



# National Health Service (Scotland) Act 1978

## 1978 CHAPTER 29

### PART V

#### PROPERTY AND FINANCE

##### *Land and other property*

#### **79 Purchase of land and moveable property.**

(1) The Secretary of State may purchase by agreement any moveable property and, by agreement or compulsorily, any land which he considers is required for the purposes of any service under this Act [<sup>F1</sup>and may take any such property or land on lease,], and may use for those purposes any property, heritable or moveable, acquired by him or on his behalf under this Act.

[<sup>F2</sup>(1A) Without prejudice to any other power of disposal, the Secretary of State may dispose of any land which he considers is no longer required for the purposes of any service under this Act <sup>F3</sup>. . .]

(2) Where the Secretary of State acquires premises under subsection (1) [<sup>F4</sup>other than on lease] he may acquire compulsorily, in accordance with Schedule 13, any equipment, furniture or other moveable property used in or in connection with the premises.

(3) Any Health Board or the Agency may acquire on behalf of the Secretary of State any moveable property which may be required for the purposes aforesaid.

(4) For the purpose of the purchase of land by agreement by the Secretary of State—  
(a) the Lands Clauses Acts (except so much thereof as relates to the acquisition of land otherwise than by agreement, and the provisions relating to access to the special Act, and except sections 120 to 125 of the <sup>M1</sup>Lands Clauses Consolidation (Scotland) Act 1845), and

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(b) section 6 and sections 70 to 78 of the <sup>M2</sup>Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the <sup>M3</sup>Mines (Working Facilities and Support) Act 1923),  
are hereby incorporated with this section; and in construing those Acts for the purposes of this section, this section shall be deemed to be the special Act and the Secretary of State shall be deemed to be the promoter of the undertaking.

#### Textual Amendments

- F1** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(15)(a)**
- F2** S. 79(1A) inserted by Health and Social Services and Social Security Adjudications Act 1983 (c. 41, SIF 113:3), s. 14(2), **Sch. 7 para. 3**
- F3** Words in s. 79(1A) repealed (1.8.1995) by 1995 c. 7, ss. 14(2), 15(2), **Sch. 5** (with ss. 9(3)(5)(7), 13, 14(3))
- F4** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(15)(b)**

#### Modifications etc. (not altering text)

- C1** S. 79(1) extended by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), **ss. 17(2), 91(6)**
- C2** By S.I. 1990/2369, **art. 4(2)(c)** certain functions of the Secretary of State under s. 79(1) are made exercisable (1.4.1991) by the Health Education Board for Scotland
- C3** S. 79(1): functions transferred (27.6.2002) by S.S.I. 2002/305, **art. 4(2)(i)** (with art. 4(4))  
S. 79(1): functions transferred (31.3.2002) by S.S.I. 2002/103, **art. 4(2)(c)** (with art. 4(4))
- C4** S. 79(1A) applied (1.4.1991) by S.I. 1990/2639, **art. 5(1)(2), Sch. Pt. I** (which amendment fell on 1.4.2003 by virtue of the omission of the amending provision by S.S.I. 2003/154, **art. 6(b)**)
- C5** By S.I. 1990/2369, **art. 4(2)(d)** certain functions of the Secretary of State under s. 79(1A) (see entry above) are made exercisable by the Health Education Board for Scotland
- C6** S. 79(1A)(3) applied (with modifications) (1.4.1993) by S.I. 1993/577, **art. 5(1)(2), Sch. Pt. I** (with art. 6)  
S. 79(1A)(3) applied (1.4.1995) by S.I. 1995/574, **art. 5(1)(2), Sch. Pt. I** (with art. 6)  
S. 79(1A)(3) applied (1.4.1999) by S.I. 1999/686, **art. 5(1)(2), Sch. Pt. I**  
S. 79(1A)(3) applied (1.4.1999) by S.I. 1999/726, **art. 5(1)(2), Sch. Pt. I**  
S. 79(1A)(3) applied (1.4.2000) by S.S.I. 2000/47, **art. 5(1)(2), Sch. Pt. I**  
S. 79(1A)(3) applied (6.4.2001) by S.S.I. 2001/137, **art. 5(1), Sch. Pt. I**  
S. 79(1A)(3) applied (31.3.2002) by S.S.I. 2002/103, **art. 6, Sch. Pt. I** (with art. 4(4))  
S. 79(1A)(3) applied (27.6.2002) by S.S.I. 2002/305, **art. 5(1), Sch. Pt. I** (with art. 4(4))
- C7** S. 79(3) applied (1.4.1991) by S.I. 1990/2639, **art. 5(1)(2), Sch. Pt. I**

#### Marginal Citations

- M1** 1845 c. 19.  
**M2** 1845 c. 33.  
**M3** 1923 c. 20.

## 80 Transferred property free of trusts.

- (1) All property vested in the Secretary of State by virtue of section 6 of the <sup>M4</sup>National Health Service (Scotland) Act 1947 is so vested free of any trust existing immediately before 5th July 1948; and the Secretary of State may use any such property for the purpose of any of the functions exercisable by him under this Act, but shall so far as practicable secure that the objects for which any such property was used immediately

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before the said 5th July are not prejudiced by the exercise of the power hereby conferred.

- (2) Where the character and associations of any voluntary hospital transferred to the Secretary of State by virtue of the said Act of 1947 are such as to link it with a particular religious denomination, regard shall be had in the general administration of the hospital to the preservation of the character and associations of the hospital.

#### Marginal Citations

M4 1947 c. 27.

### 81 Power of voluntary organisations to transfer property to Secretary of State.

Notwithstanding anything contained in the constitution or rules of any voluntary organisation formed for the purpose of providing a service of nurses for attendance on the sick in their own home or of midwives, or in any trust deed or other instrument relating to any such organisation or service, any property vested in the organisation or held by any persons on trust for the organisation or service or for any specific purposes connected with the organisation or service may be transferred to the Secretary of State on such terms as may be agreed between the Secretary of State and the organisation or trustees, with a view to the property being used or held by the Secretary of State for purposes similar to the purposes for which it was previously used or held.

#### *Trust property*

### 82 Use and administration of certain endowments and other property held by Health Boards.

- (1) All endowments vested in a Health Board by virtue of section 37 of the <sup>M5</sup>National Health Service (Scotland) Act 1972 are so vested free of any trust existing immediately before 1st April 1974 (hereafter in this section referred to in relation to any such endowment as “the original trust”); but all such endowments shall be held by the Health Board on trust for such purposes relating to services provided under this Act in or in relation to hospitals, or to the functions of the Board with respect to research, as the Board may think fit.
- (2) All property vested in a Health Board by virtue of section 39 of the said Act of 1972 is so vested free of any trust existing immediately before the said 1st April (hereafter in this section referred to in relation to any such property as “the original trust”); but all such property shall be held by the Health Board on trust for such purposes relating to services provided by them under this Act, or to the functions of the Board with respect to research, as the Board may think fit.
- (3) In exercising the power conferred on them by this section in relation to any endowment or property a Health Board shall secure, so far as is reasonably practicable, that the objects of the original trust (including, in the case of an endowment, the objects of the endowment) and the observance of any conditions attaching thereto, including, in particular, conditions intended to preserve the memory of any person or class of persons, are not prejudiced by the exercise of the power.

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- (4) Any reference in this section to an endowment or to any property includes a reference to the accumulated income thereof.

**Modifications etc. (not altering text)**

**C8** S. 82 applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), **Sch. Pt. I**

**Marginal Citations**

**M5** 1972 c. 58.

**83 Power of Health Boards and local health councils to hold property on trust.**

- (1) A Health Board shall have power to accept, hold and administer any property on trust for purposes relating to any service which it is their function to make arrangements for, administer or provide, or to their functions with respect to research.
- (2) A local health council shall have power to accept, hold and administer any property on trust for purposes relating to any function conferred upon them by or under any enactment.

**Modifications etc. (not altering text)**

**C9** S. 83(1) applied (1.4.1991) by S.I. 1990/2639, art. 5(1)(2), **Sch. Pt. I**

**C10** S. 83(1) applied (1.4.1993) by S.I. 1993/577, art. 5(1)(2), **Sch. Pt. I** (with art. 6)

S. 83(1) applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), **Sch. Pt. I** (with art. 6)

S. 83(1) applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), **Sch. Pt. I**

S. 83(1) applied (1.4.1999) by S.I. 1999/726, art. 5(1)(2), **Sch. Pt. I**

S. 83(1) applied (1.4.2000) by S.S.I. 2000/47, art. 5(1)(2), **Sch. Pt. I**

S. 83(1) applied (6.4.2001) by S.S.I. 2001/137, art. 5(1), **Sch. Pt. I**

S. 83(1) applied (31.3.2002) by S.S.I. 2002/103, art. 6, **Sch. Pt. I** (with art. 4(4))

S. 83(1) applied (27.6.2002) by S.S.I. 2002/305, art. 5(1), **Sch. Pt. I** (with art. 4(4))

**84 Power of trustees to make payments to Health Boards.**

- (1) Where property (other than property transferred to the Secretary of State under Part V of the <sup>M6</sup>National Health Service (Scotland) Act 1972 or to a Health Board under Part VI of that Act) was immediately before 1st April 1974, and is at any time after the commencement of this Act, held on trust under a trust instrument the terms of which authorise or require the trustees (whether immediately or in the future) to apply any part of the capital or income of the property for the purposes of any hospital or service which is administered by a Health Board [<sup>F5</sup>or an NHS trust], the trust instrument shall be construed as authorising, or, as the case may be, requiring, the trustees to pay that capital or income to the Health Board [<sup>F6</sup>or NHS trust] concerned.
- (2) Where property so held on trust is, under the trust instrument, to be applied for the purposes of hospitals which are administered by more than one Health Board [<sup>F7</sup>or NHS trust], the trustees shall distribute the property between the Boards [<sup>F8</sup>or NHS trusts] concerned, in such manner, having regard to the purposes of the trust, as the trustees may determine.

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- (3) Any sums paid to a Health Board [<sup>F9</sup>or an NHS trust] under this section shall, so far as practicable, be applied by them for the purposes specified in the trust instrument.

#### Textual Amendments

- F5** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(16)(a)(i)**
- F6** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(16)(a)(ii)**
- F7** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(16)(b)(i)**
- F8** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(16)(b)(ii)**
- F9** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(16)(c)**

#### Modifications etc. (not altering text)

- C11** S. 84 applied (1.4.1991) by S.I. 1990/2639, art. 5(1)(2), **Sch. Pt. I**
- C12** S. 84 applied (1.4.1993) by S.I. 1993/577, art. 5(1)(2), **Sch. Pt. I** (with art. 6)
- S. 84 applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), **Sch. Pt. I** (with art. 6)
- S. 84 applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), **Sch. Pt. I**
- S. 84 applied (1.4.1999) by S.I. 1999/726, art. 5(1)(2), **Sch. Pt. I**
- S. 84 applied (1.4.2000) by S.S.I. 2000/47, art. 5(1)(2), **Sch. Pt. I**
- S. 84 applied (6.4.2001) by S.S.I. 2001/137, art. 5(1), **Sch. Pt. I**
- S. 84 applied (27.6.2002) by S.S.I. 2002/305, art. 5(1), **Sch. Pt. I** (with art. 4(4))
- S. 84 applied (31.3.2002) by S.S.I. 2002/103, art. 6, **Sch. Pt. I** (with art. 4(4))

#### Marginal Citations

- M6** 1972 c. 58.

### <sup>F10</sup>84A Power to raise money, etc., by appeals, collections, etc.

- (1) A Health Board [<sup>F11</sup>or NHS trust] shall have power to engage in activities intended to stimulate the giving (whether on trust or otherwise) of money or other property to assist them in providing or improving any services or any facilities or accommodation which is or are to be provided as part of the health service or to assist them in connection with their functions with respect to research.
- (2) A local health council shall have power to engage in activities intended to stimulate the giving (whether on trust or otherwise) of money or other property to assist them in carrying out any function conferred upon them by or under any enactment.
- (3) Subject to any directions of the Secretary of State excluding specified descriptions of activity, the activities authorised by this section include public appeals or collections and competitions, entertainments, bazaars, sales of produce or other goods and other similar activities and the activities may involve the use of land, premises or other property held by or for the benefit of the Board [<sup>F12</sup>, NHS trust] or local health council exercising the power subject however to any restrictions on the purposes for which trust property may be used.
- (4) Subject to subsections (5) and (6), the Health Board [<sup>F12</sup>, NHS trust] or local health council at whose instance property is given in pursuance of this section shall, after

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defraying out of it any expenses incurred in obtaining it, hold, administer and apply the property on trust for or for the purpose for which it was given.

- (5) Where property held by a Health Board [F12, NHS trust] or local health council under this section is more than sufficient to enable the purpose for which it was given to be fulfilled, the excess shall be applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property comprising the excess was given, for such purposes connected with any of the functions of the Board [F12, NHS trust] or council as the Board [F12, NHS trust] or council think fit.
- (6) Where property held by a Health Board [F12, NHS trust] or local health council under this section is insufficient to enable the purpose for which it was given to be fulfilled then—
- (a) the Board [F12, NHS trust] or the council may apply so much of the capital or income at their disposal as is needed to enable the purpose to be fulfilled subject, however, in the case of trust property, to any restrictions on the purposes for which the trust property may be applied, and in the case of money paid or payable by the Secretary of State under section 85(1), to any directions he may give; but
  - (b) where the capital or income applicable under paragraph (a) is insufficient or is not applied to enable the purpose to be fulfilled, the property so held by the Board [F12, NHS trust] or the council shall be applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property was given, for such purposes connected with any of the functions of the Board [F12, NHS trust] or council as the Board [F12, NHS trust] or council think fit.
- (7) Where under subsections (5) or (6) property becomes applicable for purposes other than that for which it was given, the Health Board [F12, NHS trust] or local health council shall have regard to the desirability of applying the property for a purpose similar to that for which it was given.]

#### Textual Amendments

**F10** S. 84A inserted by Health Services Act 1980 (c. 53), s. 5(2)

**F11** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), Sch. 9 para. 19(17)(a)

**F12** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), Sch. 9 para. 19(17)(b)

#### Modifications etc. (not altering text)

**C13** S. 84A applied (1.4.1991) by S.I. 1990/2639, art. 5(1)(2), Sch. Pt. I

**C14** S. 84A applied (1.4.1993) by S.I. 1993/577, art. 5(1)(2), Sch. Pt. I (with art. 6)

S. 84A applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), Sch. Pt. I (with art. 6)

S. 84A applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), Sch. Pt. I

S. 84A applied (1.4.1999) by S.I. 1999/726, art. 5(1)(2), Sch. Pt. I

S. 84A applied (1.4.2000) by S.S.I. 2000/47, art. 5(1)(2), Sch. Pt. I

S. 84A applied (6.4.2001) by S.S.I. 2001/137, art. 5(1), Sch. Pt. I

S. 84A applied (27.6.2002) by S.S.I. 2002/305, art. 5(1), Sch. Pt. I (with art. 4(4))

S. 84A applied (31.3.2002) by S.S.I. 2002/103, art. 6, Sch. Pt. I (with art. 4(4))

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VALID FROM 17/10/2005

### *[<sup>F13</sup>Joint ventures*

#### **Textual Amendments**

**F13** S. 84B and cross-heading inserted (S.) (17.10.2005) by [Smoking, Health and Social Care \(Scotland\) Act 2005 \(asp 13\)](#), ss. [37\(1\)](#), [43\(3\)](#); S.S.I. 2005/492, [art. 3\(a\)](#), Sch. 1

#### **84B Joint ventures**

- (1) The Scottish Ministers may do any (or all) of the following—
- (a) form or participate in forming companies to provide facilities or services for persons or groups of persons exercising functions, or otherwise providing services, under this Act;
  - (b) participate in companies providing facilities or services for persons or groups of persons falling within paragraph (a);
  - (c) with a view to securing or facilitating the provision by companies of facilities or services for persons or groups of persons falling within paragraph (a)—
    - (i) invest in the companies (whether by acquiring assets, securities or rights or otherwise);
    - (ii) provide loans and guarantees and make other kinds of financial provision to or in respect of them.
- (2) For the purpose of subsection (1), it is immaterial that the facilities or services provided or to be provided by a company are not provided or to be provided—
- (a) only to persons or groups of persons exercising functions, or otherwise providing services, under this Act; or
  - (b) to such persons or groups of persons only in that capacity.
- (3) In this section—
- “companies” means companies within the meaning of the Companies Act 1985 (c. 6);
- “facilities” includes the provision of (or the use of) premises, goods, equipment, materials, vehicles, plant or apparatus.]

### *Finance and accounts*

VALID FROM 01/10/1999

#### **[<sup>F14</sup>85A Means of meeting expenditure of Health Boards out of public funds.**

- (1) The Secretary of State shall pay to each Health Board sums equal to their general Part II expenditure.
- (2) “General Part II expenditure” is expenditure which—

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- (a) is attributable to the payment of remuneration to persons providing services in pursuance of Part II; but
  - (b) does not fall within paragraphs (b) to (e) of subsection (4).
- (3) The Secretary of State shall pay to each Health Board, in respect of each financial year, sums not exceeding the amount allotted for that year by the Secretary of State to the Board towards meeting their main expenditure.
- (4) In subsection (3) “main expenditure” means expenditure which is attributable to—
  - (a) the performance by the Board of their functions in that year, but—
    - (i) is not general Part II expenditure; and
    - (ii) does not fall within paragraphs (b) to (d);
  - (b) the reimbursement of expenses of persons providing services in pursuance of Part II which are designated expenses incurred in connection with the provision of the services (or in giving instruction in matters relating to the services);
  - (c) remuneration which is paid to persons providing additional pharmaceutical services (in accordance with directions under section 27A) in respect of such of those services as are designated;
  - (d) remuneration which is—
    - (i) paid to persons providing general medical services under Part II;
    - (ii) determined by the Health Board concerned; and
    - (iii) of a designated description; or
  - (e) remuneration which is referable to the cost of drugs for which the Health Board is accountable in that year (whether paid by it or by another Health Board).
- (5) In paragraphs (b) to (e) of subsection (4), “designated” means designated in writing by the Secretary of State for the purposes of that paragraph and in relation to the allotment in question.
- (6) An amount is allotted to a Health Board for a year under this section when they are notified by the Secretary of State that it is allotted to them for that year; and the Secretary of State may make an allotment under this section increasing or reducing an allotment previously so made.
- (7) Where the Secretary of State proposes to pay any sum to a Health Board, he may, with the consent of the Treasury, instead pay that sum to an NHS trust in discharge of the whole or any part of any liability of the Health Board to the NHS trust.
- (8) The Secretary of State may give directions to a Health Board with respect to the application of sums paid to them and a Board to whom directions have been given under this subsection shall comply with the directions.
- (9) The expenditure of a University Liaison Committee shall, for the purposes of this section, be deemed to be the expenditure of the Health Board for whose area it is constituted, and, where a University Liaison Committee is constituted for the areas of more than one Health Board, its expenditure shall be apportioned between the Boards concerned in such manner as may be determined by the Secretary of State.
- (10) Payments under this section shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Secretary of State may determine.



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(11) In this section and section 85AB, “drugs” includes medicines and listed appliances (within the meaning of section 27).]

#### Textual Amendments

**F14** S. 85, 85AA, 85AB substituted for s. 85 (1.10.1999) by 1999 c. 8, s. 52; S.I. 1999/90, art. 2(a), Sch. 1

#### Modifications etc. (not altering text)

**C15** S. 85AA applied (1.4.2000) by S.S.I. 2000/47, art. 5(1)(2), Sch. Pt. I

S. 85AA applied (6.4.2001) by S.S.I. 2001/137, art. 5(1), Sch. Pt. I

S. 85AA applied (31.3.2002) by S.S.I. 2002/103, art. 6, Sch. Pt. I (with art. 4(4))

S. 85AA applied (27.6.2002) by S.S.I. 2002/305, art. 5(1), Sch. Pt. I (with art. 4(4))

**C16** S. 85AA applied (1.4.2003) by S.I. 1990/2639, art. 5(1), Sch. Pt. 1 (as amended by The Health Education Board for Scotland Amendment Order 2003 (S.S.I. 2003/154), art. 6(c))

VALID FROM 01/10/1999

#### [<sup>F15</sup>85AB Further provision as to expenditure on drugs.

- (1) For each financial year, the Secretary of State shall apportion, in such manner as he thinks appropriate, among all Health Boards the total of the remuneration referable to the cost of drugs which is paid by each Health Board in that year.
- (2) A Health Board is accountable in any year for remuneration referable to the cost of drugs to the extent (and only to the extent) that such remuneration is apportioned to it under subsection (1).
- (3) Where in any financial year any remuneration referable to the cost of drugs for which a Health Board is accountable is paid by another Health Board, the remuneration is to be treated (for the purposes of this section) as having been paid by the first Health Board in the performance of its functions.
- (4) The Secretary of State may, in particular, exercise his discretion under subsection (1)
  - (a) so that any apportionment reflects, in the case of each Health Board, the financial consequences of orders for the provision of drugs, being orders which in his opinion are attributable to the Board in question;
  - (b) by reference to averaged or estimated amounts.
- (5) The Secretary of State may make provision for any remuneration referable to the cost of drugs which is paid by a Health Board other than the Health Board which is accountable for the payment to be reimbursed in such manner as he may determine.
- (6) The Secretary of State shall determine what remuneration paid by Health Boards to persons providing pharmaceutical services is to be treated for the purposes of section 85AA and this section as remuneration referable to the cost of drugs.]

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### Textual Amendments

**F15** S. 85, 85AA, 85AB substituted for s. 85 (1.10.1999) by 1999 c. 8, s. 52; S.I. 1999/90, art. 2(a), Sch. I

## 85 Expenses of certain bodies and travelling expenses and receipts.

[<sup>F16</sup>(1) Subject to subsection (2), there shall, in respect of each financial year, be paid by the Secretary of State sums not exceeding the amount allotted <sup>F17</sup> by him for that year to each of the following bodies towards meeting the expenditure attributable to the performance by that body of their functions in that year—

- (a)
- <sup>F18</sup>(b) every Health Board;
- (c) the Agency;
- (d) the Medical Practices Committee;
- (e) the Dental Estimates Board;
- (f) the Tribunal;
- (g) every local health council.

[ Notwithstanding subsection (2), the amount allotted by the Secretary of State to a <sup>F19</sup>(1AA) Health Board under subsection (1) shall include provision for expenditure of that Board which is attributable to—

- (a) remuneration which is paid to persons providing additional pharmaceutical services (in accordance with directions under section 27A), in respect of such of those services as are designated; or
- (b) remuneration which is—
  - (i) paid to persons providing general medical services under Part II;
  - (ii) determined by the Health Board concerned; and
  - (iii) of a designated description.

<sup>F19</sup>(1AB) In subsection (1AA), “designated” means designated in writing by the Secretary of State for the purposes of that subsection and in relation to the allotment in question.]

[ The date on which an allotment under subsection (1) above [<sup>F21</sup>or subsection (2)(a) <sup>F20</sup>(1A) below] (including an allotment increasing or reducing an allotment previously made) takes effect is the date on which the body receiving the allotment are notified of its amount by the Secretary of State.]

(2) [<sup>F22</sup>Subject to subsection (1AA),] Subsection (1) does not apply in respect of the expenditure of a Health Board which is attributable to the performance of their functions under Part II, but in that respect there shall, in respect of each financial year, be paid by the Secretary of State

- [ such amounts as he may allot for any kind of expenditure attributable to <sup>F23</sup>(a) reimbursement of expenses of persons providing services in pursuance of that Part; and
- (b) sums equal to any other expenditure attributable to remuneration of persons providing such services.]

(2A) The Secretary of State may give directions to a body referred to in subsection (1) with respect to the application of the sums paid to them under that subsection and it shall be the duty of any body to whom directions have been given under this subsection to comply with the directions.]

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- (3) The expenditure of a University Liaison Committee shall, for the purposes of this section, be deemed to be the expenditure of the Health Board for whose area it is constituted, and, where a University Liaison Committee is constituted for the areas of more than one Health Board, its expenditure shall be apportioned between the Boards concerned in such manner as may be determined by the Secretary of State.
- (4) Payments under subsection (1) shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Secretary of State may determine.
- (5)
- <sup>F24</sup>(6) Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund, <sup>F25</sup>.

#### Textual Amendments

- F16** S. 85(1)-(2A) substituted for s. 85(1)(2) by [Health Services Act 1980 \(c. 53\)](#), s. 6(3)(5) in relation to the financial year 1980 to 1981 and subsequent years
- F17** Words repealed by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 24, [Sch. 8 Pt. I](#)
- F18** S. 85(1)(a) repealed by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(2), [Sch. 10](#)
- F19** S. 85(1AA)(1AB) inserted (1.4.1998) by 1997 c. 46, s. 37(1); S.I. 1998/631, art. 2(a), [Sch. 1](#)
- F20** S. 85(1A) inserted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 6(3)
- F21** Words inserted by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), s. 25(1), [Sch. 2 para. 14](#)
- F22** Words in s. 85(2) inserted (1.4.1998) by 1997 c. 46, s. 37(2); S.I. 1998/631, art. 2(a), [Sch. 1](#)
- F23** S. 85(2)(a)(b) substituted for words commencing “sums equal to the expenditure” by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), s. 16(3)
- F24** S. 85(5) repealed by [Social Security Act 1988 \(c. 7, SIF 113:1\)](#), s. 16(2), [Sch. 5](#)
- F25** Words repealed by [Health Services Act 1980 \(c. 53\)](#), [Sch. 7](#)

#### Modifications etc. (not altering text)

- C17** S. 85(1)(2A)(4)(6) extended by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), ss. 2(8)(a), 17(2), 91(2), [Sch. 1 para. 8\(c\)](#)
- C18** Ss. 85(1)(2A), 85A(1)(3)(4) applied (1.4.1991) by S.I. 1990/2639, art. 5(1)(2), [Sch. Pt. I](#)
- C19** S. 85(1)(2A) applied (1.4.1993) by S.I. 1993/577, art. 5(1)(2), [Sch. Pt. I](#) (with art. 6)  
S. 85(1)(2A) applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), [Sch. Pt. I](#) (with art. 6)  
S. 85(1)(2A) applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), [Sch. Pt. I](#)  
S. 85(1)(2A) applied (1.4.1999) by S.I. 1999/726, art. 5(1)(2), [Sch. Pt. I](#)

#### <sup>F26</sup>85A Financial duties of bodies referred to in section 85.

- (1) It is the duty of each such body as is referred to in section 85(1), in respect of each financial year, so to perform their functions as to secure that the expenditure attributable to the performance of their functions in that year does not exceed the aggregate of—
- the amounts allotted to that body for that year under section 85(1) [<sup>F27</sup>and, as the case may be, section 85(2)(a)];
  - any other sums received under this Act in that year by that body; and
  - any sums received otherwise than under this Act in that year by that body for the purposes of enabling them to defray any such expenditure.

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- (2) Subsection (3) of section 85 shall apply for the purposes of this section as it applies for the purposes of that section.
- (3) The Secretary of State may give such directions to a body referred to in section 85(1) as appear to him to be requisite to secure that the body comply with the duty imposed on them by subsection (1) and it shall be the duty of the body to comply with the directions.

Directions under this subsection may be specific in character.

- (4) To the extent to which—
- (a) any expenditure of a Health Board or a local health council is defrayed by that body as trustee; or
  - (b) any sums are received by such a body as trustee or under section 84A, that expenditure and, subject to subsection (5), those sums shall be disregarded for the purposes of this section, and, for those purposes, sums which, in the hands of such a body, cease to be trust funds and become applicable by the body otherwise than as trustee shall be treated, on their becoming so applicable, as having been received by the body otherwise than as trustee.
- (5) Of the sums received by a body under section 84A so much only as accrues to the body after defraying any expenses incurred in obtaining them shall be disregarded under subsection (4).
- (6) Subject to subsection (4), the Secretary of State may, by directions, determine—
- (a) whether sums of a description specified in the directions are or are not to be treated for the purposes of this section as being receivable under this Act by a body of a description so specified;
  - (b) whether expenditure of a description specified in the directions is or is not to be treated for the purposes of this section as being attributable to the performance of functions by a body of a description so specified; or
  - (c) the extent to which and the circumstances in which sums received but not yet spent by a body under section 85(1) <sup>F28</sup>, or, as the case may be, section 85(2) (a) are to be treated for the purposes of this section as part of the expenditure of the body and to which financial year's expenditure they are to be attributed.]

#### Textual Amendments

- F26** S. 85A inserted by [Health Services Act 1980 \(c. 53\)](#), s. 6(4)(5) in relation to the financial year 1980 to 1981 and subsequent years
- F27** Words inserted by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), s. 16(4)(a)
- F28** Words inserted by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), s. 16(4)(b)

#### Modifications etc. (not altering text)

- C20** S. 85A(1)(3) extended by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), ss. 2(8)(b), 17(2), 91(2), [Sch. 1 para. 8\(d\)](#)
- C21** Ss. 85(1)(2A), 85A(1)(3)(4) applied (1.4.1991) by S.I. 1990/2639, art. 5(1)(2), [Sch. Pt. I](#)
- C22** S. 85A(1)(3)(4) applied (1.4.1993) by S.I. 1993/577, art. 5(1)(2), [Sch. Pt. I](#) (with art. 6)
- S. 85A(1)(3)(4) applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), [Sch. Pt. I](#) (with art. 6)
- S. 85A(1)(3)(4) applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), [Sch. Pt. I](#)
- S. 85A(1)(3)(4) applied (1.4.1999) by S.I. 1999/726, art. 5(1)(2), [Sch. Pt. I](#)

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[<sup>F29</sup>**85B Schemes for meeting losses and liabilities etc. of certain health service bodies.**

- (1) The Secretary of State may by regulations made with the consent of the Treasury establish a scheme whereby any of the bodies mentioned in subsection (2) may make provision to meet—
  - (a) expenses arising from any loss of or damage to their property; and
  - (b) liabilities to third parties for loss, damage (including solatium) or injury arising out of the carrying out of the functions of the bodies concerned.
- (2) The bodies referred to in subsection (1) are—
  - (a) Health Boards;
  - (b) the Agency;
  - (c) a State Hospital Management Committee constituted under section 91 of the Mental Health (Scotland) Act 1984; and
  - (d) NHS trusts,but a scheme under this section may limit the class or description of bodies which are eligible to participate in it.
- (3) Without prejudice to the generality of the power conferred by subsection (1), a scheme under this section may-
  - (a) provide for the scheme to be administered by the Secretary of State, the Agency, or a Health Board or NHS trust specified in the scheme;
  - (b) require any body which participates in the scheme to make payments in accordance with the scheme; and
  - (c) provide for the making of payments for the purposes of the scheme by the Secretary of State.
- (4) Without prejudice to any other power of direction conferred on the Secretary of State,-
  - (a) if the Secretary of State so directs, any body which is eligible to participate in a scheme shall do so; and
  - (b) where a scheme provides for it to be administered by the Secretary of State, the Agency or a Health Board or NHS trust shall carry out such functions in connection with the administration of the scheme as the Secretary of State may direct.
- (5) Neither the Secretary of State nor any body administering a scheme under this section shall, by virtue of their activities under the scheme, be regarded as carrying on insurance business for the purposes of the Insurance Companies Act 1982.]

**Textual Amendments**

**F29** S. 85B inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 41

**Modifications etc. (not altering text)**

**C23** Ss. 85B, 86 applied (1.4.1991) by S.I. 1990/2639, art. 5(1)(2), [Sch. Pt. I](#)

**C24** S. 85B applied (1.4.1993) by S.I. 1993/577, art. 5(1)(2), [Sch. Pt. I](#) (with art. 6)

S. 85B applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), [Sch. Pt. I](#) (with art. 6)

S. 85B applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), [Sch. Pt. I](#)

S. 85B applied (1.4.1999) by S.I. 1999/726, art. 5(1)(2), [Sch. Pt. I](#)

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**86 Accounts of Health Boards and the Agency.**

[<sup>F30</sup>(1) The following bodies that is to say—

- (a) every Health Board;
- (b) the Agency; and
- (c) every NHS trust,]

shall keep, in such form as the Secretary of State may, with the approval of the Treasury, direct, accounts of all moneys received or paid out by them, and those accounts shall be audited [<sup>F31</sup>in accordance with Part VII of the Local Government (Scotland) Act 1973 by auditors appointed by the Accounts Commission for Scotland]; and the Comptroller and Auditor General may examine all such accounts and any records relating thereto and any report of the auditor thereof.

[<sup>F32</sup>(1A) So far as relates to allotted sums paid to the members of a recognised fund-holding practice—

- (a) accounts shall be kept in such form as the Secretary of State may with the approval of the Treasury direct and shall be audited [<sup>F33</sup>in accordance with Part VII of the Local Government (Scotland) Act 1973 by auditors appointed by the Accounts Commission for Scotland];
- (b) the Comptroller and Auditor General may examine the accounts and the records relating to them and any report of the auditor on them;
- (c) in respect of each financial year, annual accounts in such form as the Secretary of State may with the approval of the Treasury direct shall be prepared and submitted to the relevant Health Board; and
- (d) in respect of each financial year, each Health Board shall prepare, in such form as the Secretary of State may with the approval of the Treasury direct, and include in its own accounts, a summarised version of the accounts submitted to the Board under paragraph (c).

(1B) In preparing its annual accounts in pursuance of subsection (1), an NHS trust shall comply with any directions given by the Secretary of State with the approval of the Treasury as to—

- (a) the methods and principles according to which the accounts are to be prepared; and
- (b) the information to be given in the accounts.]

[<sup>F34</sup>(1C) In such circumstances and to such extent as regulations made by the Secretary of State so provide, the requirement in subsection (1A)(a) to have accounts audited shall not apply to the accounts for any year of a recognised fund-holding practice if those accounts are submitted to a Health Board and summarised in the Board’s accounts.]

<sup>F35</sup>(2) .....

(3) Every [<sup>F36</sup>body mentioned in paragraphs (a) to (c) of subsection (1)] shall prepare and transmit to the Secretary of State in respect of each financial year accounts in such form as the Secretary of State may, with the approval of the Treasury, direct.

(4) The Secretary of State shall prepare in respect of each financial year, in such form as the Treasury may direct, summarised accounts of the [<sup>F37</sup>bodies mentioned in paragraphs (a) to (c) of subsection (1)], and shall transmit them on or before 30th November in each year to the Comptroller and Auditor General, who shall examine

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and certify them and lay a copy of them, together with his report thereon, before each House of Parliament.

[<sup>F38</sup>(5) In this section “recognised fund-holding practice” and “allotted sum” have the same meaning as in section 87B.]

#### Textual Amendments

- F30** S. 86(1)(a)(b)(c) substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. **36(2)(3)**
- F31** Words in s. 86(1) substituted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 14(2)**; S.I. 1994/2658, **art. 4(a)**
- F32** S. 86(1A)(1B) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. **36(2)(4)**
- F33** Words in s. 86(1A)(a) substituted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 14(2)**; S.I. 1994/2658, **art. 4(a)**
- F34** Subsection (1C) inserted (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 36(1), **Sch. 7 para. 14(3)**; S.I. 1994/2658, **art. 4(a)**
- F35** S. 86(2) repealed (1.4.1995) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 36(1), 66(2), Sch. 7 para. 14(4), **Sch. 10**; S.I. 1994/2658, **art. 4(a)(b)**
- F36** Words substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. **36(6)**
- F37** Words substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. **36(7)**
- F38** S. 86(5) added by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. **36(8)**

#### Modifications etc. (not altering text)

- C25** Ss. 85B, 86 applied (1.4.1991) by S.I. 1990/2639, art. 5(1)(2), **Sch. Pt. I**
- C26** S. 86 extended by Mental Health (Scotland) Act 1984 (c. 36, SIF 85), ss. **2(8)(c)**, 17(2), 91(2), Sch. 1 para. 8(e)
- C27** S. 86 applied (1.4.1993) by S.I. 1993/577, art. 5(1)(2), **Sch. Pt. I** (with art. 6)  
S. 86 applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), **Sch. Pt. I** (with art. 6)  
S. 86 applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), **Sch. Pt. I**  
S. 86 applied (1.4.1999) by S.I. 1999/726, art. 5(1)(2), **Sch. Pt. I**
- C28** S. 86(1A)(a) excluded (7.11.1997) by S.I. 1997/2469, **reg. 2**

## 87 Regulation of financial arrangements of Health Boards, the Agency and the Dental Estimates Board.

- (1) Regulations may provide, in the case of all or any of the following bodies, that is to say, Health Boards, the Agency, and the Dental Estimates Board, for restricting the making of payments by or on behalf of the body otherwise than on such authorisation and subject to such conditions as may be specified in the regulations; but such provision may be made subject to such exceptions as may be so specified.
- (2) Regulations made under this section may contain such other provisions as to the making and carrying out by all or any of those bodies of such arrangements with respect to financial matters as the Secretary of State thinks necessary for the purpose of securing that the affairs of such bodies are conducted, so far as reasonably practicable, in such manner as to prevent financial loss and to ensure and maintain efficiency.
- (3) Without prejudice to the operation of the provisions of any such regulations, the Secretary of State may give to any of the said bodies such directions (which may be

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specific in character) as to any matter with respect to which regulations may be made under this section as it appears to him is requisite for the purpose of securing that the affairs of the body are conducted, so far as reasonably practicable, in such manner as is mentioned in subsection (2); and a body to whom any such directions are given shall comply therewith.

#### Modifications etc. (not altering text)

**C29** S. 87 applied (1.4.1991) by S.I. 1990/2639, art. 5(1)(2), **Sch. Pt. I**

**C30** S. 87 applied (1.4.1993) by S.I. 1993/577, art. 5(1)(2), **Sch. Pt. I** (with art. 6)

S. 87 applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), **Sch. Pt. I** (with art. 6)

S. 87 applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), **Sch. Pt. I**

S. 87 applied (1.4.1999) by S.I. 1999/726, art. 5(1)(2), **Sch. Pt. I**

S. 87 applied (1.4.2000) by S.S.I. 2000/47, art. 5(1)(2), **Sch. Pt. I**

S. 87 applied (6.4.2001) by S.S.I. 2001/137, art. 5(1), **Sch. Pt. I**

S. 87 applied (31.3.2002) by S.S.I. 2002/103, art. 6, **Sch. Pt. I** (with art. 4(4))

S. 87 applied (27.6.2002) by S.S.I. 2002/305, art. 5(1), **Sch. Pt. I** (with art. 4(4))

#### [<sup>F39</sup> Fund-holding practices]

#### Textual Amendments

**F39** Ss. 87A–87C inserted (the insertion being in force 17.9.1990 in relation to the provisions of section 87A and section 87B(1) (in so far as section 87B(1) provides for the meaning of “recognised fund-holding practice” and “allotted sum”) but otherwise in force 1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 34

### 87A Recognition of fund-holding practices of doctors.

- (1) Any one or more medical practitioners who are providing general medical services in accordance with arrangements under section 19 [<sup>F40</sup>, or (in the case of practitioners who are not employed by another person) personal medical services in accordance with section 17C arrangements,] may apply to the relevant Health Board for recognition as a fund-holding practice [<sup>F41</sup>except, if at least one of those practitioners is also providing general medical services in accordance with arrangements under section 29 of the National Health Service Act 1977, where more patients on the list of members of the practice reside in England than in Scotland].
- (2) The relevant Health Board shall not grant recognition as a fund-holding practice unless the medical practitioner or, as the case may be, each of the medical practitioners concerned fulfils such conditions as may be prescribed.
- (3) Where two or more medical practitioners who wish to make an application under subsection (1) are not partners in a single partnership, section 19(8)(a) (construction of “relevant Health Board”) shall apply as if the medical practitioners were practising in a single partnership.
- (4) Regulations may make provision with respect to—
  - (a) the making of applications under subsection (1);
  - (b) the granting and refusal of recognition as a fund-holding practice;



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- (c) the conditions to be fulfilled for obtaining and continuing to be entitled to such recognition;
- (d) appeals against any refusal of such recognition by a Health Board;
- (e) withdrawing from, or becoming a member of, an existing recognised fund-holding practice;
- (f) the continuity or otherwise of a recognised fund-holding practice in the event of the death or withdrawal of a member or the addition of a new member; and
- [<sup>F42</sup>(g) the operation of this section in a case where one or more of the medical practitioners wishing to make an application under subsection (1) is also—
  - (i) on the medical list of a Health Authority established under section 8 of the <sup>M7</sup>National Health Service Act 1977; or
  - (ii) providing personal medical services in accordance with arrangements made under section 28C of that Act;]

and regulations making the provision referred to in paragraph (g) may make such modifications of the preceding provisions of this section as the Secretary of State considers appropriate.

#### Textual Amendments

**F40** Words in s. 87A(1) inserted (1.4.1998) by 1997 c. 46, s. 41(10), Sch. 2 Pt. I paras. 32, **53(2)**; S.I. 1998/631, art. 2(b), **Sch. 2**

**F41** Words in s. 87A(1) added (1.4.1997) by S.I. 1997/1014, **reg. 2(5)**

**F42** S. 87A(4)(g) substituted (1.4.1998) by 1997 c. 46, s. 41(10), Sch. 2 Pt. I paras. 32, **53(3)**; S.I. 1998/631, art. 2(b), **Sch. 2**

#### Modifications etc. (not altering text)

**C31** S. 87A applied (with modifications) (1.4.1998) by 1997 c. 46, s. 19; S.I. 1998/631, art. 2(a), **Sch. 1**

#### Marginal Citations

**M7** 1977 c. 49.

#### [<sup>F43</sup>87B Payments to recognised fund-holding practices.

- (1) In respect of each financial year, every Health Board shall be liable to pay to the members of each recognised fund-holding practice in relation to which it is the relevant Health Board a sum determined in such manner and by reference to such factors as the Secretary of State may direct (in this section referred to as an “allotted sum”).
- (2) The liability to pay an allotted sum under subsection (1) may be discharged, in whole or in part, in either of the following ways—
  - (a) by making payments on account of the allotted sum at such times and in such manner as the Secretary of State may direct; and
  - (b) by discharging liabilities of the members of the practice to any other person (including, in particular, liabilities under NHS contracts);and any reference in this section and section 87C to payment of or of a part of an allotted sum includes a reference to the discharge, in accordance with this subsection, of the whole or part of the liability to pay that sum.
- (3) In any case where—

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- (a) a Health Board makes a payment of, or of any part of, an allotted sum to the members of a recognised fund-holding practice, and
- (b) some of the <sup>F44</sup>practice patients] reside in the area of another Health Board, or in the <sup>F45</sup>area of a Health Authority] established under section 8 of the National Health Service Act 1977,

the Board making the payment shall be entitled to recover from that other Board or <sup>F46</sup>the Health Authority] an amount equal to such portion of the payment as may be determined in accordance with directions given by the Secretary of State.

- (4) The members of a recognised fund-holding practice may apply allotted sums only for purposes specified in regulations under subsections (5).

- (5) Regulations shall make provision with respect to the purposes for which allotted sums are to be or may be applied and may make provision generally with respect to the operation of recognised fund-holding practices in relation to allotted sums; and the regulations may, in particular,—

- (a) require the members of a practice to pay to the relevant Health Board out of allotted sums paid to them an amount determined in accordance with the regulations as the basic cost of the drugs, medicines and listed appliances supplied pursuant to orders given by or on behalf of members of the practice;
- (b) provide that the goods and services, other than general medical services <sup>F47</sup>or personal medical services provided in accordance with section 17C arrangements], which may be purchased by or on behalf of the members of such a practice out of allotted sums for the <sup>F48</sup>practice patients] shall be such as may be specified in a list approved for the purpose under the regulations; and
- (c) impose a limit on the amount which may be spent out of an allotted sum on the provision of goods and services for any one individual, being a limit above which the cost of any goods and services for that individual in the financial year in question will fall to be met by the Health Board whose functions include the provision of goods and services (not necessarily the goods and services in question) to the individual concerned.

- (6) In accordance with directions given by the Secretary of State, the relevant Health Board shall monitor the expenditure of the members of a recognised fund-holding practice and may institute an audit and review in any case where the Board consider it necessary to do so.]

<sup>F49</sup>(7) In this section “practice patient”, in relation to a recognised fund-holding practice, means an individual who is on the list of patients of any of the members of the practice (or, if any of those members together have a single list of patients in connection with section 17C arrangements, an individual who is on that single list).]

#### Extent Information

**E1** [S. 87B](#): for extent see [s. 110\(2\)\(2A\)](#); [s. 87\(3\)](#) extends also to England and Wales

#### Textual Amendments

**F43** [Ss. 87A–87C](#) inserted (the insertion being in force 17.9.1990 in relation to the provisions of section 87A and section 87B(1) (in so far as section 87B(1) provides for the meaning of “recognised fund-holding practice” and “allotted sum”) but otherwise in force 1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 34](#)

**F44** Words in [s. 87B\(3\)\(b\)](#) substituted (1.4.1998) by 1997 c. 46, s. 41(1), [Sch. 2 Pt. I para. 54\(1\)\(2\)](#); [S.I. 1998/631, art. 2\(b\)](#), [Sch. 2](#)

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- F45** Words in s. 87B(3)(b) substituted (28.6.1995 for certain purposes and 1.4.1996 for all other purposes) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. III para. 102(5)(a)** (with Sch. 2 para. 6)
- F46** Words in s. 87B(3) substituted (28.6.1995 for certain purposes and 1.4.1996 for all other purposes) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. III para. 102(5)(b)** (with Sch. 2 para. 6)
- F47** Words in s. 87B(5)(b) inserted (1.4.1998) by 1997 c. 46, s. 41(1), **Sch. 2 Pt. I para. 54(1)(3)(a)**; S.I. 1998/631, art. 2(b), **Sch. 2**
- F48** Words in s. 87B(5)(b) substituted (1.4.1998) by 1997 c. 46, s. 41(1), **Sch. 2 Pt. I para. 54(1)(3)(b)**; S.I. 1998/631, art. 2(b), **Sch. 2**
- F49** S. 87B(7) inserted (1.4.1998) by 1997 c. 46, s. 41(1), **Sch. 2 Pt. I para. 54(1)(4)**; S.I. 1998/631, art. 2(b), **Sch. 2**

### **[<sup>F50</sup>87C Renunciation and removal of recognition as a fund-holding practice and withholding of funds.**

- (1) Regulations may make provision as to the circumstances in which the members of a recognised fund-holding practice may renounce that status and such regulations may, in particular, make provision as to—
  - (a) the notice to be given and the number of members of the practice by whom it is to be given;
  - (b) the procedure to be followed; and
  - (c) the consequences of such a renunciation.
- (2) Regulations may make provision as to the circumstances in which and the grounds on which the relevant Health Board may remove recognition from the members of a fund-holding practice,—
  - (a) with immediate effect; or
  - (b) with effect from the end of a particular financial year; or
  - (c) with effect from such other date as may be specified by the Health Board.
- (3) Where provision is made as mentioned in subsection (2), regulations shall make provision with respect to—
  - (a) the procedure for removal of recognition;
  - (b) appeals against the removal of recognition by a Health Board; and
  - (c) the consequences of the removal of recognition.
- (4) Without prejudice to the generality of the powers conferred by subsection (3), regulations making provision as mentioned in paragraph (c) of that subsection may—
  - (a) provide for the transfer of rights and obligations from the members of the fund-holding practice to one or more Health Boards determined in accordance with the regulations;
  - (b) provide for the recovery of sums from members of the practice; and
  - (c) require the members of the practice to furnish such information as may reasonably be required by the Health Board.
- (5) The bringing of an appeal against the removal of recognition by a Health Board shall not be regarded as preserving the recognised status of the members of the fund-holding practice and, accordingly, subject to the outcome of the appeal, the relevant Health Board shall not be required, after the removal takes effect, to make any (or, as the case may be, any further) payment to the members of the practice of any part of the allotted sum for the financial year in question or, as the case may be, to determine and pay any allotted sum for a future financial year.

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- (6) Where any part of an allotted sum has been applied by the members of a recognised fund-holding practice (or any one or more of them) for purposes other than those specified in regulations under section 87B(5), regulations may make provision for and in connection with the recovery by the relevant Health Board of an amount equal to that part.
- (7) Where provision is made as mentioned in subsection (6), regulations shall make provision with respect to appeals against the recovery of any amount by a Health Board.]

#### Textual Amendments

**F50** Ss. 87A–87C inserted (the insertion being in force 17.9.1990 in relation to the provisions of section 87A and section 87B(1) (in so far as section 87B(1) provides for the meaning of “recognised fund-holding practice” and “allotted sum”) but otherwise in force 1.4.1991) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 34](#)

*[<sup>F51</sup> Indicative amounts]*

#### Textual Amendments

**F51** S. 87D inserted (1.4.1992) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 35](#)

### **87D Indicative amounts for doctors’ practices.**

- (1) Subject to subsection (2), for each financial year every Health Board shall, by notice in writing given to each practice in relation to the members of which it is the relevant Health Board, specify an amount of money (in this Act referred to as an “indicative amount”) representing the basic price of the drugs, medicines and listed appliances which, in the opinion of the Board, it is reasonable to expect will be supplied in that year pursuant to orders given by or on behalf of the members of that practice.
- (2) Subsection (1) does not apply with respect to a practice which is or forms part of a fund-holding practice recognised under section 87A.
- (3) For the purposes of this section, a “practice” means—
- a single medical practitioner who practises otherwise than in partnership; or
  - any two or more medical practitioners who practise in partnership;
- and any reference to the members of a practice shall be construed accordingly.
- (4) The members of a practice shall seek to secure that, except with the consent of the relevant Health Board or for good cause, the orders for drugs, medicines and listed appliances given by them or on their behalf are such that the basic price of the items supplied pursuant to those orders in any financial year does not exceed the indicative amount notified to the practice for that year under subsection (1).
- (5) For the purpose of measuring the extent to which a practice is operating within the indicative amount notified to it under subsection (1) for any financial year, a Health Board shall set against that indicative amount an amount equal to the basic price of the

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drugs, medicines and listed appliances supplied in that year pursuant to orders given by or on behalf of members of the practice.

- (6) For the purposes of this section, regulations may make provision as to the specification of, or means of calculating, the basic price of any drugs, medicines and listed appliances.
- (7) If, in the case of any practice, a member is on the medical list of a [<sup>F52</sup>Health Authority established under section 8] of the National Health Service Act 1977 (as well as on that of a Health Board), any question whether this section applies in relation to the members of the practice shall be determined in accordance with regulations; and any such regulations may modify the preceding provisions of this section in their application to such practice.

#### Textual Amendments

**F52** Words in s. 87D substituted (28.6.1995 for certain purposes and 1.4.1996 for all other purposes) by 1995 c. 17, ss. 2(1)(3), 8(1), **Sch. 1 Pt. III para. 102(6)** (with Sch. 2 para. 6)

#### Modifications etc. (not altering text)

**C32** S. 87D modified (1.4.1992) by S.I. 1992/81, **reg. 3**.

### *Remuneration, allowances and superannuation*

## **88 Payment of allowances and remuneration to members of certain bodies connected with the health services.**

- (1) The Secretary of State may pay to members of—
- the Medical Practices Committee,
  - the Dental Estimates Board,
  - the Tribunal,
  - any body on which functions are conferred by regulations under section 22, and
  - any body specified in an order made by the Secretary of State as being a body recognised by him to have been formed for the purpose of performing a function connected with the provision of services under this Act,

such travelling and other allowances, including compensation for loss of remunerative time, as he may, with the approval of the Minister for the Civil Service, from time to time determine.

- (2) The Secretary of State may pay to members of—
- the Medical Practices Committee,
  - the Dental Estimates Board,
  - the Tribunal,
  - any other body constituted under or by virtue of Part II, being a body specified in an order made for the purposes of this section by the Secretary of State with the approval of the Minister for the Civil Service, and
  - any body on which functions are conferred by regulations under section 22, such remuneration as the Secretary of State may, with such approval, from time to time determine.

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- (3) Allowances shall not be paid under subsection (1) except in connection with the performance of such powers or duties, in such circumstances, as may, with the approval of the Minister for the Civil Service, be determined by the Secretary of State.
- (4) Any payments made under this section shall be made at such times and in such manner, and subject to such conditions as to records, certificates or otherwise, as the Secretary of State may, with the approval of the Minister for the Civil Service, determine.

## **89 Superannuation of officers of certain hospitals.**

- (1) The Secretary of State may enter into an agreement with the governing body of any hospital to which this section applies for admitting, on such terms and conditions as may be provided in the agreement, officers of the hospital of such classes as may be so provided to participate in the superannuation benefits provided under regulations made under section 10 of the <sup>M8</sup>Superannuation Act 1972, in like manner as officers of Health Boards; and the said regulations shall apply accordingly in relation to the officers so admitted, subject to such modifications as may be provided in the agreement.
- (2) The governing body of any hospital to which this section applies shall have all such powers as may be necessary for the purpose of giving effect to any terms and conditions on which their officers are admitted to participate in those superannuation benefits.
- (3) This section applies to any hospital (not vested in the Secretary of State) which is used, in pursuance of arrangements made by the governing body of the hospital with a Health Board, for the provision of services under this Act.

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### **Marginal Citations**

**M8** 1972 c. 11.

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