



National Health Service Act 2006

2006 CHAPTER 41

PART 13

MISCELLANEOUS

Price of medical supplies

265 Enforcement

- (1) Regulations may provide for a person who contravenes any provision of [^{F1}orders, regulations or directions under sections 260] to [^{F2}264A] to be liable to pay a penalty to the Secretary of State.
- (2) The penalty may be—
 - (a) a single penalty not exceeding £100,000, or
 - (b) a daily penalty not exceeding £10,000 for every day on which the contravention occurs or continues.
- (3) Regulations may provide for any amount required to be paid to the Secretary of State by virtue of section 261(8)(b), 262(1)(b) or 263(4) or (6)(b) to be increased by an amount not exceeding 50 per cent.
- (4) Regulations may provide for any amount payable to the Secretary of State by virtue of provision made under section 261(8)(b) [^{F3}or (9)], 262(1)(b) or 263(4), (5) [^{F4}, (5A)] or (6)(b) (including such an amount as increased under subsection (3)) to carry interest at a rate specified or referred to in the regulations.
- (5) Provision may be made by regulations for
 - [^{F5}(a)] conferring on manufacturers and suppliers a right of appeal against enforcement decisions taken in respect of them in pursuance of sections [^{F6}260] to 264 and this section [^{F7}, and
 - (b) conferring on UK producers a right of appeal against enforcement decisions taken in respect of them in pursuance of section 264A and this section (other than enforcement decisions falling within subsection (5A)).]

Changes to legislation: National Health Service Act 2006, Section 265 is up to date with all changes known to be in force on or before 09 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- [^{F8}(5A) Provision must be made by regulations for conferring on UK producers a right of appeal against enforcement decisions taken in respect of them in pursuance of section 264A and this section if the enforcement decisions relate to information notices given by virtue of section 264A(5).]
- (6) The provision which may be made by virtue of subsection (5) includes any provision which may be made by model provisions with respect to appeals under section 6 of the Deregulation and Contracting Out Act 1994 (c. 40), reading—
- (a) the references in subsections (4) and (5) of that section to enforcement action as references to action taken to implement an enforcement decision,
 - (b) in subsection (5) of that section, the references to interested persons as references to any persons and the reference to any decision to take enforcement action as a reference to any enforcement decision.
- (7) In subsections (5) and (6), “enforcement decision” means a decision of the Secretary of State or any other person to—
- (a) require a specific manufacturer or supplier [^{F9}, or other person who is a UK producer,] to provide information to him,
 - (b) limit, in respect of any specific manufacturer or supplier, any price or profit,
 - (c) refuse to give his approval to a price increase made by a specific manufacturer or supplier,
 - (d) require a specific manufacturer or supplier [^{F10}, or other person who is a UK producer,] to pay any amount (including an amount by way of penalty) to him, and in this subsection “specific” means specified in the decision.
- (8) A requirement or prohibition, or a limit, under sections [^{F11}260] to [^{F12}264A], may only be enforced under this section and may not be relied on in any proceedings other than proceedings under this section.
- [^{F13}(8A) Subsection (8) does not apply to any action by the Secretary of State to recover as a debt any amount required to be paid to the Secretary of State by virtue of any of sections 261 to 263 or this section.]
- [^{F14}(9) Before making any regulations under this section the Secretary of State must consult the industry body and any other body which appears to the Secretary of State appropriate to represent UK producers.]
- (10) The Secretary of State may by order increase (or further increase) either of the sums mentioned in subsection (2).
- [^{F15}(11) In this section “UK producer” is to be read in accordance with section 264A.]

Textual Amendments

- F1** Words in s. 265(1) substituted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 7\(5\)\(a\), 12\(3\); S.I. 2017/809, reg. 2\(f\)](#)
- F2** Word in s. 265(1) substituted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 10\(8\), 12\(3\); S.I. 2017/809, reg. 2\(h\) \(with reg. 3\)](#)
- F3** Words in s. 265(4) inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 6\(3\)\(a\), 12\(3\); S.I. 2017/809, reg. 2\(e\)](#)
- F4** Word in s. 265(4) inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 6\(3\)\(b\), 12\(3\); S.I. 2017/809, reg. 2\(e\)](#)

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- F5** S. 265(5)(a): words in s. 265(5) renumbered as s. 265(5)(a) (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(9)(a)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F6** Word in s. 265(5)(a) substituted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 7(5)(b)**, 12(3); S.I. 2017/809, reg. 2(f)
- F7** S. 265(5)(b) and preceding word inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(9)(b)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F8** S. 265(5A) inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(10)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F9** Words in s. 265(7)(a) inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(11)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F10** Words in s. 265(7)(d) inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(11)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F11** Word in s. 265(8) substituted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 7(5)(c)**, 12(3); S.I. 2017/809, reg. 2(f)
- F12** Word in s. 265(8) substituted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(12)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F13** S. 265(8A) inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 6(4)**, 12(3); S.I. 2017/809, reg. 2(e)
- F14** S. 265(9) substituted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(13)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F15** S. 265(11) inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(14)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)

Commencement Information

- I1** S. 265(10) in force at 7.8.2017 immediately after 1999 c. 8, s. 37(10) comes into force by S.I. 2017/810, **art. 2(c)**

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3B(1)(aa) inserted by [2022 c. 31 Sch. 3 para. 2\(b\)](#)
- s. 3B(1)(za) inserted by [2022 c. 31 Sch. 3 para. 2\(a\)](#)
- s. 13G(4) words omitted by virtue of 2012 c. 7, Sch. 14 para. 4A (as inserted) by [2014 c. 23 s. 120\(18\)\(a\)](#)
- s. 35(3A)(3B) inserted by [2012 c. 7 s. 159\(4\)](#)
- s. 35(3A) words substituted by [2022 c. 31 Sch. 5 para. 12\(4\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 35(3A) by 2012 c. 7 s.159(4) not yet in force.)
- s. 40(4)-(4B) substituted for s. 40(4) by [2012 c. 7 Sch. 14 para. 5](#)
- s. 42(1A) inserted by [2012 c. 7 Sch. 14 para. 6](#)
- s. 65F(2A)-(2F) inserted by [2012 c. 7 Sch. 14 para. 15\(4\)](#) (This amendment is itself amended before it comes into force by 2014 c. 23, ss. 85(15), 120(18)(b)(c), 127(1); S.I. 2014/1714, art. 3(2)(b)(c))
- s. 65H(10A) inserted by [2012 c. 7 Sch. 14 para. 17\(4\)](#)
- s. 65H(10A) omitted by [2022 c. 31 Sch. 8 para. 7\(7\)](#) (This amendment not applied to legislation.gov.uk. 2012 c. 7 Sch. 14 revoked at 1.7.2022 by 2022 c. 31, s. 186(6), Sch. 7 para. 13 before the insertion of s. 65H(10A) could come into effect.)
- s. 82A-83A and cross-heading substituted for s. 83 and cross-heading by [2022 c. 31 Sch. 3 para. 3](#)
- s. 84(4)-(4B) substituted for s. 84(4) by [2022 c. 31 Sch. 3 para. 4\(4\)](#)
- s. 92(5A) inserted by [2022 c. 31 Sch. 3 para. 9\(4\)](#)
- s. 94(3)(ca)(cb) substituted for s. 94(3)(ca) by [2022 c. 31 Sch. 3 para. 11\(3\)](#)
- s. 98A98B substituted for s. 98A by [2022 c. 31 Sch. 3 para. 14](#)
- s. 98BC-99B and cross-heading substituted for s. 99 and cross-heading by [2022 c. 31 Sch. 3 para. 15](#)
- s. 100(3A)(3B) inserted by [2022 c. 31 Sch. 3 para. 16\(4\)](#)
- s. 109(3)(ca)(cb) substituted for s. 109(3)(ca) by [2022 c. 31 Sch. 3 para. 23\(3\)](#)
- s. 112(1)(za) inserted by [2022 c. 31 Sch. 3 para. 24\(2\)\(b\)](#)
- s. 114A114B substituted for s. 114A by [2022 c. 31 Sch. 3 para. 26](#)
- s. 114C and cross-heading inserted by [2022 c. 31 Sch. 3 para. 27](#)
- s. 116A116B and cross-heading inserted by [2022 c. 31 Sch. 3 para. 30](#)
- s. 117(4)(4A) substituted for s. 117(4) by [2022 c. 31 Sch. 3 para. 31\(4\)](#)
- s. 125A125B substituted for s. 125A by [2022 c. 31 Sch. 3 para. 39](#)
- s. 223C(1)(c)(d) inserted by [2022 c. 31 s. 28](#)
- s. 223LA inserted by [2022 c. 31 s. 30\(3\)](#)
- Sch. 15 para. 4(1)(b) and word omitted by [2012 c. 7 Sch. 14 para. 39\(3\)](#)