to pay an amount in respect of the same charge or payment, those persons shall be jointly and severally liable.
- (4) For the purposes of this section, the circumstances in which a person is to be treated as not entitled to a reduction, remission or repayment of a charge, or to (or to the benefit of) a payment, include in particular those in which it is received (wholly or partly)—
 - (a) on the ground that he or another is a person of a particular description, where the person in question is not in fact of that description,

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- (b) on the ground that he or another holds a particular certificate, when the person in question does not in fact hold such a certificate or does hold such a certificate but is not entitled to it,
 - (c) on the ground that he or another has made a particular statement, when the person in question has not made such a statement or the statement made by him is false.
- (5) In this section and section 122B below, “responsible authority” means—
- (a) in relation to the recovery of any charge under section 122(1) above in respect of the provision of goods or services to which this section applies, the person by whom the charge is recoverable,
 - (b) in relation to the recovery by virtue of this section of the whole or part of the amount of any such charge, the person by whom the charge would have been recoverable,
 - (c) in a case within subsection (1)(b) above, the person who made the payment.
- (6) But the Secretary of State may by directions provide for—
- (a) the functions of any responsible authority of recovering any charges under this Act in respect of the provision of goods or services to which this section applies,
 - (b) the functions of any responsible authority under this section and section 122B below,
- to be exercised on behalf of the authority by another health service body.
- (7) This section applies to the following goods and services—
- (a) dental treatment and appliances provided in pursuance of this Act,
 - (b) drugs and medicines provided in pursuance of this Act,
 - (c) the testing of sight,
 - (d) optical appliances,
 - (e) any other appliances provided in pursuance of this Act.]

Textual Amendments

F5 Ss. 122A-122C inserted (1.11.1999 for E. and 9.2.2001 for W.) by 1999 c. 8, ss. 39(3), 67(1); S.I. 1999/2793, art. 2(1)(a), Sch. 1; S.I. 2001/270, art. 2

Modifications etc. (not altering text)

C3 Ss. 122A-122C extended (1.11.1999 for E. and 9.2.2001 for W.) by 1999 c. 8, ss. 39(3), 67(1); S.I. 1999/2793, art. 2(1)(a), Sch. 1; S.I. 2001/270, art. 2

C4 S. 122A: Power to apply (with modifications) conferred (11.5.2001 for certain purposes, otherwise 8.3.2002 for E. and 1.7.2002 for W.) by 2001 c. 15, ss. 35(2)(c), 70(2) (with ss. 64(9), 65(4)); S.I. 2002/1095, art. 2(4); S.I. 2002/1475, art. 2(1), Sch. Pt. 1

^{F6}122B Penalties.

- (1) Regulations may provide that, where a person fails to pay—
- (a) any amount recoverable from him under section 122(1) above in respect of the provision of goods or services to which section 122A above applies, or
 - (b) any amount recoverable from him under section 122A above,

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a notice (referred to in this section as a penalty notice) may be served on the person by the responsible authority requiring him to pay to the authority, within a prescribed period, that amount together with a charge (referred to in this section as a penalty charge) of an amount determined in accordance with the regulations.

- (2) The regulations may not provide for the amount of the penalty charge to exceed whichever is the smaller of—
 - (a) £100,
 - (b) the amount referred to in subsection (1)(a) or (b) above multiplied by 5.
- (3) The Secretary of State may by order provide for subsection (2) above to have effect as if, for the sum specified in paragraph (a) or the multiplier specified in paragraph (b) (including that sum or multiplier as substituted by a previous order), there were substituted a sum or (as the case may be) multiplier specified in the order.
- (4) Regulations may provide that, if a person fails to pay the amount he is required to pay under a penalty notice within the period in question, he must also pay to the responsible authority by way of penalty a further sum determined in accordance with the regulations.
- (5) The further sum must not exceed 50 per cent. of the amount of the penalty charge.
- (6) Any sum payable under the regulations (including the amount referred to in subsection (1)(a) or (b) above) may be recovered by the responsible authority summarily as a civil debt.
- (7) But a person is not liable by virtue of a penalty notice—
 - (a) to pay at any time so much of any amount referred to in subsection (1)(a) or (b) above for which he is jointly and severally liable with another as at that time has been paid, or ordered by a court to be paid, by that other, or
 - (b) to a penalty charge, or a further sum by way of penalty, if he shows that he did not act wrongfully, or with any lack of care, in respect of the charge or payment in question.
- (8) In spite of section 126(1) below, no order is to be made under subsection (3) above unless a draft has been laid before, and approved by resolution of, each House of Parliament.

Textual Amendments

F6 Ss. 122A-122C inserted (1.11.1999 for E. and 9.2.2001 for W.) by 1999 c. 8, ss. 39(3), 67(1); S.I. 1999/2793, art. 2(1)(a), Sch. 1; S.I. 2001/270, art. 2

Modifications etc. (not altering text)

C5 Ss. 122A-122C extended (1.11.1999 for E. and 9.2.2001 for W.) by 1999 c. 8, ss. 39(3), 67(1); S.I. 1999/2793, art. 2(1)(a), Sch. 1; S.I. 2001/270, art. 2

C6 S. 122B: Power to apply (with modifications) conferred (11.5.2001 for certain purposes, otherwise 8.3.2002 for E. and 1.7.2002 for W.) by 2001 c. 15, ss. 35(2)(d), 70(2) (with ss. 64(9), 65(4)); S.I. 2002/1095, art. 2(4); S.I. 2002/1475, art. 2(1), Sch. Pt. 1

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F7 122C Offences.

- (1) A person is guilty of an offence if he does any act mentioned in subsection (2) below with a view to securing for himself or another—
 - (a) the evasion of the whole or part of any charge under this Act in respect of the provision of goods or services to which section 122A above applies,
 - (b) the reduction, remission or repayment of any such charge, where he or (as the case may be) the other is not entitled to the reduction, remission or repayment,
 - (c) a payment under this Act (whether to, or for the benefit of, himself or the other) in respect of the cost of obtaining such goods or services, where he or (as the case may be) the other is not entitled to, or to the benefit of, the payment.
- (2) The acts referred to in subsection (1) above are—
 - (a) knowingly making, or causing or knowingly allowing another to make, a false statement or representation, or
 - (b) in the case of any document or information which he knows to be false in a material particular, producing or providing it or causing or knowingly allowing another to produce or provide it.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) A person, although he is not a barrister or solicitor, may conduct any proceedings under this section before a magistrates' court if he is authorised to do so by the Secretary of State.
- (5) Proceedings for an offence under this section may be begun within either of the following periods—
 - (a) the period of three months beginning with the date on which evidence, sufficient in the opinion of the Secretary of State to justify a prosecution for the offence, comes to his knowledge,
 - (b) the period of 12 months beginning with the commission of the offence.
- (6) For the purposes of subsection (5) above, a certificate purporting to be signed by or on behalf of the Secretary of State as to the date on which such evidence as is mentioned in paragraph (a) of that subsection came to his knowledge is conclusive evidence of that date.
- (7) Where, in respect of any charge or payment under this Act—
 - (a) a person is convicted of an offence under this section, or
 - (b) a person pays any penalty charge, and any further sum by way of penalty, recoverable from him under section 122B above,he shall not, in a case within paragraph (a) above, be liable to pay any such penalty charge or further sum by way of penalty or, in a case within paragraph (b) above, be convicted of such an offence.
- (8) Subsection (4) of section 122A above applies for the purposes of this section as it applies for the purposes of that.

Textual Amendments

- F7** Ss. 122A-122C inserted (1.11.1999 for E. and 9.2.2001 for W.) by 1999 c. 8, ss. 39(3), 67(1); S.I. 1999/2793, art. 2(1)(a), Sch. 1; S.I. 2001/270, art. 2

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Modifications etc. (not altering text)

- C7 Ss. 122A-122C extended (1.11.1999 for E. and 9.2.2001 for W.) by 1999 c. 8, ss. 39(3), 67(1); S.I. 1999/2793, art. 2(1)(a), Sch. 1; S.I. 2001/270, art. 2

Miscellaneous

123 Persons displaced by health service development.

- (1) Where the carrying out of a scheme for the provision by the Secretary of State in pursuance of this Act of hospital accommodation or other facilities will involve the displacement from any premises of persons residing in them, the Secretary of State may make arrangements with one or more of the following bodies—

- [^{F8}(a) a local housing authority within the meaning of the ^{M1}Housing Act 1985,
- (b) a housing association or housing trust within the meaning of the ^{M2}Housing Associations Act 1985,]
- (d) a development corporation established under the [^{F9M3}New Towns Act 1981] and
- (e) the Commission for the New Towns,

for securing, in so far as it appears to him that there is no other residential accommodation suitable for the reasonable requirements of those persons available on reasonable terms, the provision of residential accommodation in advance of the displacement from time to time becoming necessary as the carrying out of the scheme proceeds.

- (2) Arrangements under subsection (1) above may include provision for making by the Secretary of State to the body with whom the arrangements are made of payments of such amounts and for such purposes as may be approved by the Treasury.

Textual Amendments

- F8 S. 123(1)(a)(b) substituted for s. 123(1)(a)–(c) by Housing (Consequential Provisions) Act 1985 (c. 71, SIF 61), s. 4, Sch. 2 para. 38(4)
- F9 Words substituted by New Towns Act 1981 (c. 64, SIF 123:3), s. 81, Sch. 12 para. 26

Marginal Citations

- M1 1985 c. 68(61).
- M2 1985 c. 69(61).
- M3 1981 c. 64(123:3).

124 Special notices of births and deaths.

- (1) The requirements of this section with respect to the notification of births and deaths are in addition to, and not in substitution for, the requirements of any Act relating to the registration of births and deaths.
- (2) It is the duty of each registrar of births and deaths to furnish, to the [^{F10}Primary Care Trust or][^{F11}Health Authority the area of which includes] the whole or part of the registrar's sub-district, such particulars of each birth and death which occurred in the [^{F11}][^{F12}area of the Primary Care Trust or Health Authority] as are entered] in a register of births or deaths kept for that sub-district.

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(3) Regulations may provide as to the manner in which and the times at which particulars are to be furnished in pursuance of subsection (2) above.

(4) In the case of every child born, it is the duty—

- (a) of the child's father, if at the time of the birth he is actually residing on the premises where the birth takes place, and
- (b) of any person in attendance upon the mother at the time of, or within six hours after, the birth,

to give notice of the birth (as provided in subsection (5) below) to the ^{F10}Primary Care Trust or ^{F13}Health Authority for the area in which the birth takes place.

This subsection applies to any child which has issued forth from its mother after the expiry of the twenty-eighth week of pregnancy whether alive or dead.

(5) Notice under subsection (4) above shall be given either—

- (a) by posting within 36 hours after the birth a prepaid letter or postcard addressed to the ^{F10}Primary Care Trust or ^{F14}Health Authority at their offices and containing the required information, or
- (b) by delivering within that period at ^{F14}the ^{F15}offices of the Primary Care Trust or of the Health Authority ^{F14} a written notice containing the required information,

and ^{F14a} ^{F10}Primary Care Trust or Health Authority shall, upon application to them, supply without charge to any medical practitioner or midwife residing or practising within their area ^{F16} or district prepaid addressed envelopes together with the forms of notice.

(6) Any person who fails to give notice of a birth in accordance with subsection (4) above is liable on summary conviction to a fine not exceeding ^{F17}level 1 on the standard scale, unless he satisfies the court that he believed, and had reasonable grounds for believing, that notice had been duly given by some other person.

Proceedings in respect of this offence shall not, without the Attorney-General's written consent, be taken by any person other than a party aggrieved or the ^{F10}Primary Care Trust or ^{F18}Health Authority concerned.

(7) A registrar of births and deaths shall, for the purpose of obtaining information concerning births which have occurred in his sub-district, have access at all reasonable times to notices of births received by a ^{F10}Primary Care Trust or ^{F19}Health Authority under this section, or to any book in which those notices may be recorded.

Textual Amendments

- F10** Words in s. 124 inserted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 2(5), 42(3), **Sch. 2 Pt. 1 para. 36(2)**; S.I. 2002/2478, **art. 3(1)(d)**
- F11** Words in s. 124(2) substituted (28.6.1995 for certain purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. 1 para. 55(a)** (with Sch. 2 para. 6)
- F12** Words in s. 124(2) substituted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 2(5), 42(3), **Sch. 2 Pt. 1 para. 36(3)**; S.I. 2002/2478, **art. 3(1)(d)**
- F13** Words in s. 124(4) substituted (28.6.1995 for certain purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. 1 para. 55(b)** (with Sch. 2 para. 6)
- F14** Words in s. 124(5) substituted (28.6.1995 for certain purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. 1 para. 55(e)** (with Sch. 2 para. 6)

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- F15** Words in s. 124(5) substituted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 2(5), 42(3), **Sch. 2 Pt. 1 para. 36(4)**; S.I. 2002/2478, **art. 3(1)(d)**
- F16** Words in s. 124(5) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), **Sch. 3** (with Sch. 2 para. 6)
- F17** Words substituted by virtue of Criminal Law Act 1977 (c. 45, SIF 39:1), **s. 31** and Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**
- F18** Words in s. 124(6) substituted (28.6.1995 for certain purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. 1 para. 55(d)** (with Sch. 2 para. 6)
- F19** Words in s. 124(7) substituted (28.6.1995 for certain purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. 1 para. 55(e)** (with Sch. 2 para. 6)

[^{F20}124A Provision of information by Registrar General.

- (1) The Registrar General may provide to the Secretary of State any information to which this section applies.
- (2) Any information provided under subsection (1) above shall be provided in such form as appears to the Registrar General appropriate for the purpose of assisting the Secretary of State in the performance of his functions in relation to the health service.
- (3) This section applies to any information—
 - (a) entered in any register kept under the ^{M4}Births and Deaths Registration Act 1953; or
 - (b) which is kept by the Registrar General under any other enactment and relates to any birth or death.
- (4) In subsection (3) above, “enactment” includes an enactment contained in subordinate legislation.]

Textual Amendments

F20 S. 124A inserted (1.10.1999) by 1999 c. 8, s. 42; S.I. 1999/2540, art. 2(1)(b), **Sch. 1**

Marginal Citations

M4 1953 c.20.

125 Protection of members and officers of authorities.

Section 265 of the ^{M5}Public Health Act 1875 (which relates to the protection of members and officers of certain authorities) has effect as if there were included in the authorities referred to in that section—

- [^{F21}(za) a Strategic Health Authority;]
 [^{F22}(a) a Health Authority,
 (b) a Special Health Authority, and
 (c) an NHS trust,]

and as if any reference in that section to the Public Health Act 1875 included a reference to this Act [^{F23}and the National Health Service and Community Care Act 1990].

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Textual Amendments

- F21** S. 125(za) inserted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 1(3), 42(3), **Sch. 1 Pt. 1 para. 31**; S.I. 2002/2478, **art. 3(1)(c)**
- F22** S. 125(a)-(c) substituted (28.6.1995 for certain purposes and otherwise 1.4.1996) for s. 125(a)-(d) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. I para. 56** (with Sch. 2 para. 6)
- F23** Words added by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 5(8), **Sch. 2 para. 25(b)**

Modifications etc. (not altering text)

- C8** s. 125 excluded by National Health Service (Amendment) Act 1986 (c. 66, SIF 113:2), **ss. 1(6)(8), 2(3)(4)**

Marginal Citations

- M5** 1875 c. 55(100:1).

Supplementary

126 Orders and regulations, and directions.

- (1) Any power to make orders [^{F24} rules] or regulations conferred by this Act shall be exercisable by statutory instrument, and a statutory instrument made by virtue of this Act shall [^{F25} unless it is a PCT order ,] be subject to annulment in pursuance of a resolution of either House of Parliament.

This subsection—

- ^{F26}(a)
- (b) does not apply to [^{F27} an order made under section 28EE(2) [^{F28} or section 84A] above, paragraph 20, 21 or 23 of Schedule 5A to this Act or to] paragraph 10 of Schedule 11 to this Act.

- (2) Any power to make regulations conferred on the Secretary of State by this Act [^{F29} or Part I of the National Health Service and Community Care Act 1990] is, if the Treasury so directs, exercisable by the Treasury and the Secretary of state acting jointly, except in the case of—

- (a) regulations made under section 32 above;
- (b) regulations made under section 77(1) above in respect of charges for the drugs, medicines or appliances referred to in paragraph (a) of that subsection, or under paragraphs 1(1) of Schedule 12 to this Act [^{F29} or Part I of the National Health Service and Community Care Act 1990] in respect of the remission or repayment of any charge payable under that section in the cases provided for in paragraph 1(1) of that Schedule;
- (c) regulations made under paragraph 2(2) of that Schedule;
- (d) regulations made under paragraph 2(6) of that Schedule.

- (3) Where under [^{F30} or by virtue of] any provision of this Act [^{F29} or Part I of the National Health Service and Community Care Act 1990]—

- (a) power to make an order may be exercisable, or
- (b) directions may be given,

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that provision includes power to vary or revoke the order or direction, as the case may be, by subsequent order or by subsequent directions.

^{F31}(3A) Directions given by the Secretary of State ^{F32}or by a ^{F33}Strategic Health Authority or [Health Authority] in pursuance of any provision of this Act or Part I of the ^{M6}National Health Service and Community Care Act 1990 shall be given by an instrument in writing.

(3B) In relation to directions given in pursuance of sections ^{F34}16D to 17B] above section 18 above applies in place of subsections (3) and (3A) above.]

^{F35}(3C) Any person or body to whom directions are given in pursuance of any provision of this Act or Part I of the ^{M7}National Health Service and Community Care Act 1990 shall comply with the directions.]

(4) Any power conferred by this Act ^{F29}or Part I of the National Health Service and Community Care Act 1990] to make orders ^{F36}rules], regulations or schemes, and any power conferred by section 16BB above to give directions by an instrument in writing, may unless the contrary intention appears, be exercised—

(a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of case, and

(b) so as to make, as respects the cases in relation to which it is exercised—

(i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),

(ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case, or different provision as respects the same case or class of case for different purposes of this Act ^{F29}or Part I of the National Health Service and Community Care Act 1990] or that section,

(iii) any such provision either unconditionally, or subject to any specified condition,

and includes power to make such ^{F37}supplementary, incidental, consequential, transitory, transitional or saving] provision in the orders ^{F36}rules], regulations, schemes or directions as the persons making or giving them consider appropriate.

This subsection does not only apply to regulations made under section 32 above (but without prejudice to subsection (3) of that section) or to an order made under section 57 above (but without prejudice to paragraph 1(1) of Schedule 11 to this Act ^{F29}or Part I of the National Health Service and Community Care Act 1990])

^{F38}(5) Without prejudice to the generality of subsection (4) above, any power which may be exercised as mentioned in paragraphs (a) and (b) of that subsection ^{F39}(other than a power to make rules)] may make different provision for different areas.]

Textual Amendments

F24 Word in s. 126(1) inserted (1.10.2001 for certain purposes for E., 1.12.2001 for all other purposes for E. and 26.8.2002 for W.) by 2001 c. 15, ss. 67(1), 70(2), **Sch. 5 para. 5(13)(a)** (with ss. 64(9), 65(4)); S.I. 2001/3294, art. 4(1), **Sch. Pt. I** (subject to transitional provisions in Sch. Pt. II); S.I. 2002.1919, {art. 3(1)} (subject to art. (2))

F25 Words in s. 126(1) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 37(2)(a)**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**

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- F26** S. 126(1)(a) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), **Sch. 5** (with Sch. 2 para. 6)
- F27** Words in s. 126(1)(b) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 37(2)(b)**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**
- F28** Words in s. 126(1) inserted (1.8.2001 for E. and otherwise *prosp.*) by 2001 c. 15, **ss. 13(2)**, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/2804 art. 2(1)(a)
- F29** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 65(2)**
- F30** Words in s. 126(3) inserted (15.8.1997) by 1997 c. 46, s. 41(10), **Sch. 2 para. 27**; S.I. 1997/1780, art. 2(1), **Sch.**
- F31** S. 126(3A)(3B) substituted (28.6.1995 for certain purposes and otherwise 1.4.1996) for the second sentence of (3) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. I para. 57** (with Sch. 2 para. 6)
- F32** Words in s. 126(3A) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 37(3)**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**
- F33** Words in s. 126(3A) inserted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 1(3), 42(3), **Sch. 1 Pt. 1 para. 32**; S.I. 2002/2478, {art. 3(1)(c)}
- F34** Words in s. 126(3B) substituted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 37(4)**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**
- F35** S. 126(3C) inserted (1.9.1999 for E. and 1.11.1999 for W.) by 1999 c. 8, s. 65, **Sch. 4 para. 37(5)**; S.I. 1999/2342, art. 2(1), **Sch. 1**; S.I. 1999/3184, art. 2(1), **Sch. 1**
- F36** Words in s. 126(4) inserted (1.10.2001 for certain purposes for E., 1.12.2001 for all other purposes for E. and 26.8.2002 for W.) by 2001 c. 15, ss. 67(1), 70(2), **Sch. 5 para. 5(13)(b)** (with ss. 64(9), 65(4)); S.I. 2001/3294, art. 4(1), **Sch. Pt. I** (subject to transitional provisions in **Sch. Pt. II**); S.I. 2002/1919, **art. 3(1)** (subject to art. 3(2))
- F37** Words in s. 126(4) substituted (1.9.1999 for E. and 1.11.1999 for W.) by 1999 c. 8, s. 65, **Sch. 4 para. 37(6)**; S.I. 1999/2342, art. 2(1), **Sch. 1**; S.I. 1999/3184, art. 2(1), **Sch. 1**
- F38** S. 126(5) added by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 65(2)**
- F39** Words in s. 126(5) inserted (1.10.2001 for certain purposes for E., 1.12.2001 for all other purposes for E. and 26.8.2002 for W.) by 2001 c. 15, ss. 67(1), 70(2), **Sch. 5 para. 5(13)(d)** (with ss. 64(9), 65(4)); S.I. 2001/3294, art. 4(1), **Sch. Pt. I** (subject to transitional provisions in **Sch. Pt. II**); S.I. 2002/1919, **art. 3(1)** (subject to art. 3(2))

Modifications etc. (not altering text)

- C9** S. 126 applied (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1968 c. 46, **s. 63(5A)** (as inserted (28.6.1995 for specified purposes and otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. III para. 95(2)(c)** (with **Sch. 2 para. 6**)
- C10** S. 126(4)(5) applied (3.8.1999 for E. and W. and otherwise 1.10.1999) by 1999 c. 8, **ss. 62(4)(5)**, 67; S.I. 1999/2177, **art. 2(1)**; S.I. 1999/90, art. 2(a), **Sch. 1**
- C11** S. 126(4)(5) extended (28.6.1995) by 1995 c. 17, **s. 6(6)** (with Sch. 2 para. 6)
- C12** S. 126(4) extended by Health and Social Security Act 1984 (c. 48, SIF 113:1), **s. 28(3)**

Marginal Citations

- M6** 1990 c. 19.
M7 S.I. 1990 c.19.

127 Supplementary regulatory powers.

Regulations may provide for all or any of the following matters—

- (a) for prescribing the forms and manner of service of notices and other documents;
- (b) for prescribing the manner in which documents may be executed or proved;

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- (c) for prescribing the manner in which resolutions of any bodies (except the Public Health Laboratory Service Board) continued in being by this Act are to be proved;
- (d) for exempting judges and justices of the peace from disqualification by their liability to rates.

128 Interpretation and construction.

(1) In this Act [^{F40} and Part I of the National Health Service and Community Care Act 1990], unless the contrary intention appears—

^{F41}
 ^{F42}
 ^{F43}

[^{F44}“dental corporation” has the meaning given by section 35(5);]
 “dental practitioner” means a person registered in the dentists register under the ^{M8}Dentists Act [^{F45}1984];

[^{F46}“disabled persons” means persons who are blind, deaf or dumb or who suffer from mental disorder of any description and other persons who are substantially and permanently handicapped by illness, injury or congenital deformity or such other disability as may be prescribed;]

[^{F47}“dispensing optician” means a person who is registered in the register kept under section 2 of the ^{M9}Opticians Act 1958 of dispensing opticians or a body corporate enrolled in the list kept under section 4 of that Act of such bodies carrying on business as dispensing opticians;]

“equipment” includes any machinery, apparatus or appliance, whether fixed or not, and any vehicle;

[^{F48}“the FHSAA” means the Family Health Services Appeal Authority;]

“functions” included powers and duties;

^{F49}
^{F41}

“the health service” means the health service established in pursuance of [^{F50}section 1 of the ^{M10}National Health Service Act 1946 and continued under] section 1(1) above;

[^{F51}“health service body” has the same meaning as in section 4 of the ^{M11}National Health Service and Community Care Act 1990;]

“health service hospital” means a hospital vested in the Secretary of State [^{F52}for the purposes of his functions] under this Act [^{F53}or vested in [^{F54}a Primary Care Trust or] an NHS trust];

[^{F55}“high security psychiatric services” has the meaning given by section 4 above]

. ^{F42}

“hospital” means—

- (a) any institution for the reception and treatment of persons suffering from illness,
- (b) any maternity home, and
- (c) any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation,

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and includes clinics, dispensaries and out-patient departments maintained in connection with any such home or institution, and hospital accommodation shall be construed accordingly;

“illness” includes mental disorder within the meaning of [^{F56}the ^{M12}Mental Health Act 1983] and any injury or disability requiring medical or dental treatment or nursing;

“local authority” means a county council, . . . ^{F57}a district council, [^{F58}a county borough council,] a London borough council, and the Common Council of the City of London; ^{F59} . . .

“local education authority” has the same meaning as in the [^{F60}the Education Act 1996];

“local social services authority” means the council of a non-metropolitan county, [^{F61}of a county borough] or of a metropolitan district or London borough, or the Common Council of the City of London;

“medical” includes surgical;

[^{F51}“medical list” has the meaning given by section 29A(6);]

[^{F62}“medical practitioner” means a registered medical practitioner within the meaning of Schedule 1 to the ^{M13}Interpretation Act 1978]

“medicine” includes such chemical re-agents as are included in a list for the time being approved by the Secretary of State for the purposes of section 41 above;

“modifications” includes additions, omissions and amendments;

[^{F63}“NHS contract” has the meaning assigned by section 4(1) of the National Health Service and Community Care Act 1990;

“National Health Service trust” has the meaning assigned by section 5 of the National Health Service and Community Care Act 1990 and “NHS trust” shall be construed accordingly]

“officer” includes servant;

[^{F64}“operational date”, in relation to an NHS trust, shall be construed in accordance with paragraph 3(1)(e) of Schedule 2 to the National Health Service and Community Care Act 1990]

“ophthalmic optician” means a person registered in either of the registers kept under [^{F65}section 7 of the Opticians Act 1989] of ophthalmic opticians or a body corporate enrolled in the list kept under [^{F66}section 9] of that Act of such bodies carrying on business as ophthalmic opticians;

“patient” includes an expectant or nursing mother and a lying-in woman;

[^{F51}“personal dental services” has the meaning given in section 28C(7);]

[^{F51}“personal medical services” (except in section 29) has the meaning given in section 28C(7);]

[^{F67}“pharmaceutical services” has the meaning assigned by section 41 of this Act]

“prescribed” means prescribed by regulations made by the Secretary of State under this Act [^{F68}or Part I of the National Health Service and Community Care Act 1990;]

[^{F69}“PCT order” has the meaning given by section 16A above]

[^{F70}“primary functions” shall be construed in accordance with section 3 of the National Health Service and Community Care Act 1990]

“property” includes rights; . . . ^{F43}

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“registered pharmacist” means a pharmacist registered in the register of pharmaceutical chemists;

“regulations” means regulations made by the Secretary of State under this Act [^{F71}or Part I of the National Health Service and Community Care Act 1990];

^{F72}
...

“superannuation benefits” means annual superannuation allowances, gratuities and periodical payments payable on retirement, death or incapacity, and similar benefits;

[^{F73}“terms of service” means the terms upon which by virtue of regulations a person undertakes to provide general medical services, general dental services, general ophthalmic services or pharmaceutical services.]

“university” includes a university college;

[^{F74}“voluntary organisation” means a body the activities of which are carried on otherwise than for profit, but does not include any public or local authority;]

F42
.....

[^{F75}(1A) So far as is necessary or expedient in consequence of a direction under section 16D or 17A above providing for the exercise by a [^{F76}Strategic Health Authority,] Health Authority, Special Health Authority or Primary Care Trust of a function exercisable by another person, any reference in any enactment, instrument or other document to that other person is to be read as a reference to the [^{F76}Strategic Health Authority,] Health Authority, Special Health Authority or Primary Care Trust.]

(2) References in this Act to the purposes of a hospital shall be construed as referring both to the general purposes of the hospital and to any specific purpose of the hospital.

(3) Any reference in this Act to any enactment is a reference to it as amended or applied by or under any other enactment including this Act.

Textual Amendments

F40 Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), **s. 26(2)**

F41 Definitions of “District Health Authority” and “health authority” in s. 128(1) repealed (1.4.1996) by [1995 c. 17, s. 5\(1\)\(2\)](#), **Sch. 3** (with [Sch. 2 para. 6](#))

F42 Definition repealed by [Health Services Act 1980 \(c. 53, SIF 113:2\)](#), [Sch. 2, para. 10](#), **Sch. 7**

F43 Definition repealed by [Nurses, Midwives and Health Visitors Act 1979 \(c. 36, SIF 83:1\)](#), [Sch. 7, para. 28](#), **Sch. 8**

F44 [S. 128\(1\)](#): Definition of “dental corporation” inserted (22.11.2001 for E. and 1.7.2002 for W.) by [2001 c. 15, ss. 22\(5\), 70\(2\)](#) (with [ss. 64\(9\), 65\(4\)](#)); [S.I. 2001/3738, art. 2\(1\)](#), [Sch. 1 Pt. I](#); [S.I. 2002/1475, art. 2](#), [Sch. Pt. 1](#)

F45 Words substituted by [Dentists Act 1984 \(c. 24, SIF 83:1\)](#), s. 54(1), **Sch. 5 para. 9**

F46 Definition inserted by [Health and Social Services and Social Security Adjudications Act 1983 \(c. 41, SIF 113:3\)](#), s. 29(1), **Sch. 9 Pt. I para. 22**

F47 Definition repealed (*prosp.*) by [Health and Social Security Act 1984 \(c. 48, SIF 113:3\)](#), [ss. 24, 27\(1\)](#), **Sch. 8 Pt. I**

F48 [S. 128\(1\)](#): Definition of “the FHSAA” inserted (1.10.2001 for certain purposes for E., 1.12.2001 for all other purposes for E. and 26.8.2002 for W.) by [2001 c. 15, ss. 27\(3\), 70\(2\)](#) (with [ss. 64\(9\), 65\(4\)](#)); [S.I. 2001/3294, art. 4\(1\)](#), [Sch. Pt. I](#) (subject to transitional provisions in [Sch. Pt. II](#)); [S.I. 2002/1919, art. 3\(1\)](#), [Sch. Pt. II](#) (subject to [art. 3\(2\)](#))

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- F49** Definition of “fund-holding practice” in s. 128(1) repealed (1.10.1999 for E. and otherwise 1.4.2000) by 1999 c. 8, s. 65, **Sch. 5**; S.I. 1999/2540, art. 2(1), **Sch. 1**; S.I. 2000/1041, art. 2(d), **Sch.**
- F50** Words inserted by Health Services Act 1980 (c. 53, SIF 113:2), **Sch. 1**, para. 77(c)
- F51** Definitions in s. 128(1) inserted (1.4.1998 for specified purposes and otherwise 10.12.1998) by 1997 c. 46, s. 41(10), **Sch. 2 para. 28**; S.I. 1998/631, art. 2(b), **Sch. 2** (with arts. 3-5); S.I. 1998/2840, art. 2(3), **Sch.** (with art. 3)
- F52** Words inserted by Health Services Act 1980 (c. 53, SIF 113:2), **Sch. 1**, para. 77(d)
- F53** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 26(2)(c)**
- F54** Words in the definition of “health service hospital” in s. 128(1) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 38(2)(a)**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**
- F55** Definition of “high security psychiatric services” in s. 128(1) inserted (1.4.2000) by 1999 c. 8, s. 65, **Sch. 4 para. 38(2)(b)**; S.I. 1999/2793, art. 2(3)(a), **Sch. 3**
- F56** Words substituted by Mental Health Act 1983 (c. 20, SIF 85), s. 148, **Sch. 4 para. 47(d)**
- F57** Words repealed by Local Government Act 1985 (c. 51, SIF 81:1), s. 102(2), **Sch. 17**
- F58** Words in the definition of “local authority” in s. 128(1) inserted (1.4.1996) by 1994 c. 19, s. 22(4), **Sch. 10 para. 11(3)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F59** Words in the definition of “local authority” in s. 128(1) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), **Sch. 3** (with **Sch. 2** para. 6)
- F60** Words in the definition of “local education authority” in s. 128(1) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(1), **Sch. 37 para. 45** (with s. 1(4), **Sch. 39**)
- F61** Words in the definition of “local social services authority” in s. 128(1) inserted (1.4.1996) by 1994 c. 19, s. 22(4), **Sch. 10 para. 11(3)(b)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**
- F62** Definition substituted by Medical Act 1983 (c. 45, SIF 83:1), s. 56(1), **Sch. 5 para. 16(b)**
- F63** Definitions inserted (the insertion not being in force until 1.4.1991 so far as it relates to the definition of “NHS contract”) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 26(2)(d)**
- F64** Definition inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 26(2)(e)**
- F65** Words substituted by Opticians Act 1989 (c. 44, SIF 83:1), **s. 37(1)(a)**
- F66** Words substituted by Opticians Act 1989 (c. 44, SIF 83:1), **s. 37(1)(b)**
- F67** Definition inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 26(2)(f)**
- F68** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 26(2)(g)**
- F69** Definition of “PCT order” in s. 128(1) inserted (4.1.2000 for E. and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 38(2)(c)**; S.I. 1999/2342, art. 2(3)(a), **Sch. 2**
- F70** Definition inserted (1.4.1991) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 26(2)(h)**
- F71** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), **s. 26(2)(i)**
- F72** Definition of “special hospital” in s. 128(1) repealed (1.4.2000) by 1999 c. 8, s. 65, **Sch. 5**; S.I. 1999/2793, art. 2(3)(a), **Sch. 3**
- F73** S. 128(1): Definition of “terms of service” inserted (22.11.2001 for certain purposes for E., 14.12.2001 for all other purposes (except those relating to the provision of pharmaceutical services under the 1977 Act) for E. and otherwise *prosp.*) by 2001 c. 15, ss. 67(1), 70(2), **Sch. 5 Pt. 1 para. 5(14)** (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(2), **Sch. 1 Pt. II**
- F74** Definition substituted by Health Services Act 1980 (c. 53, SIF 113:2), **Sch. 1**, para. 77(e)
- F75** S. 128(1A) inserted (1.9.1999 for E. for specified purposes, 1.12.1999 for W. for specified purposes, 4.1.2000 for E. for other specified purposes and otherwise *prosp.*) by 1999 c. 8, ss. 65, 67, **Sch. 4 para. 38(3)**; S.I. 1999/2342, art. 2(1)(3)(a), Schs. 1, 2; S.I. 1999/3184, art. 2(2), **Sch. 2**

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F76 Words in s. 128(1A) inserted (1.10.2002) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), ss. 1(3), 42(3), **Sch. 1 Pt. 1 para. 33**; S.I. 2002/2478, **art. 3(1)(c)**

Marginal Citations

M8 1984 c. 24(83:1).
M9 1958 c. 32(83:1).
M10 1946 c. 81.
M11 1990 c. 19.
M12 1983 c. 20(85).
M13 1978 c. 30(115:1).

129 Transitional provisions and savings, consequential amendments, and repeals.

Schedule 14 to this Act is hereby given effect, and subject to the transitional provisions and savings contained in that Schedule—

(a) the enactments and the Order specified in Schedule 15 to this Act have effect subject to the amendments (being amendments consequent on this Act) specified in that Schedule, and

(b) ^{F77}

but nothing in this Act shall be taken as prejudicing the operation of [^{F78}sections 16(1) and 17(2)(a) of the ^{M14}Interpretation Act 1978] (which relates to the operation of repeals).

Textual Amendments

F77 S. 129(b) repeals enactments specified in Sch. 16
F78 Words substituted by virtue of Interpretation Act 1978 (c. 30, SIF 115:1), **s. 25(2)**

Marginal Citations

M14 1978 c. 30(115:1).

130 Short title, extent and commencement.

- (1) This Act may be cited as the National Health Service Act 1977.
- (2) This Act does not extend to Scotland, except as is mentioned in paragraph 3 of Schedule 11 to this Act.
- (3) The following provisions only of this Act apply to Northern Ireland—
 - (a) this subsection and subsections (1) above and (5) below;
 - (b) section 57 above and Schedule 11 to this Act;
 - ^{F79}(c)
 - (d) paragraph 13 of Schedule 14 to this Act so far as it relates to any enactment which extends to Northern Ireland;
 - (e) paragraph (a) of section 129 above and Schedule 15 to this Act so far as they amend any enactment and order which extends to Northern Ireland;
 - (f) paragraph (b) of section 129 and Schedule 16 to this Act so far as they repeal any enactment which extends to Northern Ireland.

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- (4) The Secretary of State may by order provide that this Act shall extend to the Isles of Scilly with such modifications, if any, as are specified in the order, and except as provided in pursuance of this subsection this Act does not extend to the Isles of Scilly.

The Secretary of State may by any such order amend or repeal any provisions contained in the Isles of Scilly Orders 1927 to 1943.

- (5) This Act shall come into force on the expiry of the period of one month beginning on the date of its passing.

Textual Amendments

F79 S. 130(3)(c) repealed (5.2.1994) by 1993 c. 46, ss. 20, 22(4), **Sch. 3**

Modifications etc. (not altering text)

C13 S. 130(4) extended by **Mental Health Act 1983 (c. 20, SIF 85), s. 149(4)**

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