

# HEALTH ACT 2006

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## EXPLANATORY NOTES

### OVERVIEW OF THE STRUCTURE OF THE ACT

#### Part 4

16. Part 4 of the Act has four chapters:
17. Chapter 1 makes changes to the National Health Service Act 1977 (“the 1977 Act”) to enable charges to be levied on applications to provide NHS pharmaceutical services and to introduce a new criterion for determining competing applications from chemists in respect of the same neighbourhood. The changes form part of the Government’s response for England to recommendations made in The Office of Fair Trading (OFT) report: *The control of entry regulations and retail pharmacy services in the UK* published on 17 January 2003. This is available at <http://www.offt.gov.uk/business/market+studies/pharmacies.htm>. The National Assembly for Wales has separately decided to introduce the same changes in Wales.
18. The Chapter provides that, in England, charges may be determined either by the Secretary of State or by Primary Care Trusts (PCTs) under directions from the Secretary of State. In the case of Wales, the charges may be determined by the National Assembly for Wales or by Local Health Boards (LHBs) under directions from the Assembly. The Chapter also makes changes to enable PCTs, or LHBs as appropriate, to consider in their assessment of competing applications from pharmacists to provide NHS services what improvements such applications would bring to local provision of, or access to, over-the counter medicines and other healthcare products and advice related to such provision. This new criterion will only come into play where certain conditions are met. These conditions are described in more detail in the commentary on sections below. The Chapter also makes changes in relation to the current requirement that a person who enters arrangements to provide pharmaceutical services must undertake that medicines are dispensed by, or under the supervision of a pharmacist. This part of the Act extends to England and Wales and also, as respects certain arrangements relating to dispensing medicines, to Scotland.
19. Chapter 2 makes changes to the 1977 Act which will remove current restrictions on who PCTs may contract with to provide general ophthalmic services. The changes will create a legal framework which is closer to that which applies to “high street” medical and dental services. This Chapter also include provisions which are intended to strengthen the protection of public funds through improved controls over who may redeem optical vouchers. The provisions in this Chapter extend to England and Wales. They apply in England only.
20. Chapter 3 provides for a power to require the production of documents in connection with the appropriate national authority’s NHS counter fraud functions and the Secretary of State’s security management functions. This will give NHS counter fraud organisations powers comparable to those of other regulators and auditing organisations. This measure is in response to the Department of Health consultation document entitled, *Access to Relevant Documents, Records and Data to Counter NHS*

*These notes refer to the Health Act 2006 (c.28) which received Royal Assent on 19 July 2006*

*Fraud: A Paper for Consultation*, launched in October 2004<sup>1</sup>. The response to the consultation was published on 27 May 2005. The provisions extend to England and Wales.

21. **Chapter 4** makes provision for the auditing of the accounts of certain NHS bodies in England and Wales.

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<sup>1</sup> see consultation document and summary of responses at: [http://www.dh.gov.uk/Consultations/ResponsesToConsultations/ResponsesToConsultationsDocumentSummary/fs/en?CONTENT\\_ID=4112148&chk=T68WA5](http://www.dh.gov.uk/Consultations/ResponsesToConsultations/ResponsesToConsultationsDocumentSummary/fs/en?CONTENT_ID=4112148&chk=T68WA5)