



# National Health Service Reform and Health Care Professions Act 2002

## 2002 CHAPTER 17

### PART 1

#### NATIONAL HEALTH SERVICE, ETC

##### *Financial arrangements: England and Wales*

#### **10 Expenditure of NHS bodies**

- (1) The 1977 Act is amended as follows.
- (2) In section 97 (means of meeting expenditure of Health Authorities etc out of public funds), in subsection (3BB), for “section 97C” there is substituted “sections 97C and 97F”.
- (3) Schedule 12A to the 1977 Act (expenditure of Health Authorities and Primary Care Trusts) is amended as follows.
- (4) In paragraph 3—
  - (a) in each of sub-paragraphs (1), (4) and (5), for “Secretary of State” there is substituted “National Assembly for Wales”,
  - (b) in sub-paragraph (1), for “he” there is substituted “it”,
  - (c) in sub-paragraph (4)—
    - (i) for “his discretion” there is substituted “its discretion”, and
    - (ii) for “his opinion” there is substituted “the Assembly’s opinion”, and
  - (d) in sub-paragraph (5), for “he” there is substituted “the Assembly”.
- (5) In paragraph 4(2), the word “or” at the end of paragraph (a) is omitted, and after paragraph (a) there is inserted—
  - “(aa) remuneration referable to the cost of drugs,

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- (ab) remuneration paid to persons providing additional pharmaceutical services (in accordance with directions under section 41A above), in respect of such of those services as are designated, or”.
- (6) In paragraph 5(1)—
- (a) the “and” at the end of paragraph (a) is omitted,
  - (b) in paragraph (b), for “(other than general Part II expenditure),” there is substituted “(other than general Part 2 expenditure and remuneration referable to the cost of drugs), and”, and
  - (c) for the words following paragraph (b) there is substituted—
    - “(c) expenditure attributable to remuneration referable to the cost of drugs for which the trust is accountable in that year (whether paid by it or by another trust).”
- (7) In paragraph 5(2), the “or” at the end of paragraph (a) is omitted, and after paragraph (a) there is inserted—
- “(aa) remuneration paid in that year to persons providing additional pharmaceutical services (in accordance with directions under section 41A above), in respect of such of those services as are designated, or”.
- (8) For paragraph 6 there is substituted—
- “6
- (1) For each financial year, the Secretary of State shall apportion, in such manner as he thinks appropriate, among all Primary Care Trusts the total of the remuneration referable to the cost of drugs which is paid by each Primary Care Trust in that year.
  - (2) A Primary Care Trust 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 sub-paragraph (1) above.
  - (3) Where in any financial year any remuneration referable to the cost of drugs for which a Primary Care Trust is accountable is paid by another Primary Care Trust, the remuneration is to be treated (for the purposes of sections 97C and 97D above) as having been paid by the first trust in the performance of its functions.
  - (4) The Secretary of State may, in particular, exercise his discretion under sub-paragraph (1) above—
    - (a) so that any apportionment reflects, in the case of each Primary Care Trust, the financial consequences of orders for the provision of drugs, being orders which in his opinion are attributable to the trust 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 Primary Care Trust other than the trust which is accountable for the payment to be reimbursed in such manner as he may determine.”
- (9) After paragraph 6 there is inserted—

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*“Local Health Boards: general Part 2 expenditure*

- 6A (1) In section 97F above and this Schedule, general Part 2 expenditure, in relation to a Local Health Board, means expenditure of the Board which—
- (a) is attributable to the payment of remuneration to persons providing services in pursuance of Part 2 of this Act, and
  - (b) is not excluded by sub-paragraph (2) below.
- (2) Expenditure is excluded if it is attributable to—
- (a) the reimbursement of expenses of persons providing services in pursuance of Part 2 which are designated expenses incurred in connection with the provision of the services (or in giving instruction in matters relating to the services),
  - (b) remuneration referable to the cost of drugs,
  - (c) remuneration paid to persons providing additional pharmaceutical services (in accordance with directions under section 41A above), in respect of such of those services as are designated, or
  - (d) remuneration of a designated description which is determined by the Board and paid to persons providing general medical services in pursuance of Part 2.

*Local Health Boards: main expenditure*

- 6B (1) In section 97F above, main expenditure, in relation to a Local Health Board and the year in question, means—
- (a) expenditure of the Board mentioned in sub-paragraph (2) below,
  - (b) any other expenditure of the Board attributable to the performance of its functions in that year (other than general Part 2 expenditure and remuneration referable to the cost of drugs), and
  - (c) expenditure attributable to remuneration referable to the cost of drugs for which the Board is accountable in that year (whether paid by it or by another Board).
- (2) The expenditure referred to in sub-paragraph (1)(a) above is expenditure attributable to—
- (a) the reimbursement in that year of expenses of persons providing services in pursuance of Part 2 which are designated expenses incurred in connection with the provision of the services (or in giving instruction in matters relating to the services),
  - (b) remuneration paid in that year to persons providing additional pharmaceutical services (in accordance with directions under section 41A above), in respect of such of those services as are designated, or
  - (c) remuneration of a designated description which is determined by the Board and paid in that year to persons providing general medical services in pursuance of Part 2.
- 6C (1) For each financial year, the National Assembly for Wales shall apportion, in such manner as it thinks appropriate, among all Local Health Boards

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the total of the remuneration referable to the cost of drugs which is paid by each Local Health Board in that year.

- (2) A Local 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 sub-paragraph (1) above.
  - (3) Where in any financial year any remuneration referable to the cost of drugs for which a Local Health Board is accountable is paid by another Local Health Board, the remuneration is to be treated (for the purposes of sections 97F and 97G above) as having been paid by the first Board in the performance of its functions.
  - (4) The National Assembly for Wales may, in particular, exercise its discretion under sub-paragraph (1) above—
    - (a) so that any apportionment reflects, in the case of each Local Health Board, the financial consequences of orders for the provision of drugs, being orders which in the Assembly’s opinion are attributable to the Board in question,
    - (b) by reference to averaged or estimated amounts.
  - (5) The National Assembly for Wales may make provision for any remuneration referable to the cost of drugs which is paid by a Local Health Board other than the Board which is accountable for the payment to be reimbursed in such manner as the Assembly may determine.”
- (10) In paragraph 7—
- (a) in sub-paragraph (1)—
    - (i) in the definition of “designated”, after “Secretary of State” there is inserted “or, as the case may be, the National Assembly for Wales”, and
    - (ii) in the definition of “remuneration referable to the cost of drugs”, for “paragraph 1(2)(b)” there is substituted “paragraphs 1(2)(b), 4(2)(aa) and 6A(2)(b)”,
  - (b) in sub-paragraph (2), for “Health Authorities” there is substituted “Primary Care Trusts”, and at the end there is inserted “and the National Assembly for Wales shall make the corresponding determination in relation to Health Authorities and Local Health Boards.”, and
  - (c) in sub-paragraph (3)—
    - (i) for “Health Authorities” there is substituted “Primary Care Trusts”,
    - (ii) “or Primary Care Trust” is omitted, and
    - (iii) at the end there is inserted “, and the National Assembly for Wales may so treat all remuneration paid by Health Authorities to such persons, so far as it is so met.”