



# National Health Service and Community Care Act 1990

## 1990 CHAPTER 19

### PART I

#### THE NATIONAL HEALTH SERVICE: ENGLAND AND WALES

##### *Local management*

#### **1 Regional and District Health Authorities.**

<sup>F1</sup>(1) .....

<sup>F1</sup>(2) .....

(3) <sup>F2</sup> .....

<sup>F1</sup>(4) .....

<sup>F1</sup>(5) .....

#### **Textual Amendments**

**F1** S. 1(1)(2)(4)(5) repealed (1.4.1996) by 1995 c. 17, ss. 2(1)(3), 5, **Sch. 3** (with Sch. 2 paras. 6, 16)

**F2** S. 1(3) repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

<sup>F3</sup>**2** .....

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#### Textual Amendments

**F3** S. 2 repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), Sch. 3

### 3 Primary and other functions of health authorities etc. and exercise of functions.

**F4** .....

#### Textual Amendments

**F4** S. 3 omitted (the amendment coming into force immediately before the [National Health Service Act 2006 \(c. 41\)](#) which Act came into force on 1.3.2007 in accordance with s. 277(1) (subject to s. 277(2)-(5) of that Act)) by virtue of The National Health Service (Pre-consolidation Amendments) Order 2006, arts. 1(1), 2, Sch. 1 Pt. 2 {para. 2} (with art. 4)

### 4 NHS contracts.

**F5** .....

#### Textual Amendments

**F5** Ss. 4-12 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 6, 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

#### **[<sup>F6</sup>4A** Provision of certain services under NHS contracts.

<sup>F7</sup>(1) This section applies to any arrangement under which [<sup>F8</sup>a Strategic Health Authority,]<sup>F9</sup>[<sup>F9</sup>a Primary Care Trust,] a Health Authority or such other health service body as may be prescribed arrange for the provision to them—

- (a) by a person on an ophthalmic list, or
- (b) by a person on a pharmaceutical list,

of goods or services that they reasonably require for the purposes of functions which they are exercising under Part I of the principal Act .

(2) Any such arrangement is to be treated as an NHS contract for the purposes of section 4 (other than subsections (4) and (6)).

(3) In this section—

<sup>F10</sup>“general ophthalmic services contract” and “contractor” under such a contract have the meanings given by section 28WA of the principal Act;]

“health service body” means a body which is a health service body for the purposes of section 4;

“ophthalmic list” means a list published in accordance with regulations made under—

- (a) section [<sup>F11</sup>39(1)(a)] of the principal Act;
- (b) section 26(2)(a) of the <sup>M1</sup>National Health Service (Scotland) Act 1978; or
- (c) Article 62(2)(a) of the <sup>M2</sup>Health and Personal Social Services (Northern Ireland) Order 1972; and

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“pharmaceutical list” means a list published in accordance with regulations made under—

- (a) section 42(2)(a) of the principal Act;
- (b) section 27(2) of the National Health Service (Scotland) Act 1978; or
- (c) Article 63(2A)(a) of the 1972 Order.

[<sup>F12</sup>(4) In subsection (3), in paragraph (b) of the definition of “ophthalmic list” the reference to a list published in accordance with regulations made under paragraph (a) of section 26(2) of the National Health Service (Scotland) Act 1978 is a reference to the first part of the list (referred to in sub-paragraph (i) of that paragraph) which is published in accordance with regulations under that paragraph.]]

#### Textual Amendments

- F6** S. 4A inserted (1.9.1997) by 1997 c. 46, s. 31(1); S.I. 1997/1780,
- F7** S. 4A repealed (1.3.2007 for certain purposes, 1.8.2008 for certain purposes and otherwise prosp.) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2)(4)(g)(h)(l)(5)(6), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1); S.I. 2008/1972, art. 2(b)
- F8** Words in s. 4A(1) inserted (1.10.2002) by 2002 c. 17, s. 1(3), Sch. 1 Pt. 2 para. 41; S.I. 2002/2478, art. 3(1)(c) (with art. 3(3) and transitional provision in art. 4)
- F9** Words in s. 4A(1) inserted (1.10.2002) by 2002 c. 17, s. 2(5), Sch. 2 Pt. 2 para. 54; S.I. 2002/2478, art. 3(1)(d) (with art. 3(3) and transitional provision in art. 4)
- F10** S. 4A(3): definition of “general ophthalmic services contract” and “contractor” inserted (19.7.2006 for specified purposes, otherwise 1.8.2008) by Health Act 2006 (c. 28), ss. 80(1), 83(1)(e)(7), Sch. 8 {para. 29(3)}
- F11** Words in s. 4A(3) substituted (1.7.2002) by virtue of 2001 c. 15, s. 67, Sch. 5 Pt. 1 para. 8 (with ss. 64(9), 65(4)); S.I. 2002/1475, art. 2, Sch. Pt. 1
- F12** S. 4A(4) inserted (1.4.2006) by The Smoking, Health and Social Care (Scotland) Act 2005 (Consequential Modifications) (England, Wales and Northern Ireland) Order 2006 (S.I. 2006/1056, arts. 1(2)(c), 2, Sch. para. 5(c) (which came into force in accordance with art. 1(2) of that Order and The National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006 (S.I. 2006/135) which were made on 10.3.2006 under substituted s. 26 of the National Health Service (Scotland) Act 1978 (c. 29) and came into force on 1.4.2006)

#### Marginal Citations

- M1** 1978 c. 29.
- M2** S.I. 1972/1265 (N.I.14).

### National Health Service trusts

## 5 NHS trusts.

<sup>F13</sup> .....

#### Textual Amendments

- F13** Ss. 4-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

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**6 Transfer of staff to NHS trusts.**

F14 .....

**Textual Amendments**  
F14 Ss. 4-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**7 Supplementary provisions as to transfer of staff.**

F15 .....

**Textual Amendments**  
F15 Ss. 4-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**8 Transfer of property, rights and liabilities to NHS trust.**

F16 .....

**Textual Amendments**  
F16 Ss. 4-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**9 Originating capital debt of, and other financial provisions relating to NHS trusts.**

F17 .....

**Textual Amendments**  
F17 Ss. 4-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**10 Financial obligations of NHS trusts.**

F18 .....

**Textual Amendments**  
F18 Ss. 4-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**11 Trust funds and trustees for NHS trusts.**

F19 .....

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**Textual Amendments**

**F19** Ss. 4-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

*Family Health Services Authorities*

**12 Functions of Family Health Services Authorities.**

**F20** .....

**Textual Amendments**

**F20** Ss. 4-12 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

**F21** **13** .....

**Textual Amendments**

**F21** S. 13 repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), **Sch. 3** (with Sch. 2 paras. 6, 16)

*Fund-holding practices*

**F22** **14** .....

**Textual Amendments**

**F22** S. 14 repealed (1.10.1999 for E. and 1.4.2000 for W.) by 1999 c. 8, ss. 1, 65, **Sch. 5**; S.I. 1999/2540, art. 2(1)(a), **Sch. 1**; S.I. 2000/1026, art. 2(1), **Sch.**; S.I. 2000/1041, art. 2(1)(d), **Sch.**

**[**<sup>F23</sup>**15 Payments to recognised fund-holding practices.**

<sup>F23</sup>(1) .....

<sup>F24</sup>(2) .....

<sup>F23</sup>(3) .....

[ In any case where—

- <sup>F25</sup>(4) (a) a Health Authority make 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 individuals on the list of patients of any of the members of the practice reside in the area of another Health Authority, or in the area of a Health Board,

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

- (5) .....
- <sup>F23</sup>(6) .....
- <sup>F23</sup>(7) .....
- <sup>F24</sup>(8) .....
- <sup>F23</sup>(9) .....
- <sup>F23</sup>(10) .....]

#### Extent Information

- E1** S. 15 other than s. 15(4) does not extend to Scotland

#### Textual Amendments

- F23** S. 15 repealed (1.10.1999 for E., 1.4.2000 for W. and otherwise *prosp.*) by 1999 c. 8, ss. 1, 65, **Sch. 5**; S.I. 1999/2540, art. 2(1)(a), **Sch. 1**; S.I. 2000/1026, art. 2(1), **Sch.**; S.I. 2000/1041, art. 2(d), **Sch.**
- F24** S. 15(2)(5) and (8) repealed (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, ss. 2(1)(3), 5(1)(2), **Sch. 1 para. 74(b)(e)** and (g), Sch. 3 (with Sch. 2 paras. 6, 16)
- F25** S. 15(4) substituted (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 74(a)** (with Sch. 2 paras. 6, 16)

#### Commencement Information

- I1** S. 15 wholly in force at 1.4.1991 see s. 67(1) and S.I. 1990/1329, art. 2(8), **Sch. 3**.

<sup>F26</sup>**16** .....

#### Textual Amendments

- F26** S. 16 repealed (1.10.1999 for E. and 1.4.2000 for W.) by 1999 c. 8, ss. 1, 65, **Sch. 5**; S.I. 1999/2540, art. 2(1)(a), **Sch. 1**; S.I. 2000/1026, art. 2(1), **Sch.**; S.I. 2000/1041, art. 2(1)(d), **Sch.**

<sup>F27</sup>**17** .....

#### Textual Amendments

- F27** S. 17 repealed (1.10.1999 for E. and 1.4.2000 for W.) by 1999 c. 8, s. 65, **Sch. 5**; S.I. 1999/2540, art. 2(1)(a); S.I. 2000/1026, art. 2(1), **Sch.**; S.I. 2000/1041, art. 2(1)(d), **Sch.**

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### *Indicative amounts*

#### **[<sup>F28</sup>18 Indicative amounts for doctors’ practices.**

- (1) Subject to [<sup>F29</sup>subsections (2) and (8)] below, for each financial year, [<sup>F30</sup>every Primary Care Trust and] every [<sup>F31</sup>Local Health Board] shall, by notice in writing given to each practice in relation to the members of which it is the relevant [<sup>F32</sup>Primary Care Trust or][<sup>F31</sup>Local 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 [<sup>F32</sup>Primary Care Trust or][<sup>F31</sup>Local Health 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) above does not apply with respect to a practice which is or forms part of a fund-holding practice recognised under section 14 above.
- (3) For the purposes of this section, a “practice” means—
  - [<sup>F33</sup>(a) a person or body who has entered into a contract under section 28Q of the principal Act, otherwise than in partnership; or
  - (b) two or more individuals practising in partnership who together have entered into such a contract,]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 [<sup>F34</sup>Primary Care Trust or][<sup>F35</sup>Local 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) above.
- (5) For the purpose of measuring the extent to which a practice is operating within the indicative amount notified to it under subsection (1) above for any financial year, a [<sup>F34</sup>Primary Care Trust or][<sup>F35</sup>Local Health Board] shall set against that indicative amount an amount equal to the basic price of the 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 or listed appliances.
- (7) <sup>F36</sup> .....

[ This section does not apply in relation to the performance or provision of personal  
<sup>F37</sup>(8) medical services in accordance with arrangements made under section 28C of the principal Act.]

[ In this section, references to the “relevant” Primary Care Trust or Local Health Board,  
<sup>F38</sup>(9) in relation to a practice, are to the Primary Care Trust or Local Health Board with which it has entered into a contract under section 28Q of the principal Act.]]

#### **Textual Amendments**

**F28** S. 18 repealed by 1999 c. 8, ss. 65, 67(1), Sch. 4 para. 80, Sch. 5 (the repeal being brought into force: on 1.10.1999 to the extent that Sch. 5 repeals s. 18(2) for E. by S.I. 1999/2540, art. 2(1)(a), Sch. 1; on

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- 1.4.2000 to the extent that Sch. 5 repeals s. 18(2) and is not already in force by S.I. 2000/1041, art. 2(1)(d), **Sch.**; the repeal being otherwise prosp.)
- F29** Words in s. 18(1) substituted (1.4.1998) by 1997 c. 46, s. 41(10), (11), Sch. 2 para. 65(8); S.I. 1998/631, art. 2(b), **Sch. 2**
- F30** Words in s. 18(1) inserted (1.10.2002 with effect as mentioned in Sch. 2 para. 55(2) of the amending act) by 2002 c. 17, s. 2(5), **Sch. 2 Pt. 2 para. 55(1)(a)(i)(2)**; S.I. 2002/2478, **art. 3(1)(d)** (with art. 3(3) and transitional provision in art. 4)
- F31** Words in s. 18(1) substituted (1.4.2004) by Health and Social Care (Community Health and Standards Act 2003 (c. 43), ss. 184, 199(1)(a), **Sch. 11 para. 56(2)**; S.I. 2004/288, arts. 1(5), **5(2)(v)** (as amended by S.I. 2004/866, art. 2(1)); S.I. 2004/480, **art. 4(2)(z)**
- F32** Words in s. 18(1) inserted (1.10.2002 with effect as mentioned in Sch. 2 para. 55(2) of the amending act) by 2002 c. 17, s. 2(5), **Sch. 2 Pt. 2 para. 55(1)(a)(ii)(2)**; S.I. 2002/2478, **art. 3(1)(d)** (with art. 3(3) and transitional provision in art. 4)
- F33** S. 18(3)(a)(b) substituted (1.4.2004) by Health and Social Care (Community Health and Standards Act 2003 (c. 43), ss. 184, 199(1)(a), **Sch. 11 para. 56(3)**; S.I. 2004/288, arts. 1(5), **5(2)(v)** (as amended by S.I. 2004/866, art. 2(1)); S.I. 2004/480, **art. 4(2)(z)**
- F34** Words in s. 18 inserted (1.10.2002 with effect as mentioned in Sch. 2 para. 55(2) of the amending act) by 2002 c. 17, s. 2(5), **Sch. 2 Pt. 2 para. 55(1)(b)**; S.I. 2002/2478, **art. 3(1)(d)** (with art. 3(3) and transitional provision in art. 4)
- F35** Words in s. 18(4)(5) substituted (1.4.2004) by Health and Social Care (Community Health and Standards Act 2003 (c. 43), ss. 184, 199(1)(a), **Sch. 11 para. 56(4)**; S.I. 2004/288, arts. 1(5), **5(2)(v)** (as amended by S.I. 2004/866, art. 2(1)); S.I. 2004/480, **art. 4(2)(z)**
- F36** S. 18(7) repealed (1.4.2004 ) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 196, 199(1), **Sch. 14 Pt. 4**; S.I. 2004/288, arts. 1(5), **6(2)(i)** (as amended (23.3.2004) by S.I. 2004/866, art. 2(1)); S.I. 2004/480, **art. 5(2)(i)** (as amended by S.I. 2004/1019, art. 2(5)(a))
- F37** S. 18(8) inserted (1.4.1998) by 1997 c. 46, s. 41(10)(11), Sch. 2 para. 65(10); S.I. 1998/631, art. 2(b), **Sch. 2**
- F38** S. 18(9) inserted (1.4.2004) by Health and Social Care (Community Health and Standards Act 2003 (c. 43), ss. 184, 199(1)(a), **Sch. 11 para. 56(5)**; S.I. 2004/288, arts. 1(5), **5(2)(v)** (as amended by S.I. 2004/866, art. 2(1)); S.I. 2004/480, **art. 4(2)(z)**

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

- C1** S. 18 modified (1.4.1991) by S.I. 1991/556, **reg. 3**  
 S. 18(2) applied (with modifications) (1.4.1997) by S.I. 1997/980, **reg. 3**
- C2** S. 18: functions of local authority may be responsibility of an executive of the authority (1.4.2000) by virtue of S.I. 2000/695, reg. 3(2)(b), **Sch. 2**
- C3** S. 18 modified (temp.) (1.4.2004) by The General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004 (S.I. 2004/865), **art. 115**
- C4** S. 18 modified (W.) (1.4.2004) by The General Medical Services Transitional and Consequential Provisions (Wales) (No. 2) Order 2004 (S.I. 2004/1016), **art. 91**

#### Commencement Information

- I2** S. 18 wholly in force at 1.4.1991 see s. 67(2) and S.I. 1990/1329, art. 2(8), **Sch. 3**.

#### Funding, audit and liabilities



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**Textual Amendments**

**F39** S. 19 repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), **Sch. 3** (with **Sch. 2** paras. 6, 16)

**20 Extension of functions etc. of Audit Commission to cover the health service.**

**F40**(1) .....

(2) In section 98 of the principal Act (accounts and audit),—

(a) in subsection (1), in the words following paragraph (e) for the words from “appointed” to “Comptroller” there shall be substituted “appointed by the Audit Commission for Local Authorities and the National Health Service in England and Wales and the Comptroller”;

**F41**(b) .....

**F42**(c) .....

**F42**(d) .....

**F40**(3) .....

**F40**(4) .....

**F40**(5) .....

**F40**(6) .....

**F40**(7) .....

**F40**(8) .....

**Textual Amendments**

**F40** S. 20(1)(3)-(8) repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), **Sch. 5**

**F41** S. 20(2)(b) repealed (1.10.1999 for E. and 1.4.2000 for W.) by 1999 c. 8, ss. 65(2), **Sch. 4** para. 83(6), **Sch. 5**; S.I. 1999/2540, art. 2(1)(a), **Sch. 1**; S.I. 2000/1041, art. 2(d), **Sch.**

**F42** S. 20(2)(c)(d) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), **Sch. 3** (with **Sch. 2** para. 6)

**21 Schemes for meeting losses and liabilities etc. of certain health service bodies.**

**F43** .....

**Textual Amendments**

**F43** S. 21 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with **Sch. 2** Pt. 1, **Sch. 3** Pt. 1)

*Further amendments of the principal Act*

**22 The Medical Practices Committee.**

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## 23 Distribution of general medical services.

F44

### Textual Amendments

**F44** S. 23 repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 c. 43, ss. 196, 199(1), **Sch. 14 Pt. 4**; S.I. 2004/288, arts. 1(5), **6(2)(i)** (as amended (23.3.2004) by S.I. 2004/866, art. 2(1)); S.I. 2004/480, **art. 5(2)(i)** (as amended by S.I. 2004/1019, art. 2(5)(a))

## 24 Limitations on right to be included on list of dental practitioners.

F45

### Textual Amendments

**F45** S. 24 repealed (1.4.2006) by Health and Social Care (Community Health and Standards) Act 2003 c. 43, ss. 196, 199(1), **Sch. 14 Pt. 4**; S.I. 2005/2925, arts. 1(3), **11(2)(l)**; S.I. 2006/345, **art. 7(2)(g)**

## 25 Transfer to DHA of certain functions relating to private patients.

F46

### Textual Amendments

**F46** S. 25 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

## *Interpretation*

## 26 Interpretation of Part I.

F47

### Textual Amendments

**F47** S. 26 repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

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