



Health Services Act 1980

1980 CHAPTER 53

PART II

PRIVATE PRACTICE

Pay beds and Health Services Board, etc.

9 Repeal of provisions relating to withdrawal of pay beds and dissolution of Board, etc.

- (1) On the commencement date—
 - (a) sections 67 to 71 of the Act of 1977 and sections 59 to 63 of the Scottish Act of 1978 (withdrawal of pay beds) shall cease to have effect; and
 - (b) the Health Services Board established under section 1 of the Health Services Act 1976 (in this Act referred to as " the Act of 1976 ") and the Scottish and Welsh Committees constituted in accordance with Part II of Schedule 1 to that Act shall cease to exist.
- (2) Subject to subsection (1)(a) above, all functions of that Board or either of those Committees shall be transferred, as from the commencement date, to the Secretary of State or, if they relate to a hearing afforded or to be afforded to an applicant for an authorisation under Part III of the Act of 1976, such person or persons as the Secretary of State may appoint.
- (3) All property, rights and liabilities to which the Board or either Committee is entitled or subject immediately before the commencement date shall be transferred, as from that date, to the Secretary of State.
- (4) This section shall not affect the validity of anything done by or in relation to the Board or either Committee before the commencement date; and anything which at that date is in the process of being done by or in relation to the Board or either Committee (including any legal proceedings to which any of them is a party) may be continued by or in relation to the Secretary of State or, as the case may require, such person or persons as he may appoint.

Status: This is the original version (as it was originally enacted).

- (5) In consequence of the foregoing provisions of this section—
- (a) section 1 of and Schedule 1 to the Act of 1976, sections 73 to 76 of the Act of 1977 and sections 65 to 68 of the Scottish Act of 1978 shall cease to have effect;
 - (b) the enactments specified in Schedule 2 to this Act shall have effect subject to the amendments provided for in that Schedule; and
 - (c) any instrument or document made before the commencement date shall have effect as if any reference to the Board or either Committee were a reference to the Secretary of State or, as the case may require, such person or persons as he may appoint.
- (6) In this section " commencement date " means the date of the passing of this Act.

Treatment of private patients in national health service hospitals

10 General power to make accommodation and services available

- (1) For section 58 of the Act of 1977 (additional powers as to accommodation and services) there shall be substituted the following section—

“58 Power as to accommodation and services.

- (1) Subject to subsection (2) and section 62 below, the Secretary of State may allow persons to make use (on such terms, including terms as to the payment of charges, as he thinks fit) of any accommodation or services provided under this Act and may provide the accommodation or services in question to an extent greater than that necessary apart from this section if he thinks it expedient to do so in order to allow persons to make use of them.
 - (2) The Secretary of State shall exercise the power conferred by this section only if and to the extent that he is satisfied that anything which he proposes to allow under that power could not be authorised or allowed under section 65 or 66 below.”.
- (2) For section 50 of the Scottish Act of 1978 (additional powers as to accommodation and services) there shall be substituted the following section—

“50 Power as to accommodation and services.

- (1) Subject to subsection (2) and section 54, the Secretary of State may allow persons to make use (on such terms, including terms as to the payment of charges, as he thinks fit) of any accommodation or services provided under this Act and may provide the accommodation or services in question to an extent greater than that necessary apart from this section if he thinks it expedient to do so in order to allow persons to make use of them.
 - (2) The Secretary of State shall exercise the power conferred by this section only if and to the extent that he is satisfied that anything which he proposes to allow under that power could not be authorised or allowed under section 57 or 58.”.
- (3) The following provisions, namely—

- (a) sections 59 and 60 of the Act of 1977 (which are superseded by subsection (1) above); and
 - (b) sections 51 and 52 of the Scottish Act of 1978 (which are superseded by subsection (2) above),
- shall cease to have effect.

11 Powers to make accommodation and services available for private patients

- (1) In subsection (1) of section 65 of the Act of 1977 (accommodation and services for private resident patients) and subsection (1) of section 66 of that Act (accommodation and services for private non-resident patients) for the words " Subject to section 71 " there shall be substituted the words " Subject to section 66A " and after the said section 66 there shall be inserted the following section—

“66A Restriction of powers under ss. 65 and 66.

- (1) Section 62 above shall apply in relation to the exercise of the powers conferred on the Secretary of State by sections 65 and 66 above as it applies in relation to the exercise of the powers conferred on him by sections 25, 58 and 61 above.
 - (2) The Secretary of State shall revoke an authorisation under section 65 or 66 above only if and to the extent that he is satisfied that sufficient accommodation and facilities for the private practice of medicine and dentistry are otherwise reasonably available (whether privately or at health service hospitals) to meet the reasonable demand for them in the area or areas served by the hospital or hospitals in question.”.
- (2) In subsection (1) of section 57 of the Scottish Act of 1978 (accommodation and services for private resident patients) and subsection (1) of section 58 of that Act (accommodation and services for private non-resident patients) for the words " Subject to section 63 " there shall be substituted the words " Subject to section 58A " and after the said section 58 there shall be inserted the following section—

“58A Restriction of powers under ss. 57 and 58.

- (1) Section 54 shall apply in relation to the exercise of the powers conferred on the Secretary of State by sections 57 and 58 as it applies in relation to the exercise of the powers conferred on him by sections 44, 50 and 53.
 - (2) The Secretary of State shall revoke an authorisation under section 57 or 58 only if and to the extent that he is satisfied that sufficient accommodation and facilities for the private practice of medicine and dentistry are otherwise reasonably available (whether privately or at health service hospitals) to meet the reasonable demand for them in the area or areas served by the hospital or hospitals in question.”.
- (3) The following provisions, namely—
- (a) subsection (6) of the said section 65 and subsection (3) of the said section 66 (which are superseded by subsection (1) above); and
 - (b) subsection (6) of the said section 57 and subsection (3) of the said section 58 (which are superseded by subsection (2) above),
- shall cease to have effect.

Control of hospitals outside the national health service

12 Meaning of " controlled premises "

(1) In subsection (2) of section 12 of the Act of 1976 (control of construction and extension of controlled premises)—

(a) for the definition of " controlled premises " there shall be substituted the following definition—

“ controlled premises ' means hospital premises which provide or will provide beds for the use of patients, being hospital premises—

(a) in the case of which the number of beds which are or will be so provided is one hundred and twenty or more; or

(b) which are or are to be situated in an area designated by the Secretary of State under subsection (2A) below ;” ; and

(b) after the definition of " controlled works " there shall be inserted the following definitions—

“ hospital premises ' means premises at which there are or are to be facilities for the provision of hospital services;

' hospital services ' means all or any of the following services, namely—

(a) the carrying out of surgical procedures under general anaesthesia;

(b) obstetrics;

(c) radiotherapy;

(d) haemodialysis or peritoneal dialysis ;

(e) pathology or diagnostic radiology;

' relevant hospital premises ' means hospital premises occupied otherwise than by or on behalf of the Crown or for the purposes of a visiting force.”.

(2) After the said subsection (2) there shall be inserted the following subsections—

“(2A) If, on an application by a health authority, the Secretary of State is satisfied that relevant hospital premises in the whole or any part of their area or district provide or will provide, if taken together, one hundred and twenty or more beds for the use of patients, he may, after consulting with such persons and representative bodies as appear to him to be concerned, by regulations designate the whole or, as the case may be, that part of the authority's area or district as an area in which all hospital premises which provide or will provide beds for the use of patients shall be controlled premises; and regulations under this subsection—

(a) may contain such transitional provisions as appear to the Secretary of State to be necessary or expedient ; and

(b) shall have effect for such period not exceeding five years as may be prescribed.

(2B) In determining for the purposes of subsection (2A) above how many beds relevant hospital premises will provide, the Secretary of State shall not take into account the proposed execution of any works unless—

(a) an authorisation for the execution of those works has been granted ; or

(b) a contract for the execution of those works has been entered into.

(2C) The Secretary of State shall not exercise the power conferred by subsection (2A) above unless, having regard to the matters mentioned in subsection (3)(a) of section 13 below, he considers that the execution of works which, if the power were exercised, would be controlled works would be likely to interfere as mentioned in paragraph (a) or operate as mentioned in paragraph (b) of subsection (2) of that section.”.

13 Exemptions from control

(1) In subsection (1) of section 12 of the Act of 1976 (control of construction and extension of controlled premises) for the words " Subject to subsection (3)" there shall be substituted the words " Subject to subsections (3) and (4) " .

(2) After subsection (3) of that section there shall be inserted the following subsections—

“(4) Subsection (1) above does not apply in the case of works for the construction of a controlled extension of controlled premises if—

- (a) the premises are situated elsewhere than in an area designated by the Secretary of State under subsection (2A) above; and
- (b) the premises were constructed as controlled premises, or were converted into controlled premises, whether before or after the coming into force of this Part of this Act; and
- (c) where the works will enable additional beds to be provided, the aggregate number of additional beds which will then have been provided at the premises since the beginning of the current three year period (or, if later, the time when the premises were constructed or converted) will not exceed the permitted number.

(5) In subsection (4) above—

' permitted number ' , in relation to a three year period, means one fifth of the number of beds provided at the premises in question at the beginning of that period or, if later, the time when the premises were constructed or converted;

' three year period ' means the period of three years beginning with the passing of the Health Services Act 1980 and each successive period of three years.”.

14 Notice of notifiable changes

(1) In subsection (1) of section 14 of the Act of 1976 (notice of notifiable works)—

(a) for the words " an application for planning permission for any notifiable works " there shall be substituted the following paragraphs—

“(a) an application for planning permission for any notifiable works; or

(b) a notifiable change;”;

(b) after the words " the application " and " the proposed application" there shall be inserted the words " or change " ; and

(c) the reference to the coming into force of Part III of that Act shall be construed, so far as it relates to the making of notifiable changes, as a reference to the coming into force of this section.

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

- (2) In subsection (2) of that section—
- (a) in paragraph (a) there shall be inserted after the words " applied for " the words " or the notifiable change " ; and
 - (b) in paragraph (b) there shall be inserted at the beginning the words " in the case of notifiable works, ".
- (3) For subsection (6) of that section there shall be substituted the following subsection—
- “(6) Subsection (1) above—
- (a) does not apply in the case of works that are to be executed or a change that is to be made by or on behalf of the Crown or for the purposes of a visiting force; but
 - (b) in the case of works that are to be executed or a change that is to be made otherwise than as aforesaid, shall apply notwithstanding any interest of the Crown in the land on which, or in any premises in connection with which, the works are to be executed or the change is to be made.”.

(4) In subsection (7) of that section for the definition of " hospital premises" there shall be substituted the following definition—

“notifiable change ' means—

 - (a) any change in the nature or extent of the hospital services provided at controlled premises ; or
 - (b) any change in the facilities or the number of beds provided at any premises which results in their becoming controlled premises ;”.

15 Minor and consequential amendments of the Act of 1976

The Act of 1976 shall have effect subject to the amendments provided for in Schedule 3 to this Act, being minor amendments and amendments consequential on the amendments made by sections 12 to 14 above.

Nursing homes and mental nursing homes, etc.

16 Nursing homes and mental nursing homes, etc.

The enactments specified in Schedule 4 to this Act (which relate to the registration of nursing homes, mental nursing homes and private hospitals within the meaning of the Mental Health (Scotland) Act 1960) shall have effect subject to the amendments provided for in that Schedule.