

Status: Point in time view as at 21/07/2008.

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SCHEDULES

SCHEDULE 22

Section 260

CONTROL OF MAXIMUM PRICES FOR MEDICAL SUPPLIES

Orders and directions

- 1 (1) An order under section 260 may make such provision (including provision for requiring any person to furnish any information) as the Secretary of State considers necessary or expedient for facilitating the introduction or operation of a scheme of control—
 - (a) for which provision has been made under that section, or
 - (b) for which, in his opinion, it will or may be necessary or expedient that provision should be made.
- (2) An order under section 260—
 - (a) may prohibit the doing of anything regulated by the order except under the authority of a licence granted by such authority or person as may be specified in the order, and
 - (b) may be made so as to apply either to persons or undertakings generally or to any particular person or undertaking or class of persons or undertakings, and so as to have effect either generally or in any particular area.

Notices, authorisations and proof of documents

- 2 (1) A notice to be served on any person for the purposes of section 260, or of any order or direction made or given under that section, is deemed to have been duly served on the person to whom it is directed if—
 - (a) it is delivered to him personally, or
 - (b) it is sent by registered post or the recorded delivery service addressed to him at his last or usual place of abode or place of business.
- (2) Where under section 260 or this Schedule a person has power to authorise other persons to act under those provisions, the power may be exercised so as to confer the authority either on particular persons or on a specified class of persons.
- (3) Any permit, licence, permission or authorisation granted for the purposes of section 260 or this Schedule may be revoked at any time by the authority or person empowered to grant it.
- (4) A document purporting to be duly executed under or by virtue of section 260 or this Schedule and signed by or on behalf of the person making it must be received in evidence and, unless the contrary is proved, taken to be so executed and signed.

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Territorial extent

- 3 (1) Provisions in or having effect under section 260 or this Schedule which impose prohibitions, restrictions or obligations apply to—
- (a) persons in the United Kingdom,
 - (b) persons on board any British ship or aircraft (other than an excepted ship or aircraft within the meaning of sub-paragraph (2)), and
 - (c) persons (wherever they are) who are ordinarily resident in the United Kingdom and are—
 - (i) British citizens,
 - (ii) British overseas territories citizens,
 - (iii) British Overseas citizens,
 - (iv) British subjects under the British Nationality Act 1981 (c. 61),
 - (v) British Nationals (Overseas) (within the meaning of that Act), or
 - (vi) British protected persons (within the meaning of that Act).
- (2) In sub-paragraph (1)—
- “British aircraft” means an aircraft registered in—
- (a) any part of Her Majesty's dominions,
 - (b) any country outside Her Majesty's dominions in which Her Majesty has jurisdiction,
 - (c) any country consisting partly of one or more colonies and partly of one or more countries mentioned in paragraph (b),
- “excepted ship or aircraft” means a ship or aircraft registered in any country listed in Schedule 3 to the British Nationality Act 1981 or in any territory administered by the government of any such country, other than a ship or aircraft at the disposal of, or chartered by or on behalf of, Her Majesty's Government in the United Kingdom.

False documents and false statements

- 4 (1) A person must not, with intent to deceive—
- (a) use any document issued for the purposes of section 260 or this Schedule or of any order made under that section,
 - (b) have in his possession any document so closely resembling a document mentioned in paragraph (a) as to be calculated to deceive, or
 - (c) produce, furnish, send or otherwise make use of for purposes connected with that section or this Schedule or any order or direction made or given under that section, any book, account, estimate, return, declaration or other document which is false in a material particular.
- (2) A person must not, in furnishing any information for the purposes of section 260 or this Schedule or of any order made under that section—
- (a) make a statement which he knows to be false in a material particular, or
 - (b) recklessly make a statement which is false in a material particular.

Restrictions on disclosing information

- 5 No person who obtains any information by virtue of section 260 or this Schedule may, otherwise than in connection with the execution of that section or this Schedule or of an order made under that section, disclose that information except—

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- (a) for the purposes of any criminal proceedings, or of a report of any criminal proceedings, or
 - (b) with permission granted by or on behalf of a Minister of the Crown.
- 6 Paragraph 5 does not apply if—
- (a) the person who has obtained any such information as is referred to in that paragraph is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000 (c. 36), and
 - (b) the information is not held by the public authority on behalf of another person.

Offences by corporations

- 7 (1) Where an offence under section 260 or this Schedule committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in any such capacity, or
 - (b) to be attributable to any neglect on the part of such a person,
- that person, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) “Director”, in relation to a body corporate—
- (a) established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, and
 - (b) whose affairs are managed by its members,
- means a member of that body corporate.

Penalties

- 8 (1) A person who contravenes or fails to comply with—
- (a) an order made under section 260,
 - (b) a direction given or requirement imposed under that section, or
 - (c) a provision of this Schedule,
- is guilty of an offence.
- (2) Sub-paragraph (1) does not apply if the contravention or failure is an offence under paragraph 9(3) or 10(5).
- (3) A person guilty of an offence under sub-paragraph (1) is—
- (a) on summary conviction, liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding the prescribed sum, or to both, or
 - (b) on conviction on indictment, liable to imprisonment for a term not exceeding two years or to a fine, or to both.
- (4) Sub-paragraph (3) is subject to paragraph 11.

Production of documents

- 9 (1) For the purposes of—
- (a) securing compliance with any order made or direction given under section 260 by or on behalf of the Secretary of State, or

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- (b) verifying any estimates, returns or information furnished to the Secretary of State in connection with section 260 or any order made or direction given under that section,
- an officer of the Secretary of State duly authorised in that behalf has power, on producing (if required to do so) evidence of his authority, to require any person carrying on an undertaking or employed in connection with an undertaking to produce to that officer forthwith any documents relating to the undertaking which that officer may reasonably require for the purposes set out above.
- (2) The power conferred by this paragraph to require any person to produce documents includes power—
- (a) if the documents are produced, to take copies of them or extracts from them and to require that person, or where that person is a body corporate, any other person who is a present or past officer of, or is employed by, the body corporate, to provide an explanation of any of them,
- (b) if the documents are not produced, to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.
- (3) If any requirement to produce documents or provide an explanation or make a statement which is imposed by virtue of this paragraph is not complied with, the person on whom the requirement was so imposed is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) Sub-paragraph (3) is subject to paragraph 11.
- (5) Where a person is charged with such an offence in respect of a requirement to produce any document, it is a defence to prove that it was not in his possession or under his control and that it was not reasonably practicable for him to comply with the requirement.
- 10 (1) A justice of the peace may issue a warrant under this paragraph if he is satisfied, on information on oath laid on the Secretary of State's behalf, that there are any reasonable grounds for suspecting that there are on any premises any documents—
- (a) of which production has been required by virtue of paragraph 9, and
- (b) which have not been produced in compliance with that requirement.
- (2) A warrant so issued may authorise any constable, together with any other persons named in the warrant and any other constables to—
- (a) enter the premises specified in the information (using such force as is reasonably necessary for the purpose), and
- (b) search the premises and take possession of any documents appearing to be such documents as are mentioned above, or to take in relation to any documents so appearing any other steps which may appear necessary for preserving them and preventing interference with them.
- (3) Each warrant issued under this paragraph continues in force until the end of the period of one month after the date on which it is issued.
- (4) Any documents of which possession is taken under this paragraph may be retained—
- (a) for a period of three months, or
- (b) if within that period proceedings to which they are relevant are commenced for an offence under section 260 or this Schedule, until the conclusion of those proceedings.

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- (5) A person is guilty of an offence, and liable on summary conviction to a fine not exceeding level 3 on the standard scale, if he obstructs the exercise of—
- (a) any right of entry or search conferred by virtue of a warrant under this paragraph, or
 - (b) any rights so conferred to take possession of any documents.
- (6) Sub-paragraph (5) is subject to paragraph 11.

Penalties for offences: transitional modification for England and Wales

- 11 (1) In relation to an offence committed in England and Wales before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' courts power to impose imprisonment) paragraph 8(3) has effect as if for “twelve months” there were substituted “three months”.
- (2) In relation to an offence committed in England and Wales before the commencement of section 280 of the Criminal Justice Act 2003 (alteration of penalties for specified summary offences) paragraphs 9(3) and 10(5) have effect as if “to imprisonment for a term not exceeding three months or ” were inserted after “conviction”.

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