

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1 – The Health Service in England

Emergency powers

Section 51 - Pharmaceutical services expenditure

512. Sections 164 and 165 of the NHS Act set out the general requirements for determining remuneration for NHS pharmaceutical services.
513. This section makes further provision in respect of the arrangement for pharmaceutical services expenditure by inserting a new section 165A and a new Schedule 12A into the NHS Act, which make further provisions to take into account the future NHS architecture.
514. Subsections (1) and (2) of new section 165A provide that the NHS Commissioning Board must give the Secretary of State such information as he or she may require in relation to the pharmaceutical remuneration paid by the NHS Commissioning Board to persons providing pharmaceutical services or local pharmaceutical services in such form or at such time or within such period as the Secretary of State may require. For example, in order for the Secretary of State to be able to discharge his duties in section 164 and 165 of the NHS Act, the Secretary of State may require the NHS Commissioning Board to notify the Secretary of State of:
- both the expenditure for which CCGs are to be liable by virtue of determinations and apportionments under the new Schedule 12A, as inserted by Schedule 3 which makes further provision about pharmaceutical remuneration; and
 - the rest of the expenditure by the NHS Commissioning Board on the commissioning of pharmaceutical services under Part 4 of the NHS Act.
515. The word “remuneration” is a specific term about which provision is made by section 165(6) of the NHS Act. It covers the fees and allowances that pharmaceutical contractors (community pharmacies, appliance contractors and dispensing doctors) receive for the services provided. It also covers reimbursement for the costs of the products they supply against prescriptions.
516. Under existing legislation, the Secretary of State determines the reimbursement price paid by the NHS for the products dispensed. The Secretary of State also determines the level of fees and allowances for pharmaceutical services. These are published monthly in the Drug Tariff.
517. The prescriptions dispensed by contractors are processed by the NHS Business Services Authority which then pays the contractors. The costs – for both the services and products – are then charged to PCTs.

*These notes refer to the Health and Social Care Act 2012
(c.7) which received Royal Assent on 27 March 2012*

518. The NHS Business Services Authority charges these costs to PCTs by deducting the relevant amount from the total sums that PCTs draw down each month – based on their annual unified funding allocation.
519. In future, it is expected that the Secretary of State will continue to determine the reimbursement price paid by the NHS for the products dispensed. This is because wider interests are affected, such as pharmaceutical manufacturers and wholesalers. However, as the NHS Commissioning Board will in future be commissioning pharmaceutical services, it is expected that the NHS Commissioning Board will become responsible for determining the level of fees and allowances paid for pharmaceutical services once PCTs are abolished.
520. This section also introduces Schedule 3.