



# Health and Social Care Act 2001

## 2001 CHAPTER 15

### PART 2

#### PHARMACEUTICAL SERVICES

#### CHAPTER 1

##### LOCAL PHARMACEUTICAL SERVICES

##### *Preparation and making of pilot schemes*

### 28 Pilot schemes

- (1) Health Authorities may establish pilot schemes.
- (2) In this Chapter “pilot scheme” means one or more agreements—
  - (a) made by a Health Authority (“A”) in accordance with this Chapter;
  - (b) under which local pharmaceutical services are to be provided (otherwise than by A); and
  - (c) the parties to which do not include any other Health Authority.
- (3) A pilot scheme may include arrangements—
  - (a) for the provision of services which are not local pharmaceutical services, but which may be provided under Part 1 of the 1977 Act (whether or not of the kind usually provided by pharmacies);
  - (b) for the provision of training and education (including training and education for persons who are, or may become, involved in the provision of local pharmaceutical services).
- (4) A pilot scheme may not combine arrangements for the provision of local pharmaceutical services with arrangements for the provision of personal medical services or personal dental services under any provision of, or made under, the 1977 Act or the National Health Service (Primary Care) Act 1997.

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- (5) In this Chapter “piloted services” means services provided under a pilot scheme (including any services to which the scheme applies as a result of subsection (3)).
- (6) In determining the arrangements they need to make in order to comply with section 41 of the 1977 Act (arrangements to be made by Health Authorities for the provision of pharmaceutical services), a Health Authority may take into account arrangements under a pilot scheme made by them.
- (7) The functions of an NHS trust or a Primary Care Trust include power to provide any services to which a pilot scheme applies.
- (8) In this Chapter—  
 “pharmaceutical services” means services of a kind which may be provided under section 41 of the 1977 Act, or by virtue of section 41A of that Act; and  
 “local pharmaceutical services” means such pharmaceutical services (other than practitioner dispensing services) as may be prescribed by regulations.
- (9) “Practitioner dispensing services” means the provision of drugs, medicines or listed appliances (within the meaning of section 41 of the 1977 Act) by a medical practitioner or dental practitioner to a patient of his pursuant to arrangements made by virtue of section 43(1) of the 1977 Act.

#### Commencement Information

- II** S. 28 wholly in force at 1.7.2002; s. 28 in force for certain purposes at 11.5.2001, see s. 70(2); s. 28 in force for E. at 8.3.2002 by [S.I. 2002/1095, art. 2\(4\)](#) (with transitional provisions in [arts. 3, 4](#)) (as amended (26.3.2002) by [S.I. 2002/1170, art. 3](#)); s. 28 in force for W. at 1.7.2002 by [S.I. 2002/1475, art. 2\(1\)](#), [Sch. Pt. 1](#)

VALID FROM 08/03/2002

## 29 Making pilot schemes

Schedule 2 makes provision with respect to making pilot schemes, including provision with respect to the procedure to be followed.

#### Commencement Information

- I2** [S. 29](#) wholly in force at 1.7.2002; [s. 29](#) not in force at Royal Assent, see [s. 70\(2\)](#); [s. 29](#) in force for E. at 8.3.2002 by [S.I. 2002/1095, art. 2\(4\)](#) (with transitional provisions in [arts. 3, 4](#)) (as amended (26.3.2002) by [S.I. 2002/1170, art. 3](#)); [s. 29](#) in force for W. at 1.7.2002 by [S.I. 2002/1475, art. 2\(1\)](#), [Sch. Pt. 1](#)

## 30 Designation of priority neighbourhoods or premises

- (1) The relevant authority may make regulations allowing a Health Authority to—
- (a) designate neighbourhoods,
  - (b) designate premises, or
  - (c) designate descriptions of premises,

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for the purposes of this section.

- (2) The regulations may, in particular, make provision—
- (a) as to the circumstances in which, and the neighbourhoods or premises in relation to which, designations may be made or maintained;
  - (b) allowing a Health Authority to defer consideration of Part 2 applications relating to neighbourhoods, premises or descriptions of premises that have been designated;
  - (c) allowing a designation to be cancelled in prescribed circumstances;
  - (d) requiring a designation to be cancelled—
    - (i) if a relevant authority gives a direction to that effect; or
    - (ii) in prescribed circumstances.
- (3) “Part 2 applications” means applications for inclusion in a list maintained under section 42 of the 1977 Act.
- (4) “Prescribed” means prescribed by the regulations.

#### Commencement Information

- I3** S. 30 wholly in force at 1.7.2002; s. 30 in force for certain purposes at 11.5.2001, see s. 70(2); s. 30 in force for E. at 8.3.2002 by S.I. 2002/1095, art. 2(4) (with transitional provisions in arts. 3, 4) (as amended (26.3.2002) by S.I. 2002/1170, art. 3); s. 30 in force for W. at 1.7.2002 by S.I. 2002/1475, art. 2(1), Sch. Pt. 1

VALID FROM 08/03/2002

#### *Reviews, variation and termination of pilot schemes*

### **31** Reviews of pilot schemes

- (1) At least one review of the operation of each pilot scheme must be conducted by the relevant authority.
- (2) Each pilot scheme must be reviewed under this section before the end of the period of three years beginning with the date on which piloted services are first provided under the scheme.
- (3) When conducting a review of a pilot scheme, the relevant authority must give—
- (a) the Health Authority concerned, and
  - (b) any person providing services under the scheme,
- an opportunity to comment on any matter relevant to the review.
- (4) Otherwise, the procedure on any review is to be determined by the relevant authority.

#### Commencement Information

- I4** S. 31 wholly in force at 1.7.2002; s. 31 not in force at Royal Assent, see s. 70(2); s. 31 in force for E. at 8.3.2002 by S.I. 2002/1095, art. 2(4) (with transitional provisions in arts. 3, 4) (as amended

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(26.3.2002) by [S.I. 2002/1170, art. 3](#)); s. 31 in force for W. at 1.7.2002 by [S.I. 2002/1475, art. 2\(1\)](#), Sch. Pt. 1

### 32 Variation and termination of pilot schemes

- (1) The relevant authority may give directions authorising Health Authorities to vary pilot schemes (otherwise than in response to directions given under subsection (2)) in such circumstances, and subject to such conditions, as may be specified in the directions.
- (2) The relevant authority may by directions require a pilot scheme to be varied by the Health Authority concerned in accordance with the directions.
- (3) If satisfied that a pilot scheme is (for any reason) unsatisfactory, the relevant authority may give directions to the Health Authority concerned requiring them to bring the scheme to an end in accordance with the terms of the directions.

#### Commencement Information

- I5** [S. 32](#) wholly in force at 1.7.2002; [s. 32](#) not in force at Royal Assent, see [s. 70\(2\)](#); [s. 32](#) in force for E. at 8.3.2002 by [S.I. 2002/1095, art. 2\(4\)](#) (with transitional provisions in [arts. 3, 4](#)) (as amended (26.3.2002) by [S.I. 2002/1170, art. 3](#)); [s. 32](#) in force for W. at 1.7.2002 by [S.I. 2002/1475, art. 2\(1\)](#), Sch. Pt. 1

### *NHS contracts and financial provisions*

### 33 NHS contracts

- (1) In the case of a pilot scheme entered into, or to be entered into, by a single individual or body corporate, that individual or body may make an application under this section to become a health service body.
- (2) In the case of any other pilot scheme, all of those providing, or proposing to provide, piloted services under the scheme may together make an application under this section to become a single health service body.
- (3) An application must—
  - (a) be made to the relevant authority in accordance with such provisions as may be made by regulations; and
  - (b) specify the pilot scheme in relation to which it is made.
- (4) Except in such cases as may be prescribed by regulations, the relevant authority may grant an application.
- (5) If an application is granted, the relevant authority must specify a date in relation to that application and, as from that date—
  - (a) in the case of an application under subsection (1), the applicant is, and
  - (b) in the case of an application under subsection (2), the applicants together are, a health service body for the purposes of section 4 of the 1990 Act (NHS contracts).

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- (6) That section has effect in relation to such a health service body (“a PHS body”), acting as acquirer, as if the functions referred to in subsection (1) of that section were the provision of piloted services.
- (7) Except in such circumstances as may be prescribed by regulations, a PHS body resulting from an application under subsection (2) is to be treated, at any time, as consisting of those who are providing piloted services under the scheme.
- (8) A direction as to payment made under section 4(7) of the 1990 Act against, or in favour of, a PHS body is enforceable in a county court (if the court so orders) as if it were a judgment or order of that court.
- (9) Regulations may provide for a PHS body to cease to be a PHS body in prescribed circumstances.
- (10) The relevant authority must—
  - (a) maintain and publish a list of PHS bodies;
  - (b) publish a revised copy of the list as soon as is reasonably practicable after any change is made to it.
- (11) The list is to be published in such manner as the relevant authority considers appropriate.

#### **Commencement Information**

- I6** S. 33 wholly in force at 1.7.2002; s. 33 in force for certain purposes at 11.5.2001, see s. 70(2); s. 33 in force for E. at 8.3.2002 by [S.I. 2002/1095](#), [art. 2\(4\)](#) (with transitional provisions in [arts. 3, 4](#)) (as amended (26.3.2002) by [S.I. 2002/1170](#), [art. 3](#)); s. 33 in force for W. at 1.7.2002 by [S.I. 2002/1475](#), [art. 2\(1\)](#), [Sch. Pt. 1](#)

### **34 Funding of preparatory work**

- (1) Provision may be made by regulations for Health Authorities to make payments of financial assistance for preparatory work.
- (2) “Preparatory work” means work which it is reasonable for a person to undertake—
  - (a) in connection with preparing proposals for a pilot scheme; or
  - (b) in preparing for the provision by him of any piloted services.
- (3) The regulations may, in particular, include provision—
  - (a) prescribing the circumstances in which payments of financial assistance may be made;
  - (b) imposing a limit on the amount of any payment of financial assistance which a Health Authority may make in any prescribed period in respect of any one person or any one pilot scheme;
  - (c) imposing a limit on the aggregate amount which a Health Authority may pay by way of financial assistance in any one financial year;
  - (d) requiring a person to whom assistance is given under this section to comply with such conditions as may be imposed in accordance with prescribed requirements; and
  - (e) for repayment in the case of a failure to comply with any condition so imposed.

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#### Commencement Information

- 17** S. 34 wholly in force at 1.7.2002; s. 34 in force for certain purposes at 11.5.2001, see s. 70(2); s. 34 in force for E. at 8.3.2002 by S.I. 2002/1095, art. 2(4) (with transitional provisions in arts. 3, 4) (as amended (26.3.2002) by S.I. 2002/1170, art. 3); s. 34 in force for W. at 1.7.2002 by S.I. 2002/1475, art. 2(1), Sch. Pt. 1

### 35 Charges, recovery of payments and penalties

- (1) Regulations may provide for the making and recovery, in such manner as may be prescribed, of charges for local pharmaceutical services.
- (2) The regulations may, in particular provide for—
  - (a) exemptions from charges;
  - (b) the liability to pay charges to be disregarded in prescribed circumstances or for prescribed purposes;
  - (c) section 122A of the 1977 Act (recovery of certain charges and payments) to apply also in relation to local pharmaceutical services (with or without modification);
  - (d) section 122B of the 1977 Act (penalties) to apply also in relation to local pharmaceutical services (with or without modification).
- (3) The regulations must secure that the amount charged for any service is the same as the amount that would be charged for that service if it were provided under Part 2 of the 1977 Act.

#### Commencement Information

- 18** S. 35 wholly in force at 1.7.2002; s. 35 in force for certain purposes at 11.5.2001, see s. 70(2); s. 35 in force for E. at 8.3.2002 by S.I. 2002/1095, art. 2(4) (with transitional provisions in arts. 3, 4) (as amended (26.3.2002) by S.I. 2002/1170, art. 3); s. 35 in force for W. at 1.7.2002 by S.I. 2002/1475, art. 2(1), Sch. Pt. 1

### *General*

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### 36 Effect of the 1977 Act

- (1) The provisions of the 1977 Act, apart from section 16D (power to direct Health Authority to exercise functions of relevant authority), apply in relation to functions of the relevant authority in relation to pilot schemes as if they were functions under Part 1 of the 1977 Act.
- (2) The 1977 Act (and in particular section 17) has effect in relation to piloted services—
  - (a) subject to any provision of, or made under, this Chapter; but
  - (b) otherwise as if those services were provided as a result of directions given under section 16D of the 1977 Act in relation to functions of the relevant authority under Part 1 of that Act.

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(3) The functions of a Health Authority in relation to piloted services are primary functions of the Authority for the purposes of the 1990 Act.

#### Commencement Information

- 19** S. 36 wholly in force at 1.7.2002; s. 36 not in force at Royal Assent, see s. 70(2); s. 36 in force for E. at 8.3.2002 by S.I. 2002/1095, art. 2(4) (with transitional provisions in arts. 3, 4) (as amended (26.3.2002) by S.I. 2002/1170, art. 3); s. 36 in force for W. at 1.7.2002 by S.I. 2002/1475, art. 2(1), Sch. Pt. 1

### 37 Premises from which piloted services may be provided

The relevant authority may by regulations—

- (a) prevent (except in such circumstances and to such extent as may be prescribed) the provision of both piloted services and pharmaceutical services from the same premises;
- (b) make provision with respect to the inclusion, removal, re-inclusion or modification of an entry in respect of premises in a list under section 42 of the 1977 Act.

#### Commencement Information

- 110** S. 37 wholly in force at 1.7.2002; s. 37 in force for certain purposes at 11.5.2001, see s. 70(2); s. 37 in force for E. at 8.3.2002 by S.I. 2002/1095, art. 2(4) (with transitional provisions in arts. 3, 4) (as amended (26.3.2002) by S.I. 2002/1170, art. 3); s. 37 in force for W. at 1.7.2008 by S.I. 2002/1475, art. 2(1), Sch. Pt. 1

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### 38 Control of entry regulations

The power to make regulations under section 42 of the 1977 Act (regulations as to pharmaceutical services) includes power to prescribe the extent to which the provision of piloted services is to be taken into account in determining whether to grant an application for inclusion in a list referred to in subsection (2) of that section.

#### Commencement Information

- 111** S. 38 wholly in force at 1.7.2002; s. 38 not in force at Royal Assent, see s. 70(2); s. 38 in force for E. at 8.3.2002 by S.I. 2002/1095, art. 2(4) (with transitional provisions in arts. 3, 4) (as amended (26.3.2002) by S.I. 2002/1170, art. 3); s. 38 in force for W. at 1.7.2002 by S.I. 2002/1475, art. 2(1), Sch. Pt. 1

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VALID FROM 08/03/2002

*Assessing the result of pilot schemes*

**39 Assessing pilot schemes**

- (1) The relevant authority may not bring section 40 into force unless satisfied that pilot schemes have shown that continuing to provide for the provision of local pharmaceutical services in accordance with provisions of the kind made by pilot schemes would be in the interests of the health service or any part of the health service (within the meaning of section 128(1) of the 1977 Act).
- (2) In determining whether to bring section 40 into force, the relevant authority must have regard, in particular, to the results of the reviews of pilot schemes conducted under section 31.

**Commencement Information**

**I12** S. 39 wholly in force at 1.7.2002; s. 39 not in force at Royal Assent, see s. 70(2); s. 39 in force for E. at 8.3.2002 by S.I. 2002/1095, **art. 2(4)** (with transitional provisions in **arts. 3, 4**) (as amended (26.3.2002) by S.I. 2002/1170, **art. 3**); s. 39 in force for W. at 1.7.2002 by S.I. 2002/1475, **art. 2(1)**, Sch. Pt. 1

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*Provision for local pharmaceutical schemes*

**40 Provision for LPS schemes**

- (1) In the 1977 Act there shall be inserted, after section 28I—

**“28J Local pharmaceutical services schemes**

- (1) Schedule 8A makes provision with respect to the provision of local pharmaceutical services in accordance with schemes made by Health Authorities.”
- (2) The Schedule set out in Schedule 3 to this Act shall be inserted in the 1977 Act as Schedule 8A to that Act.
- (3) In section 42 of the 1977 Act there shall be inserted after subsection (2)—
  - “(2A) The regulations may prescribe the extent to which the provision of LP services (as defined by paragraph 1 of Schedule 8A to this Act) is to be taken into account in determining whether to grant an application for inclusion in a list.”



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*Corresponding provision, etc.*

#### **41 Corresponding provision and application of enactments**

- (1) The relevant authority may by regulations make, in relation to Schedule 8A arrangements or persons providing or assisting in the provision of services under such arrangements, provision corresponding (whether or not exactly) to enactments containing provision relating to—
  - (a) arrangements made under section 28C of the 1977 Act (provision of personal medical or dental services); or
  - (b) pilot schemes made under Part 1 of the National Health Service (Primary Care) Act 1997 (c. 46),or relating to persons who provide or perform services under them.
- (2) The regulations may, in particular, provide for the application of any such enactment with such modifications, if any, as the relevant authority considers appropriate.
- (3) “Schedule 8A arrangements” means arrangements made under—
  - (a) an LPS scheme made under Schedule 8A to the 1977 Act; or
  - (b) a pilot scheme.

#### **Commencement Information**

- I13** S. 41 wholly in force at 1.7.2002; s. 41 in force for certain purposes at 11.5.2001, see s. 70(2); s. 41 in force for E. at 8.3.2002 by [S.I. 2002/1095](#), [art. 2\(4\)](#) (with transitional provisions in [arts. 3, 4](#)) (as amended (26.3.2002) by [S.I. 2002/1170](#), [art. 3](#)); s. 41 in force for W. at 1.7.2002 by [S.I. 2002/1475](#), [art. 2\(1\)](#), [Sch. Pt. 1](#)

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