

# HEALTH ACT 2006

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 3 Chapter 2

#### Medicines and Pharmacies

#### *Section 31: Enforcement*

150. *Section 31* makes consequential amendments to sections 108, 109 and 110 of the Medicines Act, which relate to enforcement. New sections 108(6A) and 110(3A) ensure that, as with the enforcement of other provisions of the Medicines Act relating to the retail sale and supply of medicines, arrangements may be made for the enforcement of the provisions of section 72A relating to record keeping by the Pharmaceutical Societies of Great Britain and Northern Ireland. Also, new sections 108(6B) and 110(3B) place a specific duty on both the Royal Pharmaceutical Society of Great Britain and the Pharmaceutical Society of Northern Ireland to enforce those elements of section 72A which are not subject to an offence, as a matter of professional misconduct, for example, the content of the standard operating procedures that must be maintained in each pharmacy. This duty applies wherever the registered pharmacy is located, in a hospital or in the community.
151. New sections 108(6C) and 110(3C) clarify that the appropriate Minister does not have a duty to enforce those provisions which are not subject to offences, as the appropriate Minister has no means under the Medicines Act to do so. However, sections 108(6D) and 110(3D) do give the appropriate Minister a right of entry to inspect and investigate in relation to the other provisions in section 72A which are not subject to an offence, reflecting the arrangements in Northern Ireland where the Health Department Inspectorate inspect and investigate matters in pharmacies, rather than the Pharmaceutical Society of Northern Ireland. Similar provisions have been made for England, Scotland and Wales to maintain consistency in the legislation.
152. However, the provision in section 108(10) which provides that the Secretary of State may prosecute in respect of the offences in section 72A if satisfied that the Royal Pharmaceutical Society has failed to do so is not replicated for Northern Ireland. This is to reflect the fact that in Northern Ireland it is the policy intention that the Health Department Inspectorate (not the Pharmaceutical Society) will have primary responsibility for prosecuting in respect of those criminal offences, and would therefore not be appropriate to include this qualification for Northern Ireland.