



# National Health Service Act 2006

## 2006 CHAPTER 41

### PART 11

#### PROPERTY AND FINANCE

### CHAPTER 1

#### LAND AND OTHER PROPERTY

#### **211 Acquisition, use and maintenance of property**

- (1) The Secretary of State may acquire—
  - (a) any land, either by agreement or compulsorily,
  - (b) any other property,required by him for the purposes of this Act.
- (2) In particular, land may be so acquired to provide residential accommodation for persons employed for any of those purposes.
- (3) The Secretary of State may use for the purposes of any of the functions conferred on him by this Act any property belonging to him by virtue of this Act, and he has power to maintain all such property.
- (4) A local social services authority may be authorised to purchase land compulsorily for the purposes of this Act by means of an order made by the authority and confirmed by the Secretary of State.
- (5) The Acquisition of Land Act 1981 (c. 67) applies to the compulsory purchase of land under this section.
- (6) Section 120(3) of the Local Government Act 1972 (c. 70) (which relates to the application of Part 1 of the Compulsory Purchase Act 1965 (c. 56) where a council is authorised to acquire land by agreement) applies to the acquisition of land by the

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Secretary of State under this section as it applies to such acquisition by a council under that section.

- (7) Sections 238 and 239 of the Town and Country Planning Act 1990 (c. 8) (use and development of consecrated land and burial grounds) apply to consecrated land or land comprised in a burial ground (within the meaning of section 240 of that Act) which—
- (a) the Secretary of State holds for the purposes of the health service, and
  - (b) has not been the subject of a relevant acquisition (within the meaning of that section) by him,

as if that land had been the subject of such an acquisition by him for those purposes.

## CHAPTER 2

### TRUSTS

#### 212 Special trustees for a university hospital or teaching hospital

- (1) In this Act “special trustees” are trustees appointed by the Secretary of State in relation to England under—
- (a) section 29 of the National Health Service Reorganisation Act 1973 (c. 32),
  - (b) section 95 of the National Health Service Act 1977 (c. 49), and
  - (c) this section,
- for any hospital falling within subsection (2).
- (2) A hospital falls within this subsection if, immediately before the day appointed for the purposes of section 29 of the National Health Service Reorganisation Act 1973 (c. 32), it was controlled and managed by a University Hospital Management Committee or a Board of Governors, other than—
- (a) a body on whose request an order was made under section 24(2) of that Act, or
  - (b) a preserved Board within the meaning of section 15(6) of that Act.
- (3) Special trustees must hold and administer the property transferred under the National Health Service Reorganisation Act 1973.
- (4) The number of special trustees appointed under this section is such as the Secretary of State may from time to time determine after consultation with such persons as he considers appropriate.
- (5) Special trustees have power to accept, hold and administer any property on trust, being a trust which is wholly or mainly for hospitals for which they are appointed, for all or any purposes relating to—
- (a) hospital services (including research), or
  - (b) any other part of the health service associated with hospitals.
- (6) The term of office of any special trustee appointed under this section must be fixed by the Secretary of State, but a special trustee may be removed by the Secretary of State at any time during the special trustee’s term of office.
- (7) Subsection (3) is subject to sections 213 and 214.

### **213 Transfers of trust property**

- (1) The Secretary of State may, having regard to any change or proposed change—
  - (a) in the arrangements for the administration of a hospital or other establishment or facility, or
  - (b) in the area or functions of any NHS body other than an NHS foundation trust,by order provide for the transfer of any trust property from any relevant health service body to any other relevant health service body.
- (2) In this section “relevant health service body” means—
  - (a) an NHS body,
  - (b) special trustees, or
  - (c) trustees for a Primary Care Trust, an NHS trust or an NHS foundation trust.
- (3) Where property is transferred by an order under this section to two or more bodies, it must be apportioned by them in such proportions as they may agree, or as may in default of agreement be determined by the Secretary of State, and the order may provide for the way in which the property must be apportioned.
- (4) Where property is so apportioned, the Secretary of State may by order make any consequential amendments of the trust instrument relating to the property.
- (5) In this section “special trustees” includes special trustees within the meaning of section 160 of the National Health Service (Wales) Act 2006 (c. 42).

### **214 Transfer of functions and property to or from special trustees**

- (1) If it appears to the Secretary of State at any time that all the functions of any special trustees should be discharged by a Primary Care Trust, an NHS trust, a Special Health Authority or an NHS foundation trust, he may by order provide for the transfer of all trust property from the special trustees to the body or, in such proportions as may be specified in the order, to those bodies.
- (2) Before acting under subsection (1) the Secretary of State must consult the special trustees and other bodies concerned.
- (3) If it appears to the Secretary of State at any time that—
  - (a) the functions of any special trustees should be discharged by the trustees for a Primary Care Trust, an NHS trust or an NHS foundation trust (“the trustees of the body”), or
  - (b) the functions of the trustees of the body should be discharged by special trustees,he may, after consulting the special trustees and the trustees of the body, by order provide for the transfer of all trust property from the special trustees to the trustees of the body, or from the trustees of the body to the special trustees.
- (4) Where property is transferred by an order under this section to two or more bodies, it must be apportioned by them in such proportions as they may agree, or as may in default of agreement be determined by the Secretary of State, and the order may provide for the way in which the property must be apportioned.
- (5) Where property is so apportioned, the Secretary of State may by order make any consequential amendments of the trust instrument relating to the property.

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- (6) “Special trustees” includes special trustees within the meaning of section 160 of the National Health Service (Wales) Act 2006.

## **215 Trustees and property under section 222**

- (1) Where property is given in pursuance of section 222 (power of NHS bodies to raise money) to or on trust for any purposes of a hospital for which special trustees have been appointed, the property may be held, administered and applied by the special trustees instead of by the body responsible for the hospital if that body and the special trustees agree.
- (2) The body responsible for a hospital is—
- (a) in the case of a hospital vested in an NHS trust or an NHS foundation trust, that trust, and
  - (b) in any other case, the Strategic Health Authority or Primary Care Trust exercising functions of the Secretary of State in respect of the hospital.
- (3) Subsection (4) applies where property is given in pursuance of section 222—
- (a) on trust for any purposes of a Primary Care Trust for which trustees have been appointed under paragraph 12 of Schedule 3,
  - (b) on trust for any purposes of an NHS trust for which trustees have been appointed under paragraph 10 of Schedule 4, or paragraph 10 of Schedule 3 to the National Health Service (Wales) Act 2006 (c. 42), or
  - (c) on trust for any purposes of an NHS foundation trust for which trustees have been appointed under section 51.
- (4) Where this subsection applies and the trustees and the Primary Care Trust, NHS trust or NHS foundation trust agree, the property may be held, administered and applied by the trustees instead of by the Primary Care Trust, NHS trust or NHS foundation trust.
- (5) Property given in pursuance of section 222 on trust may be transferred by order of the Secretary of State under section 213 or 214 in the same circumstances as other trust property may be transferred under either of those sections.

## **216 Application of trust property: further provisions**

- (1) Any discretion given by a trust instrument to the trustees of property transferred under—
- (a) section 24 of the National Health Service Reorganisation Act 1973 (c. 32) (transfer of trust property from abolished authorities),
  - (b) section 25 of that Act (transfer of trust property held for health services by local health authorities),
  - (c) section 92 of the National Health Service Act 1977 (c. 49) (further transfers of trust property), or
  - (d) section 213 or 214 of this Act,
- is exercisable by the person to whom the property is so transferred and, subject to this section, the transfer does not affect the trusts on which the property is held.
- (2) Where—
- (a) property has been transferred under section 24 of the National Health Service Reorganisation Act 1973, or section 92 of the National Health Service Act 1977, and

- (b) any discretion is given by a trust instrument to the trustees to apply the property, or income arising from the property, to such hospital services (including research) as the trustees consider appropriate without any restriction on the kinds of hospital services and without any restriction to one or more specified hospitals,

the discretion is enlarged so as to allow the application of the property or of the income arising from the property, to such extent as the trustees consider appropriate, for any other part of the health service associated with any hospital.

- (3) Subsection (2) applies on any subsequent transfer of the property under section 213 or 214.

## **217 Trusts: supplementary provisions**

- (1) This section applies in relation to—

- (a) section 51(1) to (3),
- (b) sections 212 to 214,
- (c) section 216,
- (d) section 218,
- (e) section 220,
- (f) paragraphs 12 and 13 of Schedule 2,
- (g) paragraph 12 of Schedule 3,
- (h) paragraph 10 of Schedule 4, and
- (i) paragraphs 8 and 9 of Schedule 6.

- (2) A provision—

- (a) contained in a provision to which this section applies,
- (b) for the transfer of any property,

includes provision for the transfer of any rights and liabilities arising from that property.

- (3) Where a transfer of property by virtue of a provision to which this section applies is of, or includes—

- (a) land held on lease from a third party, or
- (b) any other asset leased or hired from a third party or in which a third party has an interest,

the transfer is binding on the third party notwithstanding that, apart from this subsection, it would have required his consent or concurrence.

- (4) “Third party” means a person other than the Secretary of State or an NHS body.

- (5) Nothing in a provision to which this section applies affects any power of Her Majesty, the court (as defined in the Charities Act 1993 (c. 10)) or any other person, to alter the trusts of any charity.

- (6) Nothing in section 12 of the Finance Act 1895 (c. 16) (which requires certain Acts and certain instruments relating to the vesting of property by virtue of an Act to be stamped as conveyances on sale) applies to—

- (a) a provision to which this section applies, or
- (b) an order made in pursuance of any such provision.

- (7) Stamp duty is not payable on an order falling within subsection (6)(b).

## **218 Private trusts for hospitals**

- (1) Subsection (2) applies where the terms of a trust instrument authorise or require the trustees, whether immediately or in the future, to apply any part of the capital or income of the trust property for the purposes of any health service hospital.
- (2) The trust instrument must be construed as authorising or requiring the trustees to apply the trust property to the like extent, and at the like times, for the purpose of making payments, whether of capital or income, to the appropriate hospital authority.
- (3) Any sum paid to the appropriate hospital authority must, so far as practicable, be applied by it for the purpose specified in the trust instrument.
- (4) “The appropriate hospital authority” means—
  - (a) where special trustees are appointed for the hospital, those trustees,
  - (b) where the hospital is managed by, and trustees have been appointed for, an NHS trust, an NHS foundation trust or Primary Care Trust, the trustees,
  - (c) where the hospital is managed by an NHS trust, an NHS foundation trust or Primary Care Trust and neither paragraph (a) nor paragraph (b) applies, the NHS trust, NHS foundation trust or Primary Care Trust, and
  - (d) in any other case, the Strategic Health Authority or Special Health Authority exercising functions of the Secretary of State in respect of the hospital, or the Special Health Authority or Local Health Board exercising functions of the Welsh Ministers in respect of the hospital.
- (5) Nothing in this section applies to property transferred under section 24 of the National Health Service Reorganisation Act 1973.
- (6) In this section—
 

“health service hospital” includes such a hospital within the meaning of section 206 of the National Health Service (Wales) Act 2006 (c. 42), and

“special trustees” includes special trustees within the meaning of section 160 of that Act.

## **CHAPTER 3**

### PROPERTY TRANSFERRED UNDER THE NATIONAL HEALTH SERVICE ACT 1946

## **219 Transferred property free of trusts**

- (1) All property vested in the Secretary of State in consequence of the transfer of that property under section 6 of the National Health Service Act 1946 (c. 81) (transfer of hospitals) is vested free of any trust existing immediately before that transfer.
- (2) The Secretary of State may use any such property for the purpose of any of his functions under this Act, but he must so far as practicable secure that the objects for which any such property was used immediately before that transfer are not prejudiced by the exercise of the power conferred by this subsection.

## **220 Trust property previously held for general hospital purposes**

- (1) This section applies to property—

- (a) transferred under section 23 of the National Health Service Reorganisation Act 1973 (c. 32) (winding-up of hospital endowment funds), or
  - (b) transferred under section 24 of that Act (transfer of trust property from abolished authorities) and which immediately before the day appointed for the purposes of that section was, in accordance with any provision contained in or made under section 7 of the National Health Service Act 1946, applicable for purposes relating to hospital services or relating to some form of research, including any such property which has been further transferred under section 92 of the National Health Service Act 1977 (c. 49).
- (2) This section continues to apply to any such property after any further transfer under section 213 or 214.
- (3) The person holding the property after the transfer or last transfer must secure, so far as is reasonably practicable, that the objects of any original endowment, and the observance of any conditions attached to that endowment, including in particular conditions intended to preserve the memory of any person or class of persons, are not prejudiced by this Part of this Act.
- (4) “Original endowment” means a hospital endowment which was transferred under section 7 of the National Health Service Act 1946 (c. 81) and from which the property in question is derived.
- (5) Subject to subsection (3), the property must be held on trust for such purposes relating to hospital services (including research), or to any other part of the health service associated with any hospital, as the person holding the property considers appropriate.
- (6) Where the person holding the property is a body of special trustees, the power conferred by subsection (5) must be exercised as respects the hospitals for which they are appointed.

## **221 Voluntary hospitals**

- (1) Subsection (2) applies where—
- (a) any hospital provided by the Secretary of State in accordance with this Act was a voluntary hospital transferred by virtue of the National Health Service Act 1946, and
  - (b) the character and associations of that hospital before its transfer were such as to link it with a particular religious denomination.
- (2) Regard must be had in the general administration of the hospital to the preservation of that character and those associations.

## **CHAPTER 4**

### **RAISING MONEY**

## **222 Power to raise money**

- (1) This section applies to any NHS body other than a Local Health Board.
- (2) A body to which this section applies has power to engage in activities intended to stimulate the giving (whether on trust or otherwise) of money or other property to—

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- (a) assist the body in providing or improving any services or any facilities or accommodation which is or are, or will be, provided as part of the health service, or
  - (b) assist it in connection with its functions with respect to research.
- (3) Subject to any directions of the Secretary of State excluding specified descriptions of activity, the activities authorised by this section include—
  - (a) public appeals or collections,
  - (b) competitions,
  - (c) entertainments,
  - (d) bazaars,
  - (e) sales of produce or other goods, and
  - (f) other similar activities.
- (4) The activities may involve the use of land, premises or other property held by or for the benefit of the body exercising the power.
- (5) Subsection (4) is subject to any restrictions on the purposes for which trust property may be used.
- (6) Subject to this section and section 215, the body at whose instance property is given in pursuance of this section must, after defraying out of it any expenses incurred in obtaining it, hold, administer and apply the property on trust for or for the purpose for which it was given.
- (7) Where property held by a body under this section is more than sufficient to enable the purpose for which it was given to be fulfilled, the excess is applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property comprising the excess was given, for such purposes connected with any of the functions of the body as it considers appropriate.
- (8) Where property held by a body under this section is insufficient to enable the purpose for which it was given to be fulfilled the body may apply so much of the capital or income at its disposal as is needed to enable the purpose to be fulfilled.
- (9) Subsection (8) is subject in the case of trust property to any restrictions on the purpose for which the trust property may be applied and, in the case of money paid or payable by the Secretary of State under section 224 or 226, to any directions he may give.
- (10) Where the capital or income applicable under subsection (8) is insufficient or is not applied to enable the purpose to be fulfilled, the property held by the body is applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property was given, for such purposes connected with any of the functions of the body as it considers appropriate.
- (11) Where under subsection (7) or (10) property becomes applicable for purposes other than that for which it was given the body applying the property must have regard to the desirability of applying it for a purpose similar to that for which it was given.
- (12) References in this section to the purposes for which trust property may be used or applied include, in the case of trust property which has been transferred under section 213 or 214, references to those purposes as enlarged by section 216.



## CHAPTER 5

### FORMATION OF COMPANIES

#### **223 Public-private partnerships**

- (1) The Secretary of State may form, or participate in forming, companies to provide facilities or services to persons or bodies exercising functions, or otherwise providing services, under this Act.
- (2) The Secretary of State may, with a view to securing or facilitating the provision by companies of facilities or services to persons or bodies falling within subsection (1)—
  - (a) invest in the companies (whether by acquiring assets, securities or rights or otherwise), or
  - (b) provide loans and guarantees and make other kinds of financial provision to or in respect of them,or both.
- (3) For the purposes of subsections (1) and (2) it is immaterial that the facilities or services provided or to be provided by the companies in question are not provided or to be provided—
  - (a) only to persons or bodies falling within subsection (1), or
  - (b) to persons or bodies falling within subsection (1) only in their capacities as persons or bodies such as are mentioned in that provision.
- (4) “Companies” means companies within the meaning of the Companies Act 1985 (c. 6).
- (5) This section does not affect any powers of the Secretary of State exercisable otherwise than by virtue of this section.

## CHAPTER 6

### FINANCE

#### *Strategic Health Authorities and Special Health Authorities*

#### **224 Means of meeting expenditure of Strategic Health Authorities out of public funds**

- (1) The Secretary of State must pay in respect of each financial year to each Strategic Health Authority sums not exceeding the amount allotted for that year by the Secretary of State to the Strategic Health Authority towards meeting the expenditure of the Strategic Health Authority which is attributable to the performance by it of its functions in that year.
- (2) Where the Secretary of State has made an initial determination of the amount (“the initial amount”) to be allotted for any year to a Strategic Health Authority under subsection (1), he may increase the initial amount by a further sum if it appears to him that over a period notified to the Strategic Health Authority—
  - (a) it satisfied any objectives notified to it as objectives to be met in performing its functions, or

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- (b) it performed well against any criteria notified to it as criteria relevant to the satisfactory performance of its functions (whether or not the method of measuring its performance against those criteria was also notified to it).
- (3) “Notified” means specified or referred to in a notice given to the Strategic Health Authority by the Secretary of State.
- (4) In making any increase under subsection (2), the Secretary of State may (whether by directions under subsection (9) or otherwise) impose any conditions he considers appropriate on the application or retention by the Strategic Health Authority of the sum in question.
- (5) Subsection (6) applies where—
  - (a) the Secretary of State has, under subsection (2), increased by any sum the amount to be allotted for any year to a Strategic Health Authority,
  - (b) the Secretary of State has notified the Strategic Health Authority of the allotment, and
  - (c) it subsequently appears to the Secretary of State that the Strategic Health Authority has failed (wholly or in part) to satisfy any conditions imposed in making that increase.
- (6) Where this subsection applies, the Secretary of State may reduce—
  - (a) the allotment made to that Strategic Health Authority for that year, or
  - (b) when he has made an initial determination of the amount (“the initial amount”) to be allotted for any subsequent year to the Strategic Health Authority under subsection (1), the initial amount,
 by an amount not exceeding the sum mentioned in subsection (5)(a).
- (7) An amount is allotted to a Strategic Health Authority for a year under this section when it is notified by the Secretary of State that the amount is allotted to it for that year.
- (8) The Secretary of State may, subject to subsection (6), make an allotment under this section increasing or reducing an allotment previously so made; and the reference to a determination in subsection (2) includes a determination made with a view to increasing or reducing an allotment previously so made.
- (9) The Secretary of State may give directions to a Strategic Health Authority with respect to—
  - (a) the application of sums paid to it under this section, or
  - (b) the payment of sums by it to the Secretary of State in respect of charges or other sums referable to the valuation or disposal of assets.
- (10) Sums falling to be paid to Strategic Health Authorities under this section are payable subject to such conditions as to records, certificates or otherwise as the Secretary of State may determine.

## **225 Means of meeting expenditure of Special Health Authorities out of public funds**

- (1) The Secretary of State must pay in respect of each financial year to each Special Health Authority sums not exceeding the amount allotted for that year by the Secretary of State to the Special Health Authority towards meeting the expenditure of the Special Health Authority which is attributable to the performance by it of its functions in that year.

- (2) An amount is allotted to a Special Health Authority for a year under this section when it is notified by the Secretary of State that the amount is allotted to it for that year.
- (3) The Secretary of State may make an allotment under this section increasing or reducing an allotment previously so made.
- (4) The Secretary of State may give directions to a Special Health Authority with respect to—
  - (a) the application of sums paid to it under this section, or
  - (b) the payment of sums by it to the Secretary of State in respect of charges or other sums referable to the valuation or disposal of assets.
- (5) Sums falling to be paid to Special Health Authorities under this section are payable subject to such conditions as to records, certificates or otherwise as the Secretary of State may determine.

## **226 Financial duties of Strategic Health Authorities and Special Health Authorities**

- (1) Each Strategic Health Authority must, in respect of each financial year, perform its functions so as to secure that its expenditure which is attributable to the performance by it of its functions in that year does not exceed the aggregate of—
  - (a) the amount allotted to it for that year under section 224(1),
  - (b) any sums received by it in that year under any provision of this Act (other than sums received by it under that subsection), and
  - (c) any sums received by it in that year otherwise than under this Act for the purpose of enabling it to defray any such expenditure.
- (2) Each Special Health Authority must, in respect of each financial year, perform its functions so as to secure that its expenditure which is attributable to the performance by it of its functions in that year does not exceed the aggregate of—
  - (a) the amount allotted to it for that year under section 225(1),
  - (b) any sums received by it in that year under any provision of this Act (other than sums received by it under that subsection), and
  - (c) any sums received by it in that year otherwise than under this Act for the purpose of enabling it to defray any such expenditure.
- (3) The Secretary of State may give such directions to a Strategic Health Authority or Special Health Authority as appear to be requisite to secure that the Authority complies with the duty under subsection (1) or (2).
- (4) To the extent to which—
  - (a) any expenditure is defrayed by a Strategic Health Authority or Special Health Authority as trustee or on behalf of a Strategic Health Authority or Special Health Authority by special trustees, or
  - (b) any sums are received by a Strategic Health Authority or Special Health Authority as trustee or under section 222,that expenditure and, subject to subsection (6), those sums, must be disregarded for the purposes of this section.
- (5) For the purposes of this section sums which, in the hands of a Strategic Health Authority or Special Health Authority, cease to be trust funds and become applicable

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by the Authority otherwise than as trustee must be treated, on their becoming so applicable, as having been received by the Authority otherwise than as trustee.

- (6) Of the sums received by a Strategic Health Authority or Special Health Authority under section 222, so much only as accrues to the Authority after defraying any expenses incurred in obtaining them must be disregarded under subsection (4).
- (7) Subject to subsection (4), the Secretary of State may by directions determine—
- (a) whether specified sums must, or must not, be treated for the purposes of this section as received under this Act by a specified Strategic Health Authority or specified Special Health Authority,
  - (b) whether specified expenditure must, or must not, be treated for those purposes as—
    - (i) expenditure within subsection (1) of a specified Strategic Health Authority, or
    - (ii) expenditure within subsection (2) of a specified Special Health Authority, or
  - (c) the extent to which, and the circumstances in which, sums received—
    - (i) by a Strategic Health Authority under section 224, or
    - (ii) by a Special Health Authority under section 225,
 but not yet spent must be treated for the purposes of this section as part of the expenditure of the Strategic Health Authority or Special Health Authority and to which financial year's expenditure they must be attributed.
- (8) “Specified” means of a description specified in the directions.

## **227 Resource limits for Strategic Health Authorities and Special Health Authorities**

- (1) Each Strategic Health Authority and each Special Health Authority must ensure that the use of its resources in a financial year does not exceed the amount specified for it in relation to that year by the Secretary of State.
- (2) For the purpose of subsection (1) the Secretary of State may give directions—
- (a) specifying uses of resources which must, or must not, be taken into account,
  - (b) making provision for determining to which Strategic Health Authority or Special Health Authority certain uses of resources must be attributed,
  - (c) specifying descriptions of resources which must, or must not, be taken into account.
- (3) The Secretary of State may give such directions to a Strategic Health Authority or Special Health Authority as appear to be requisite to secure that the Authority complies with the duty under subsection (1).
- (4) Subsections (4) to (6) of section 226 apply in relation to the duty under subsection (1) of this section as they apply in relation to the duties under subsections (1) and (2) of that section; and for that purpose references to the defraying of expenditure and the receipt of sums are references to the incurring of liabilities and the acquisition of assets.
- (5) Where the Secretary of State has specified an amount under this section in respect of a financial year, he may vary the amount by a later specification.

- (6) In this section a reference to the use of resources is a reference to their expenditure, consumption or reduction in value.

### *Primary Care Trusts*

## **228 Public funding of Primary Care Trusts**

- (1) The Secretary of State must, in respect of each financial year, pay to each Primary Care Trust—
- (a) sums equal to its pharmaceutical services expenditure, and
  - (b) sums not exceeding the amount allotted by the Secretary of State to the Primary Care Trust for that year towards meeting the Primary Care Trust’s main expenditure in that year.
- (2) In determining the amount to be allotted for any year to a Primary Care Trust under subsection (1)(b) (or in varying the amount under subsection (9)), the Secretary of State may take into account, in whatever way he considers appropriate—
- (a) the Primary Care Trust’s pharmaceutical services expenditure, and
  - (b) expenditure which would have been the Primary Care Trust’s pharmaceutical services expenditure but for an order under section 234(2) (special arrangements as to payment of remuneration),
- during any period he considers appropriate (or such elements of that expenditure as he considers appropriate).
- (3) Where the Secretary of State has made an initial determination of the amount (“the initial amount”) to be allotted for any year to a Primary Care Trust under subsection (1) (b), he may increase the initial amount by a further sum if it appears to him that over a period notified to the Primary Care Trust—
- (a) it satisfied any objectives notified to it as objectives to be met in performing its functions, or
  - (b) it performed well against any criteria notified to it as criteria relevant to the satisfactory performance of its functions (whether or not the method of measuring its performance against those criteria was also notified to it).
- (4) “Notified” means specified or referred to in a notice given to the Primary Care Trust by the Secretary of State.
- (5) In making any increase under subsection (3), the Secretary of State may (whether by directions under subsection (10) or otherwise) impose any conditions he considers appropriate on the application or retention by the Primary Care Trust of the sum in question.
- (6) Subsection (7) applies where—
- (a) the Secretary of State has, under subsection (3), increased by any sum the amount to be allotted for any year to a Primary Care Trust,
  - (b) the Secretary of State has notified the Primary Care Trust of the allotment, and
  - (c) it subsequently appears to the Secretary of State that the Primary Care Trust has failed (wholly or in part) to satisfy any conditions imposed in making that increase.
- (7) Where this subsection applies, the Secretary of State may reduce—
- (a) the allotment made to the Primary Care Trust for that year, or

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- (b) when he has made an initial determination of the amount (“the initial amount”) to be allotted for any subsequent year to the Primary Care Trust under subsection (1)(b), the initial amount,  
by an amount not exceeding the sum mentioned in subsection (6)(a).
- (8) An amount is allotted to a Primary Care Trust for a year under this section when the Primary Care Trust is notified by the Secretary of State that the amount is allotted to it for that year.
- (9) The Secretary of State may make an allotment under this section increasing or reducing (subject to subsection (7)) an allotment previously so made; and the reference to a determination in subsection (3) includes a determination made with a view to increasing or reducing an allotment previously so made.
- (10) The Secretary of State may give directions to a Primary Care Trust with respect to—
  - (a) the application of sums paid to it under this section, or
  - (b) the payment of sums by it to the Secretary of State in respect of charges or other sums referable to the valuation or disposal of assets.
- (11) Sums falling to be paid to Primary Care Trusts under this section are payable subject to such conditions as to records, certificates or otherwise as the Secretary of State may determine.
- (12) “Pharmaceutical services expenditure” and “main expenditure” are defined in Schedule 14.

## **229 Financial duties of Primary Care Trusts**

- (1) Each Primary Care Trust must, in respect of each financial year, perform its functions so as to secure that its expenditure which is attributable to the performance by it of its functions in that year (not including its pharmaceutical services expenditure) does not exceed the aggregate of—
  - (a) the amount allotted to it for that year under section 228(1)(b),
  - (b) any sums received by it in that year under any provision of this Act (other than sums received by it under that section), and
  - (c) any sums received by it in that year otherwise than under this Act for the purpose of enabling it to defray any such expenditure.
- (2) The Secretary of State may give such directions to a Primary Care Trust as appear to be requisite to secure that it complies with the duty under subsection (1).
- (3) To the extent to which—
  - (a) any expenditure is defrayed by a Primary Care Trust as trustee or on behalf of a Primary Care Trust by special trustees, or
  - (b) any sums are received by a Primary Care Trust as trustee or under section 222, that expenditure and, subject to subsection (5) those sums, must be disregarded for the purposes of this section.
- (4) For the purposes of this section sums which, in the hands of a Primary Care Trust, cease to be trust funds and become applicable by the Primary Care Trust otherwise than as trustee must be treated, on their becoming so applicable, as having been received by the Primary Care Trust otherwise than as trustee.

- (5) Of the sums received by a Primary Care Trust under section 222 so much only as accrues to the Primary Care Trust after defraying any expenses incurred in obtaining them must be disregarded under subsection (3).
- (6) Subject to subsection (3), the Secretary of State may by directions determine—
  - (a) whether specified sums must, or must not, be treated for the purposes of this section as received under this Act by a specified Primary Care Trust,
  - (b) whether specified expenditure must, or must not, be treated for those purposes as expenditure within subsection (1) of a specified Primary Care Trust, or
  - (c) the extent to which, and the circumstances in which, sums received by a Primary Care Trust under section 228 but not yet spent must be treated for the purposes of this section as part of the expenditure of the Primary Care Trust and to which financial year's expenditure they must be attributed.
- (7) “Specified” means of a description specified in the directions.

### **230 Resource limits for Primary Care Trusts**

- (1) Each Primary Care Trust must ensure that the use of its resources in a financial year does not exceed the amount specified for it in relation to that year by the Secretary of State.
- (2) For the purpose of subsection (1) no account may be taken of any use of resources for the purpose of a Primary Care Trust's pharmaceutical services expenditure.
- (3) But in specifying an amount for a Primary Care Trust under subsection (1) (or in varying the amount under subsection (5)), the Secretary of State may take into account (in whatever way he considers appropriate)—
  - (a) any such use of resources, and
  - (b) the use of any resources which would have been for the purpose of the Primary Care Trust's pharmaceutical services expenditure but for an order under section 234(2) (special arrangements as to payment of remuneration), during any period he considers appropriate (or such elements of such uses of resources as he considers appropriate).
- (4) For the purpose of subsection (1) the Secretary of State may give directions—
  - (a) specifying uses of resources which must, or must not, be taken into account,
  - (b) making provision for determining to which Primary Care Trust certain uses of resources must be attributed,
  - (c) specifying descriptions of resources which must, or must not, be taken into account.
- (5) Where the Secretary of State has specified an amount under this section in respect of a financial year, he may vary the amount by a later specification.
- (6) Subsections (3) to (5) of section 229 apply in relation to the duty under subsection (1) of this section as they apply in relation to the duty under subsection (1) of that section; and for that purpose references to the defraying of expenditure and the receipt of sums are references to the incurring of liabilities and the acquisition of assets.
- (7) The Secretary of State may give such directions to a Primary Care Trust as appear to be requisite to secure that it complies with the duty under subsection (1).

- (8) In this section a reference to the use of resources is a reference to their expenditure, consumption or reduction in value.

### **231 Further provision about the expenditure of Primary Care Trusts**

Schedule 14 makes further provision about the expenditure of Primary Care Trusts.

#### *Accounts and audit*

### **232 Accounts and audit**

Schedule 15 makes provision about the accounts of certain health service bodies and the auditing of such accounts.

#### *Allowances and remuneration*

### **233 Allowances for members of certain bodies**

- (1) The Secretary of State may pay to members of any body specified by him in an order as a body formed for the purpose of performing a function connected with the provision of services under this Act, such travelling and other allowances, including compensation for loss of remunerative time, as he may determine.
- (2) Payments under this section are subject to such conditions as to records, certificates, or otherwise as the Secretary of State may determine.

### **234 Special arrangement as to payment of remuneration**

- (1) Subsection (2) applies where the Secretary of State considers it appropriate for remuneration in respect of—
  - (a) primary medical services, primary dental services, primary ophthalmic services or pharmaceutical services, or
  - (b) services provided under a pilot scheme or an LPS scheme,
 to be paid by a particular body.
- (2) Where this subsection applies, and the functions of the body do not include the function of paying the remuneration, the Secretary of State may by order confer that function on that body.
- (3) Any sums required to enable a body to pay the remuneration must, if apart from this section there is no provision authorising the payment of the sums by the Secretary of State or out of money provided by Parliament, be paid by him.
- (4) If the Secretary of State by order so provides with respect to remuneration in respect of such pharmaceutical services or such local pharmaceutical services as may be specified in the order—
  - (a) an NHS trust or an NHS foundation trust determined in accordance with the order has the function of paying sums so determined to a Primary Care Trust so determined in respect of the whole or any part of that remuneration, and
  - (b) subsection (3) does not apply with respect to the whole or that part of the remuneration.



### **235 Superannuation of officers of certain hospitals**

- (1) The Secretary of State may enter into an agreement with the governing body of any hospital to which this section applies—
  - (a) for admitting officers of the hospital of such classes as may be provided in the agreement to participate, on such terms and conditions as may be so provided, in the superannuation benefits provided under regulations made under section 10 of the Superannuation Act 1972 (c. 11) in like manner as officers of NHS trusts, and
  - (b) those regulations apply accordingly in relation to the officers so admitted subject to such modifications as may be provided in the agreement.
- (2) The governing body of any hospital to which this section applies has such powers as may be necessary for the purpose of giving effect to any terms and conditions on which their officers are admitted to participate in those superannuation benefits.
- (3) This section applies to any hospital (not vested in the Secretary of State) which is used, in pursuance of arrangements made by the governing body of the hospital with the Secretary of State, for the provision of services under this Act or the National Health Service (Wales) Act 2006 (c. 42).
- (4) “Superannuation benefits” means annual superannuation allowances, gratuities and periodical payments payable on retirement, death or incapacity, and similar benefits.

### **236 Payments for certain medical examinations**

- (1) Where a medical practitioner carries out a medical examination of any person with a view to an application for his admission to hospital for assessment or treatment being made under Part 2 of the Mental Health Act 1983 (c. 20) the Secretary of State must pay to that medical practitioner—
  - (a) reasonable remuneration in respect of that examination and in respect of any recommendation or report made by him with regard to the person examined, and
  - (b) the amount of any expenses reasonably incurred by him in connection with the examination or the making of any such recommendation or report.
- (2) No payment may be made under this section to a medical practitioner—
  - (a) in respect of an examination carried out in the provision of primary medical services for that person, or
  - (b) in respect of an examination carried out or any recommendation or report made as part of his duty as an officer of a Primary Care Trust, NHS trust, Special Health Authority, NHS foundation trust or Local Health Board.
- (3) This section applies only in a case where it is intended, when the medical examination of the person in question is carried out, that if he is admitted to hospital in pursuance of an application mentioned in subsection (1), the whole cost of his maintenance and treatment will be defrayed out of moneys provided by Parliament.