



# National Health Service Act 2006

## 2006 CHAPTER 41

### PART 7

#### PHARMACEUTICAL SERVICES AND LOCAL PHARMACEUTICAL SERVICES

#### CHAPTER 1

##### PROVISION OF PHARMACEUTICAL SERVICES

#### 126 Arrangements for pharmaceutical services

- (1) [<sup>F1</sup>NHS England] must, in accordance with regulations, make the arrangements mentioned in subsection (3).
- (2) The Secretary of State must make regulations for the purpose of subsection (1).
- (3) The arrangements are arrangements [<sup>F2</sup>for the provision to persons who are in England] of—
  - (a) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown,
  - (b) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a dental practitioner in pursuance of—
    - (i) his functions in the health service, the Scottish health service or the Northern Ireland health service (other than functions exercised in pursuance of the provision of services mentioned in paragraph (c)), or
    - (ii) his functions in the armed forces of the Crown,
  - (c) listed drugs and medicines and listed appliances which are ordered for those persons by a dental practitioner in pursuance of the provision of primary dental services or equivalent services in the Scottish health service or the Northern Ireland health service,

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- (d) such drugs and medicines and such listed appliances as may be determined by the Secretary of State for the purposes of this paragraph and which are ordered for those persons by a prescribed description of person in accordance with such conditions, if any, as may be prescribed, in pursuance of functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown, and
  - (e) such other services as may be prescribed.
- (4) The descriptions of persons which may be prescribed for the purposes of subsection (3) (d) are the following, or any sub-category of such a description—
- (a) persons who are registered in the register maintained under article 5 of [<sup>F3</sup>the Health Professions Order 2001],
  - (b) persons who are registered pharmacists,
  - (c) persons who are registered in the dental care professionals register established under section 36B of the Dentists Act 1984 (c. 24),
  - (d) persons who are optometrists,
  - (e) persons who are registered osteopaths within the meaning of the Osteopaths Act 1993 (c. 21),
  - (f) persons who are registered chiropractors within the meaning of the Chiropractors Act 1994 (c. 17),
  - (g) persons who are registered nurses or registered midwives,
  - (h) persons not mentioned above who are registered in any register established, continued or maintained under an Order in Council under section 60(1) of the Health Act 1999 (c. 8),
  - (i) any other description of persons which appears to the Secretary of State to be a description of persons whose profession is regulated by or under a provision of, or made under, an Act of the Scottish Parliament or Northern Ireland legislation and which the Secretary of State considers it appropriate to specify.

[<sup>F4</sup>(4A) Subsection (4)(h) does not apply to persons in so far as they are registered as social care workers in England (within the meaning of section 60 of the Health Act 1999).]

- (5) A determination under subsection (3)(d) may—
  - (a) make different provision for different cases,
  - (b) provide for the circumstances or cases in which a drug, medicine or appliance may be ordered,
  - (c) provide that persons falling within a description specified in the determination may exercise discretion in accordance with any provision made by the determination in ordering drugs, medicines and listed appliances.

(6) The arrangements which may be made by [<sup>F1</sup>NHS England] under subsection (1) include arrangements for the provision of a service by means such that the person receiving it does so otherwise than at the premises from which it is provided.

<sup>F5</sup>(7) .....

(8) The services provided under this section are, together with additional pharmaceutical services provided in accordance with a direction under section 127, referred to in this Act as “pharmaceutical services”.

(9) In this section—  
“armed forces of the Crown” does not include forces of a Commonwealth country or forces raised in a colony,

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“listed” means included in a list approved by the Secretary of State for the purposes of this section,

“the Scottish health service” means the health service within the meaning of the National Health Service (Scotland) Act 1978 (c. 29), and

“the Northern Ireland health service” means the health service within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I.14)).

#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734](#), [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F2** Words in s. 126(3) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 63\(3\)](#); [S.I. 2013/160](#), [art. 2\(2\)](#) (with [arts. 7-9](#))
- F3** Words in s. 126(4)(a) substituted (2.12.2019) by [Children and Social Work Act 2017 \(c. 16\)](#), s. 70(2), [Sch. 5 para. 47\(j\)](#); [S.I. 2019/1436](#), [reg. 2\(s\)](#)
- F4** [S. 126\(4A\)](#) substituted (2.12.2019) by [Children and Social Work Act 2017 \(c. 16\)](#), s. 70(2), [Sch. 5 para. 30](#); [S.I. 2019/1436](#), [reg. 2\(s\)](#)
- F5** [S. 126\(7\)](#) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 63\(5\)](#); [S.I. 2013/160](#), [art. 2\(2\)](#) (with [arts. 7-9](#))

#### Modifications etc. (not altering text)

- C1** [S. 126](#) modified (temp.) (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 3 para. 4](#) (with [Sch. 3 Pt. 1](#))
- C2** [S. 126\(9\)](#) modified (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 2 para. 9](#) (with [Sch. 3 Pt. 1](#))

## 127 Arrangements for additional pharmaceutical services

- (1) The Secretary of State may—
- give directions to [<sup>F1</sup>NHS England] requiring it to arrange for the provision to persons [<sup>F6</sup>in England] of additional pharmaceutical services, or
  - by giving directions to [<sup>F1</sup>NHS England] authorise it to arrange for such provision if it wishes to do so.
- (2) Directions under this section may require or authorise [<sup>F1</sup>NHS England] to arrange for the provision of a service by means such that the person receiving it does so otherwise than at the premises from which it is provided.<sup>F7</sup>...
- (3) The Secretary of State must publish any directions under this section in the Drug Tariff or in such other manner as he considers appropriate.
- (4) In this section—
- “additional pharmaceutical services”, in relation to directions, means the services (of a kind that do not fall within section 126) which are specified in the directions, and
- “Drug Tariff” means the Drug Tariff published under regulation 18 of the National Health Service (Pharmaceutical Services) Regulations 1992 (S.I. 1992/662) or under any corresponding provision replacing, or otherwise derived from, that regulation.

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#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\); S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)
- F6** Words in s. 127(1)(a) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 64\(3\); S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F7** Words in s. 127(2) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 64\(4\); S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)

## 128 Terms and conditions, etc

- (1) Directions under section 127 may require [<sup>F1</sup>NHS England], when making arrangements—
  - (a) to include, in the terms on which the arrangements are made, such terms as may be specified in the directions,
  - (b) to impose, on any person providing a service in accordance with the arrangements, such conditions as may be so specified.
- (2) The arrangements must secure that any service to which they apply is provided only by a person—
  - (a) whose name is included in a pharmaceutical list, or
  - (b) who has entered into a pharmaceutical care services contract under section 17Q of the National Health Service (Scotland) Act 1978.
- (3) Different arrangements may be made with respect to—
  - (a) the provision of the same service by the same person but in different circumstances, or
  - (b) the provision of the same service by different persons.
- (4) [<sup>F1</sup>NHS England] must provide details of proposed arrangements (including the remuneration to be offered for the provision of services) to any person who asks for them.
- (5) After making any arrangements, [<sup>F1</sup>NHS England] must publish, in such manner as the Secretary of State may direct, such details of the arrangements as he may direct.
- (6) “Pharmaceutical list” includes, subject to any provision of the directions in question, a list published in accordance with regulations made under—
  - (a) section 83(2)(a) of the National Health Service (Wales) Act 2006 (c. 42), or
  - (b) Article 63(2A)(a) of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I.14)).

#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\); S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)

## [<sup>F8</sup>128A Pharmaceutical needs assessments

- (1) Each [<sup>F9</sup>Health and Wellbeing Board] must in accordance with regulations—
  - (a) assess needs for pharmaceutical services in its area, and

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- (b) publish a statement of its first assessment and of any revised assessment.
- (2) The regulations must make provision—
- (a) as to information which must be contained in a statement;
  - (b) as to the extent to which an assessment must take account of likely future needs;
  - (c) specifying the date by which a [F10Health and Wellbeing Board] must publish the statement of its first assessment;
  - (d) as to the circumstances in which a [F10Health and Wellbeing Board] must make a new assessment.
- (3) The regulations may in particular make provision—
- (a) as to the pharmaceutical services to which an assessment must relate;
  - (b) requiring a [F11Health and Wellbeing Board] to consult specified persons about specified matters when making an assessment;
  - (c) as to the manner in which an assessment is to be made;
  - (d) as to matters to which a [F12Health and Wellbeing Board] must have regard when making an assessment.]

#### Textual Amendments

- F8** S. 128A inserted (18.3.2010 for specified purposes, 24.5.2010 in so far as not already in force) by [Health Act 2009 \(c. 21\)](#), **ss. 25, 40(1)**; [S.I. 2010/779](#), art. 2(1)(2)
- F9** Words in s. 128A(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 206(1), 306(4)**; [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)
- F10** Words in s. 128A(2)(c)(d) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 206(1), 306(4)**; [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)
- F11** Words in s. 128A(3)(b) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 206(1), 306(4)**; [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)
- F12** Words in s. 128A(3)(d) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 206(1), 306(4)**; [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)

## 129 Regulations as to pharmaceutical services

- (1) Regulations must provide for securing that arrangements made by [F1NHS England] under section 126 will—
- (a) enable persons for whom drugs, medicines or appliances mentioned in that section are ordered as there mentioned to receive them from persons with whom such arrangements have been made, and
  - (b) ensure the provision of services prescribed under subsection (3)(e) of that section by persons with whom such arrangements have been made.
- (2) The regulations must include provision—
- (a) for the preparation and publication by [F1NHS England] of one or more lists of persons, other than medical practitioners and dental practitioners, who undertake to provide pharmaceutical services from premises in [F13England],
  - (b) that an application to [F1NHS England] for inclusion in a pharmaceutical list must be made in the prescribed manner and must state—

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- (i) the services which the applicant will undertake to provide and, if they consist of or include the supply of appliances, which appliances he will undertake to supply, and
    - (ii) the premises from which he will undertake to provide those services,
  - (c) that, except in prescribed cases (which may, in particular, include cases of applications for the provision only of services falling within subsection (7))—
    - (i) an application for inclusion in a pharmaceutical list by a person not already included, and
    - (ii) an application by a person already included in a pharmaceutical list for inclusion also in respect of services or premises other than those already listed in relation to him,

[<sup>F14</sup>[<sup>F15</sup>may be granted only if][<sup>F1</sup>NHS England] is satisfied as mentioned in subsection (2A), <sup>F16</sup>...] and
  - (d) for the removal of an entry in respect of premises from a pharmaceutical list if it has been determined in the prescribed manner that the person to whom the entry relates—
    - (i) has never provided from those premises, or
    - (ii) has ceased to provide from them,

the services, or any of the services, which he is listed as undertaking to provide from them.
- [<sup>F17</sup>(2ZA) [<sup>F1</sup>NHS England] may not include the Secretary of State, or such other persons as the regulations may prescribe, in a list prepared for the purposes of provision under subsection (2)(a).]
- [<sup>F18</sup>(2ZB) Regulations under subsection (2)(a) may, in particular, require a list of persons to be prepared by reference to the area in which the premises from which the services are provided are situated (and regulations imposing that requirement must prescribe the description of area by reference to which the list is to be prepared).]
- [<sup>F19</sup>(2A) [<sup>F1</sup>NHS England] is satisfied as mentioned in this subsection if, having regard to [<sup>F20</sup>the needs statement for the relevant area] and to any matters prescribed by the Secretary of State in the regulations, it is satisfied that [<sup>F21</sup>to grant the application would—
- (a) meet a need in that area for the services or some of the services specified in the application, or
  - (b) secure improvements, or better access, to pharmaceutical services in that area.]
- [<sup>F22</sup>(2B) In subsection (2A), “relevant area”, in relation to a needs statement, is the area of the Health and Wellbeing Board which includes the premises from which the application states that the applicant will undertake to provide services.]
- (2C) In relation to cases where [<sup>F1</sup>NHS England] is satisfied as mentioned in subsection [<sup>F23</sup>(2A)], the regulations may make provision as to—
- (a) the manner in which [<sup>F1</sup>NHS England] is to determine whether to grant the application,
  - (b) matters which [<sup>F1</sup>NHS England] must or must not take into account for the purpose of determining whether to grant the application.]
- (3) The regulations may prescribe the extent to which the provision of LP services (within the meaning given by paragraph 1 of Schedule 12) must be taken into account in determining whether to grant an application for inclusion in a pharmaceutical list.

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[<sup>F24</sup>(3A) The regulations may prescribe circumstances in which two or more applications referred to in subsection (2)(c)(i) or (ii) may be considered together by [<sup>F1</sup>NHS England].]

(4) The regulations may [<sup>F25</sup>make provision for [<sup>F1</sup>NHS England] to take into account prescribed matters in] the case where—

- <sup>F26</sup>(a) .....
- (b) [<sup>F27</sup>two or more applications referred to in subsection (2)(c)(i) or (ii)] are considered together by [<sup>F1</sup>NHS England], and
- (c) [<sup>F1</sup>NHS England] would be satisfied as mentioned in [<sup>F28</sup>subsection (2A) <sup>F29</sup>...] in relation to each application taken on its own, but is not so satisfied in relation to all of them taken together.

[<sup>F30</sup>(4A) Regulations under subsection (4) may in particular make the provision mentioned in subsection (5), with or without modifications.]

(5) The provision mentioned in this subsection is provision for [<sup>F1</sup>NHS England], in determining which application (or applications) to grant, to take into account any proposals specified in the applications in relation to the sale or supply at the premises in question, otherwise than by way of pharmaceutical services or in accordance with a private prescription, of—

- (a) drugs and medicines, and
- (b) other products for, or advice in relation to, the prevention, diagnosis, monitoring or treatment of illness or handicap, or the promotion or protection of health.

(6) The regulations may include provision—

[<sup>F31</sup>(za) for the circumstances and manner in which [<sup>F1</sup>NHS England] may invite applications for inclusion in a pharmaceutical list,]

- (a) that an application to [<sup>F1</sup>NHS England] may be granted in respect of some only of the services specified in it,
- (b) that an application to [<sup>F1</sup>NHS England] relating to services of a prescribed description may be granted only if it appears to [<sup>F1</sup>NHS England] that the applicant has satisfied such conditions with regard to the provision of those services as may be prescribed,
- (c) that an application to [<sup>F1</sup>NHS England] by a person who qualified to have his name registered [<sup>F32</sup>as a pharmacist in the Register maintained under article 19 of the Pharmacy Order 2010 by virtue of a qualification in pharmacy awarded in an EEA State other than the United Kingdom, or in Switzerland], may not be granted unless the applicant satisfies [<sup>F1</sup>NHS England] that he has the knowledge of English which, in the interest of himself and persons making use of the services to which the application relates, is necessary for the provision of pharmaceutical services <sup>F33</sup> ...,
- (d) that the inclusion of a person in a pharmaceutical list <sup>F34</sup> ... [<sup>F35</sup>an application to [<sup>F1</sup>NHS England]] may be for a fixed period,
- (e) that, where the premises from which an application states that the applicant will undertake to provide services are in an area of a prescribed description, the applicant may not be included in the pharmaceutical list unless his inclusion is approved by reference to prescribed criteria by [<sup>F1</sup>NHS England] in whose area those premises are situated,
- (f) that [<sup>F1</sup>NHS England] may give its approval subject to conditions,

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- (g) as to other grounds on which [<sup>F36</sup>or circumstances in which][<sup>F1</sup>NHS England][<sup>F37</sup>—
    - (i) may, or must, refuse to grant an application (including grounds corresponding to the conditions referred to in section 151(2), (3) or (4) as read with section 153)[<sup>F38</sup>,
    - (ii) may, or must, remove a person or an entry in respect of premises from a pharmaceutical list],
  - (h) as to information which must be supplied to [<sup>F1</sup>NHS England] by a person included, or seeking inclusion, in a pharmaceutical list (or by arrangement with him),
    - (i) for the supply to [<sup>F1</sup>NHS England] by an individual—
      - (i) who is included, or seeking inclusion, in a pharmaceutical list, or
      - (ii) who is a member of the body of persons controlling a body corporate included, or seeking inclusion, in a pharmaceutical list,
 of a criminal conviction certificate under section 112 of the Police Act 1997 (c. 50), a criminal record certificate under [<sup>F39</sup>section 113A of that Act, an enhanced criminal record certificate under section 113B of that Act or up-date information within the meaning given by section 116A of that Act,]
    - (j) for grounds on which [<sup>F1</sup>NHS England] may defer a decision whether or not to grant an application,
    - (k) for the disclosure by [<sup>F1</sup>NHS England], to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about applicants for inclusion in a pharmaceutical list, and refusals by [<sup>F1</sup>NHS England] to grant such applications,
    - (l) as to criteria to be applied in making decisions under the regulations (other than decisions required by virtue of paragraph (e)),
  - (m) as to the making of declarations about—
    - (i) financial interests,
    - (ii) gifts above a prescribed value, and
    - (iii) other benefits received.
- (7) A service falls within this subsection if the means of providing it is such that the person receiving it does so otherwise than at the premises from which it is provided.
- (8) The regulations may, in respect of services falling within subsection (7), include provision—
- (a) requiring persons to be approved for the purposes of providing such services, or
  - (b) requiring [<sup>F1</sup>NHS England] to make the grant of an application subject to prescribed conditions.
- (9) The approval mentioned in subsection (8)(a) is approval by the Secretary of State or such other person as may be specified in the regulations, in accordance with criteria to be specified in or determined under the regulations (whether by the Secretary of State or by another person so specified).
- (10) Before making regulations by virtue of subsection (6)(m), the Secretary of State must consult such organisations as he considers appropriate appearing to him to represent persons providing pharmaceutical services.

[<sup>F40</sup>(10A) [<sup>F1</sup>NHS England] must give reasons for decisions made by virtue of this section.



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(10B) In this section a “needs statement” means the statement required by section 128A(1)(b) as most recently published by the relevant [<sup>F41</sup>Health and Wellbeing Board].

(11) In this Act a “pharmaceutical list” means a list published in accordance with regulations made under subsection (2)(a).

### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F13** Words in s. 129(2)(a) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(1)(d)(4), **Sch. 4 para. 66(3)(a)(ii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F14** Words in s. 129(2)(c) substituted (1.9.2012) by [Health Act 2009 \(c. 21\)](#), **ss. 26(2)**, 40(1); S.I. 2012/1902, art. 2(a)
- F15** Words in s. 129(2)(c) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 207(2)(a)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F16** Words in s. 129(2)(c) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 207(2)(b)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F17** S. 129(2ZA) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 207(3)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F18** S. 129(2ZB) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(1)(d)(4), **Sch. 4 para. 66(4)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F19** S. 129(2A)-(2C) inserted (1.9.2012) by [Health Act 2009 \(c. 21\)](#), **ss. 26(3)**, 40(1); S.I. 2012/1902, art. 2(a)
- F20** Words in s. 129(2A) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 207(4)(a)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F21** Words in s. 129(2A) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 207(4)(b)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F22** S. 129(2B) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 207(5)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F23** Word in s. 129(2C) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 207(6)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F24** S. 129(3A) inserted (1.9.2012) by [Health Act 2009 \(c. 21\)](#), **ss. 26(4)**, 40(1); S.I. 2012/1902, art. 2(a)
- F25** Words in s. 129(4) substituted (1.9.2012) by [Health Act 2009 \(c. 21\)](#), **ss. 26(5)(a)**, 40(1); S.I. 2012/1902, art. 2(a)
- F26** S. 129(4)(a) repealed (1.9.2012) by [Health Act 2009 \(c. 21\)](#), **ss. 26(5)(b)**, 40(1), **Sch. 6**; S.I. 2012/1902, art. 2(a)
- F27** Words in s. 129(4)(b) substituted (1.9.2012) by [Health Act 2009 \(c. 21\)](#), **ss. 26(5)(c)**, 40(1); S.I. 2012/1902, art. 2(a)
- F28** Words in s. 129(4)(c) substituted (1.9.2012) by [Health Act 2009 \(c. 21\)](#), **ss. 26(5)(d)**, 40(1); S.I. 2012/1902, art. 2(a)

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- F29** Words in s. 129(4)(c) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 207(7)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F30** S. 129(4A) inserted (1.9.2012) by Health Act 2009 (c. 21), **ss. 26(6)**, 40(1); S.I. 2012/1902, art. 2(a)
- F31** S. 129(6)(za) inserted (1.9.2012) by Health Act 2009 (c. 21), **ss. 26(7)**, 40(1); S.I. 2012/1902, art. 2(a)
- F32** Words in s. 129(6)(c) substituted (27.9.2010) by The Pharmacy Order 2010 (S.I. 2010/231), art. 1(5), **Sch. 4 para. 13(2)**; S.I. 2010/1621, art. 2(1), Sch.
- F33** Words in s. 129(6)(c) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(1)(d)(4), **Sch. 4 para. 66(8)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F34** Words in s. 129(6)(d) repealed (1.9.2012) by virtue of Health Act 2009 (c. 21), s. 40(1), **Sch. 6**; S.I. 2012/1902, art. 2(f)
- F35** Words in s. 129(6)(d) substituted (1.9.2012) by Health Act 2009 (c. 21), **ss. 27**, 40(1); S.I. 2012/1902, art. 2(b)
- F36** Words in s. 129(6)(g) inserted (27.3.2012 for specified purposes, 1.7.2012 for further purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 207(8)(a)**, 306(1)(d)(4); S.I. 2012/1319, art. 2(3); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F37** Words in s. 129(6)(g) inserted (27.3.2012 for specified purposes, 1.7.2012 for further purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 207(8)(b)**, 306(1)(d)(4); S.I. 2012/1319, art. 2(3); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F38** S. 129(6)(g)(ii) inserted (27.3.2012 for specified purposes, 1.7.2012 for further purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 207(8)(c)**, 306(1)(d)(4); S.I. 2012/1319, art. 2(3); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F39** Words in s. 129(6)(i) substituted (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 121** (with s. 97); S.I. 2013/1180, art. 2(e)(v)
- F40** S. 129(10A)(10B) inserted (1.9.2012) by Health Act 2009 (c. 21), **ss. 26(8)**, 40(1); S.I. 2012/1902, art. 2(a)
- F41** Words in s. 129(10B) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), **ss. 207(9)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

#### Modifications etc. (not altering text)

- C3** S. 129(2A)(2B) excluded (E.) (1.9.2012) by The National Health Service (Pharmaceutical Services) Regulations 2012 (S.I. 2012/1909), regs. 1, **23**
- C4** S. 129(2A)(2B) excluded (E.) (1.9.2012) by The National Health Service (Pharmaceutical Services) Regulations 2012 (S.I. 2012/1909), regs. 1, **24(1)(2)**
- C5** S. 129(2A)(2B) excluded (E.) (1.9.2012) by The National Health Service (Pharmaceutical Services) Regulations 2012 (S.I. 2012/1909), regs. 1, **25(1)**
- C6** S. 129(2A)(2B) excluded (E.) (1.9.2012) by The National Health Service (Pharmaceutical Services) Regulations 2012 (S.I. 2012/1909), regs. 1, **26(1)(2)**
- C7** S. 129(2A)(2B) excluded (E.) (1.9.2012) by The National Health Service (Pharmaceutical Services) Regulations 2012 (S.I. 2012/1909), regs. 1, **27(1)**
- C8** S. 129(2A)(2B) excluded (E.) (1.9.2012) by The National Health Service (Pharmaceutical Services) Regulations 2012 (S.I. 2012/1909), regs. 1, **28(1)**
- C9** S. 129(2A)(2B) excluded (E.) (1.9.2012) by The National Health Service (Pharmaceutical Services) Regulations 2012 (S.I. 2012/1909), regs. 1, **29(1)**
- C10** S. 129 modified (temp.) (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 3 para. 6** (with Sch. 3 Pt. 1)
- C11** S. 129(2A) excluded (1.4.2013) by The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (S.I. 2013/349), regs. 1, **23** (with Sch. 9)
- C12** S. 129(2A) excluded (1.4.2013) by The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (S.I. 2013/349), regs. 1, **24(1)(2)** (with Sch. 9)

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- C13** S. 129(2A) excluded (1.4.2013) by The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (S.I. 2013/349), regs. 1, **27(1)** (with Sch. 9)
- C14** S. 129(2A) excluded (1.4.2013) by The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (S.I. 2013/349), regs. 1, **26(1)(2)** (with Sch. 9)
- C15** S. 129(2A) excluded (1.4.2013) by The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (S.I. 2013/349), regs. 1, **25(1)** (with Sch. 9)
- C16** S. 129(2A) excluded (1.4.2013) by The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (S.I. 2013/349), regs. 1, **28(1)** (with Sch. 9)
- C17** S. 129(2A) excluded (1.4.2013) by The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (S.I. 2013/349), regs. 1, **29(1)** (with Sch. 9)
- C18** S. 129(2A) excluded by S.I. 2013/349, reg. 26A(2) (as inserted (5.12.2016) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2016 (S.I. 2016/1077), regs. 1(1), 7)

### 130 Regulations under section 129: appeals, etc

- (1) Regulations under section 129 must include provision conferring on such persons as may be prescribed rights of appeal from decisions made by virtue of that section.
- (2) If regulations made by virtue of section 129(6)(g) provide that [<sup>F1</sup>NHS England] may refuse to grant an application [<sup>F42</sup>on grounds corresponding to the conditions referred to in section 151(2), (3) or (4) as read with section 153], they must also provide for an appeal <sup>F43</sup>... to the [<sup>F44</sup>First-tier Tribunal] against the decision of [<sup>F1</sup>NHS England].
- (3) Regulations under section 129 must be so framed as to preclude—
  - (a) a person included in a pharmaceutical list, and
  - (b) an employee of such a person,from taking part in the decision whether an application such as is mentioned in section 129(2)(c) should be granted or an appeal against such a decision brought by virtue of subsection (1) of this section should be allowed.

#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F42** Words in s. 130(2) inserted (27.3.2012 for specified purposes, 1.7.2012 for further purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), ss. **207(10)(a)**, 306(1)(d)(4); S.I. 2012/1319, art. 2(3); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F43** Words in s. 130(2) omitted (27.3.2012 for specified purposes, 1.7.2012 for further purposes, 1.4.2013 in so far as not already in force) by virtue of Health and Social Care Act 2012 (c. 7), ss. **207(10)(b)**, 306(1)(d)(4); S.I. 2012/1319, art. 2(3); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F44** Words in s. 130(2) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 2 para. 111** (with Sch. 5)

### 131 Power to charge

- (1) The Secretary of State may give directions to [<sup>F1</sup>NHS England] requiring it to charge a fee in cases or descriptions of case specified in the directions to persons who make an application referred to in section 129(2)(c)(i) or (ii).
- (2) The Secretary of State may in the directions—

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- (a) specify the fee himself, or
  - (b) require [F1NHS England] to determine the amount of the fee in accordance with any requirements set out in the directions.
- (3) Before determining the amount of the fee-
- (a) in a subsection (2)(a) case, the Secretary of State must consult such organisations as he considers appropriate that appear to him to represent persons providing pharmaceutical services, <sup>F45</sup>...
  - (b) in a subsection (2)(b) case, [F1NHS England] must undertake any consultation required by the directions.
- (4) The Secretary of State must publish in such manner as he considers appropriate any directions he gives under this section.
- (5) In a subsection (2)(b) case, [F1NHS England] must publish in such manner as it considers appropriate the fee which it determines.

#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734, reg. 2\(a\), Sch.](#) (with [regs. 13, 29, 30](#))
- F45** Words in [s. 131\(3\)\(a\)](#) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 68\(4\)](#) (with [Sch. 4 para. 92\(8\)](#)); [S.I. 2013/160, art. 2\(2\)](#) (with [arts. 7-9](#))

### 132 Persons authorised to provide pharmaceutical services

- (1) Except as may be provided for by or under regulations, no arrangements may be made by [F1NHS England] with a medical practitioner or dental practitioner under which he is required or agrees to provide pharmaceutical services to any person to whom he is rendering primary medical services or primary dental services.
- (2) Except as may be provided for by or under regulations, no arrangements for the dispensing of medicines may be made under this Chapter with persons other than persons who—
- (a) are registered pharmacists or persons lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968 (c. 67), and
  - (b) undertake that all medicines supplied by them under the arrangements will be dispensed either by or under the supervision of a registered pharmacist.
- (3) Regulations must provide for the preparation and publication by [F1NHS England] of one or more lists of medical practitioners who undertake to provide drugs, medicines or listed appliances (within the meaning given by section 126) under arrangements with [F1NHS England].
- (4) The regulations may, in particular, include provision—
- (a) as to grounds on which [F1NHS England] may, or must, refuse to grant an application for inclusion in a list of medical practitioners referred to in subsection (3) (including grounds corresponding to the conditions referred to in section 151(2), (3) or (4) as read with section 153(2)),
  - [F46(aa) requiring a list of medical practitioners referred to in subsection (3) to be prepared by reference to an area of a prescribed description.]

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- (b) as to information which must be supplied to [F1NHS England] by a medical practitioner included, or seeking inclusion, in such a list (or by arrangement with him),
  - (c) for the supply to [F1NHS England] by a medical practitioner who is included, or seeking inclusion, in such a list of a criminal conviction certificate under section 112 of the Police Act 1997 (c. 50), a criminal record certificate under [F47section 113A of that Act, an enhanced criminal record certificate under section 113B of that Act or up-date information within the meaning given by section 116A of that Act,]
  - (d) for grounds on which [F1NHS England] may defer a decision whether or not to grant an application for inclusion in such a list,
  - (e) for the disclosure by [F1NHS England] to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about applicants for inclusion in such a list, and refusals by the Primary Care Trust to grant such applications,
  - (f) as to criteria to be applied in making decisions under the regulations.
- (5) If regulations made by virtue of subsection (4)(a) provide that [F1NHS England] may refuse to grant an application for inclusion in such a list, they must also provide for an appeal (by way of redetermination) to the [F48First-tier Tribunal] against the decision of [F1NHS England].
- (6) The regulations must include provision for the removal of an entry from a list in prescribed circumstances.
- (7) No arrangements for the provision of—
- (a) pharmaceutical services falling within section 126(3)(e), or
  - (b) additional pharmaceutical services provided in accordance with a direction under section 127,
- may be made with persons other than those who are registered pharmacists or are of a prescribed description.
- (8) Where—
- (a) arrangements for the provision of pharmaceutical services have been made with a registered pharmacist, and
  - [F49(b) his registration is suspended by virtue of any direction or order under the Pharmacy Order 2010,]
- he may not provide pharmaceutical services in person during the period of suspension.
- [F50(9) .....

#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734](#), reg. 2(a), [Sch.](#) (with regs. 13, 29, 30)
- F46** S. 132(4)(aa) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 69\(4\)](#) (with [Sch. 4 para. 92\(8\)](#)); [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)
- F47** Words in s. 132(4)(c) substituted (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\)](#), s. 120, [Sch. 9 para. 122](#) (with s. 97); [S.I. 2013/1180](#), art. 2(e)(v)
- F48** Words in s. 132(5) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 112](#) (with [Sch. 5](#))

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**F49** S. 132(8)(b) substituted (27.9.2010) by The Pharmacy Order 2010 (S.I. 2010/231), art. 1(5), **Sch. 4 para. 13(3)**; S.I. 2010/1621, art. 2(1), Sch.

**F50** S. 132(9) omitted (30.3.2007) by virtue of Pharmacists and Pharmacy Technicians Order 2007 (S.I. 2007/289), art. 1(2)(3), **Sch. 1 para. 10(3)(b)**

**Modifications etc. (not altering text)**

**C19** S. 132 modified (temp.) (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 3 para. 7** (with Sch. 3 Pt. 1)

### 133 Inadequate provision of pharmaceutical services

- (1) Subsection (2) applies if the Secretary of State is satisfied, after such inquiry as he considers appropriate, that—
- (a) as respects [<sup>F51</sup>any part of England], the persons whose names are included in any pharmaceutical list are not such as to secure the adequate provision of pharmaceutical services in that <sup>F52</sup>... part, or
  - (b) for any other reason any considerable number of persons in [<sup>F53</sup>any part of England] are not receiving satisfactory services under the arrangements in force under this Chapter.
- (2) Where this subsection applies, the Secretary of State—
- (a) may authorise [<sup>F1</sup>NHS England] to make such other arrangements as he may approve, or may himself make such other arrangements, and
  - (b) may dispense with any of the requirements of regulations made under this Part (other than Chapters 2 to 4) so far as appears to him necessary to meet exceptional circumstances and enable such arrangements to be made.

**Textual Amendments**

**F1** Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 1 para. 1(1)(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

**F51** Words in s. 133(1)(a) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 70(2)(a)** (with Sch. 4 para. 92(8)); S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F52** Words in s. 133(1)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 70(2)(b)** (with Sch. 4 para. 92(8)); S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F53** Words in s. 133(1)(b) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 70(3)** (with Sch. 4 para. 92(8)); S.I. 2013/160, art. 2(2) (with arts. 7-9)

## CHAPTER 2

### LOCAL PHARMACEUTICAL SERVICES: PILOT SCHEMES

#### 134 Pilot schemes

- (1) [<sup>F1</sup>NHS England] may establish pilot schemes.
- (2) In this [<sup>F54</sup>Part], a “pilot scheme” means one or more agreements—
- (a) made by [<sup>F1</sup>NHS England] in accordance with this Chapter, [<sup>F55</sup>and]
  - (b) under which local pharmaceutical services will be provided <sup>F56</sup>..., <sup>F57</sup>...
  - (c) <sup>F57</sup>...

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- (3) A pilot scheme may include arrangements—
- (a) for the provision of services which are not local pharmaceutical services, but which may be provided under this Act, other than under Chapter 1 of this Part, and whether or not of the kind usually provided by pharmacies,
  - (b) for the provision of training and education (including training and education for persons who are, or may become, involved in the provision of local pharmaceutical services).
- (4) A pilot scheme may not combine arrangements for the provision of local pharmaceutical services with arrangements for the provision of primary medical services or primary dental services.
- (5) In determining the arrangements it needs to make in order to comply with section 126, [F1NHS England] may take into account arrangements under a pilot scheme made by it.
- (6) The functions of an NHS trust and an NHS foundation trust include power to provide any services to which a pilot scheme applies.
- (7) In this Chapter—
- “local pharmaceutical services” means such services of a kind which may be provided under section 126, or by virtue of section 127 (other than practitioner dispensing services) as may be prescribed for the purposes of this Chapter, and
  - “piloted services” means services provided under a pilot scheme (including any services to which the scheme applies as a result of subsection (3)).
- (8) “Practitioner dispensing services” means the provision of drugs, medicines or listed appliances (within the meaning given by section 126) by a medical practitioner or dental practitioner to a patient of his pursuant to arrangements made by virtue of section 132(1).

#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734](#), [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F54** Word in s. 134(2) substituted (19.1.2010) by [Health Act 2009 \(c. 21\)](#), s. 40(1), [Sch. 1 para. 8](#); [S.I. 2010/30](#), [art. 2\(b\)](#)
- F55** Word in s. 134(2) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 71\(3\)\(b\)](#) (with [Sch. 4 para. 92\(8\)](#)); [S.I. 2013/160](#), [art. 2\(2\)](#) (with [arts. 7-9](#))
- F56** Words in s. 134(2)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 71\(3\)\(c\)](#) (with [Sch. 4 para. 92\(8\)](#)); [S.I. 2013/160](#), [art. 2\(2\)](#) (with [arts. 7-9](#))
- F57** S. 134(2)(c) and word omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 71\(3\)\(d\)](#) (with [Sch. 4 para. 92\(8\)](#)); [S.I. 2013/160](#), [art. 2\(2\)](#) (with [arts. 7-9](#))

## 135 Making pilot schemes

Schedule 11 makes provision with respect to making pilot schemes, including provision with respect to the procedure to be followed.

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### 136 Designation of priority neighbourhoods or premises

- (1) The Secretary of State may make regulations allowing [<sup>F1</sup>NHS England] to designate—
- (a) [<sup>F58</sup>relevant areas],
  - (b) premises, or
  - (c) descriptions of premises,
- for the purposes of this section.
- (2) The regulations may, in particular, make provision—
- (a) as to the circumstances in which, and the [<sup>F59</sup>relevant areas] or premises in relation to which, designations may be made or maintained,
  - (b) allowing [<sup>F1</sup>NHS England] to defer consideration of pharmaceutical list applications relating to [<sup>F59</sup>relevant areas], premises or descriptions of premises that have been designated,
  - (c) allowing a designation to be cancelled in prescribed circumstances,
  - (d) requiring a designation to be cancelled—
    - (i) if the Secretary of State gives a direction to that effect, or
    - (ii) in prescribed circumstances.
- (3) “Pharmaceutical list applications” means applications for inclusion in a pharmaceutical list.
- [<sup>F60</sup>(4) “Relevant area” has the same meaning as in section 129(2A).]

#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734, reg. 2\(a\), Sch. \(with regs. 13, 29, 30\)](#)
- F58** Words in s. 136(1)(a) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 207\(11\)\(a\), 306\(1\)\(d\)\(4\)](#); [S.I. 2013/160, art. 2\(2\) \(with arts. 7-9\)](#)
- F59** Words in s. 136(2)(a)(b) substituted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 207\(11\)\(a\), 306\(1\)\(d\)\(4\)](#); [S.I. 2013/160, art. 2\(2\) \(with arts. 7-9\)](#)
- F60** S. 136(4) inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 207\(11\)\(b\), 306\(1\)\(d\)\(4\)](#); [S.I. 2013/160, art. 2\(2\) \(with arts. 7-9\)](#)

### 137 Reviews of pilot schemes

- (1) At least one review of the operation of each pilot scheme must be conducted by the Secretary of State.
- (2) Each pilot scheme must be reviewed under this section before the end of the period of three years beginning with the date on which piloted services are first provided under the scheme.
- (3) When conducting a review of a pilot scheme, the Secretary of State must give—
- (a) [<sup>F1</sup>NHS England], and
  - (b) any person providing services under the scheme,



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an opportunity to comment on any matter relevant to the review.

(4) Otherwise, the procedure on any review must be determined by the Secretary of State.

#### Textual Amendments

**F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1(1)(2); [S.I. 2022/734](#), reg. 2(a), Sch. (with regs. 13, 29, 30)

### 138 Variation and termination of pilot schemes

- (1) The Secretary of State may give directions authorising [<sup>F1</sup>NHS England] to vary pilot schemes (otherwise than in response to directions given under subsection (2)) in such circumstances, and subject to such conditions, as may be specified in the directions.
- (2) The Secretary of State may by directions require a pilot scheme to be varied by [<sup>F1</sup>NHS England] in accordance with the directions.
- (3) If satisfied that a pilot scheme is (for any reason) unsatisfactory, the Secretary of State may give directions to [<sup>F1</sup>NHS England] requiring it to bring the scheme to an end in accordance with the terms of the directions.

#### Textual Amendments

**F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1(1)(2); [S.I. 2022/734](#), reg. 2(a), Sch. (with regs. 13, 29, 30)

### 139 NHS contracts and the provision of piloted services

- (1) In the case of a pilot scheme entered into, or to be entered into, by a single individual or body corporate (other than an NHS foundation trust), that individual or body may make an application under this section to become a health service body.
- (2) In the case of any other pilot scheme, all of those providing, or proposing to provide, piloted services under the scheme may together make an application under this section to become a single health service body.
- (3) An application must—
  - (a) be made to the Secretary of State in accordance with such provisions as may be made by regulations, and
  - (b) specify the pilot scheme in relation to which it is made.
- (4) Except in such cases as may be prescribed, the Secretary of State may grant an application.
- (5) If an application is granted, the Secretary of State must specify a date in relation to that application and, as from that date—
  - (a) in the case of an application under subsection (1), the applicant is, and
  - (b) in the case of an application under subsection (2), the applicants together are, a health service body for the purposes of section 9.

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- (6) That section has effect in relation to such a health service body (“a PHS body”), acting as commissioner, as if the functions referred to in section 9(1) were the provision of piloted services.
- (7) Except in such circumstances as may be prescribed, a PHS body resulting from an application under subsection (2) must be treated, at any time, as consisting of those who are providing piloted services under the scheme.
- (8) A direction as to payment made under section 9(11) against, or in favour of, a PHS body is enforceable in [<sup>F61</sup>the county court] (if the court so orders) as if it were a judgment or order of that court.
- (9) Regulations may provide for a PHS body to cease to be a PHS body in prescribed circumstances.
- (10) The Secretary of State must—
  - (a) maintain and publish a list of PHS bodies,
  - (b) publish a revised copy of the list as soon as is reasonably practicable after any change is made to it.
- (11) The list must be published in such manner as the Secretary of State considers appropriate.

#### Textual Amendments

**F61** Words in s. 139(8) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 9 para. 52](#); [S.I. 2014/954, art. 2\(c\)](#) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956, arts. 3-11](#))

## 140 Funding of preparatory work

- (1) Provision may be made by regulations for [<sup>F1</sup>NHS England] to make payments of financial assistance for preparatory work.
- (2) “Preparatory work” means work which it is reasonable for a person to undertake—
  - (a) in connection with preparing proposals for a pilot scheme, or
  - (b) in preparing for the provision by him of any piloted services.
- (3) The regulations may, in particular, include provision—
  - (a) prescribing the circumstances in which payments of financial assistance may be made,
  - (b) imposing a limit on the amount of any payment of financial assistance which [<sup>F1</sup>NHS England] may make in any prescribed period in respect of any one person or any one pilot scheme,
  - (c) imposing a limit on the aggregate amount which [<sup>F1</sup>NHS England] may pay by way of financial assistance in any one financial year,
  - (d) requiring a person to whom assistance is given under this section to comply with such conditions as may be imposed in accordance with prescribed requirements, and
  - (e) for repayment in the case of a failure to comply with any condition so imposed.

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#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)

### 141 Application of this Act

This Act has effect in relation to piloted services—

- (a) subject to any provision of, or made under, this Chapter, section 145 (application of enactments) or section 178 (charges for local pharmaceutical services), but
- (b) otherwise as if those services were provided as a result of the delegation by the Secretary of State of his functions (by directions given under section 7).

### 142 Premises from which piloted services may be provided

The Secretary of State may by regulations—

- (a) prevent (except in such circumstances and to such extent as may be prescribed) the provision of both piloted services and pharmaceutical services from the same premises,
- (b) make provision with respect to the inclusion, removal, re-inclusion or modification of an entry in respect of premises in a pharmaceutical list.

### 143 Control of entry regulations

The power to make regulations under section 129 includes power to prescribe the extent to which the provision of piloted services must be taken into account in determining whether to grant an application for inclusion in a pharmaceutical list.

## CHAPTER 3

### LOCAL PHARMACEUTICAL SERVICES: LPS SCHEMES

### 144 Local pharmaceutical services schemes

Schedule 12 makes provision with respect to the provision of local pharmaceutical services in accordance with schemes made by [<sup>F62</sup>[<sup>F1</sup>NHS England] or the Secretary of State]<sup>F63</sup> ... .

#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)
- F62** Words in s. 144 substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 76\(1\)\(a\)](#) (with [Sch. 4 para. 93\(6\)](#)); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F63** Words in s. 144 omitted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 76\(1\)\(b\)](#) (with [Sch. 4 para. 93\(6\)](#)); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)

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## CHAPTER 4

### LOCAL PHARMACEUTICAL SERVICES: MISCELLANEOUS

#### *Application of enactments*

#### **145 Application of enactments**

- (1) The Secretary of State may by regulations make, in relation to local pharmaceutical services arrangements or persons providing or assisting in the provision of services under such arrangements, provision corresponding (whether or not exactly) to enactments containing provision relating to—
  - (a) section 92 arrangements or section 107 arrangements, or
  - (b) persons who provide or perform services under section 92 or section 107.
- (2) The regulations may, in particular, provide for the application of any such enactment with such modifications, if any, as the Secretary of State considers appropriate.
- (3) The provision which may be made under this section includes provision amending, repealing or revoking enactments.
- (4) “Local pharmaceutical services arrangements” means arrangements made under an LPS scheme or a pilot scheme.

#### *Performance of local pharmaceutical services*

#### **146 Persons performing local pharmaceutical services**

- [<sup>F64</sup>(1) Regulations may provide that a health care professional of a prescribed description may not perform any local pharmaceutical service for which a Primary Care Trust is responsible unless he is included in a list maintained under the regulations by a Primary Care Trust.
- (2) For the purposes of this section—
  - (a) “health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17),
  - (b) a Primary Care Trust is responsible for a local pharmaceutical service if it secures its provision by or under any enactment.
- (3) Regulations under this section may make provision in relation to lists under this section and in particular as to—
  - (a) the preparation, maintenance and publication of a list,
  - (b) eligibility for inclusion in a list,
  - (c) applications for inclusion (including provision as to the Primary Care Trust to which an application must be made, and for the procedure for applications and the documents to be supplied on application),
  - (d) the grounds on which an application for inclusion may or must be granted or refused,
  - (e) requirements with which a person included in a list must comply (including the declaration of financial interests and gifts and other benefits),

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- (f) suspension or removal from a list (including provision for the grounds for, and consequences of, suspension or removal),
  - (g) circumstances in which a person included in a list may not withdraw from it,
  - (h) payments to be made in respect of a person suspended from a list (including provision for the amount of the payment, or the method of calculating the payment, to be determined by the Secretary of State or a person appointed by him),
  - (i) the criteria to be applied in making decisions under the regulations,
  - (j) appeals against decisions made by a Primary Care Trust under the regulations, and
  - (k) disclosure of information about applicants for inclusion, grants or refusals of applications or suspensions or removals,
- and may make any provision corresponding to anything in sections 151 to 159.
- (4) Regulations under this section may, in particular, also provide for—
- (a) a person's inclusion in a list to be subject to conditions determined by a Primary Care Trust,
  - (b) a Primary Care Trust to vary the conditions or impose different ones,
  - (c) the consequences of failing to comply with a condition (including removal from a list),
  - (d) the review by a Primary Care Trust of decisions made by it by virtue of the regulations.
- (5) The imposition of such conditions must be with a view to—
- (a) preventing any prejudice to the efficiency of the services to which a list relates, or
  - (b) preventing fraud.
- (6) Regulations making provision as to the matters referred to in subsection (3)(k) may in particular authorise the disclosure of information—
- (a) by a Primary Care Trust to the Secretary of State, and
  - (b) by the Secretary of State to a Primary Care Trust.]

#### Textual Amendments

**F64** S. 146 omitted (27.3.2012 for specified purposes) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 208\(1\)\(a\), 306\(1\)\(d\)\(4\)](#) (with [s. 208\(7\)](#))

### *Assistance and support*

#### **147 Assistance and support: local pharmaceutical services**

- (1) A Primary Care Trust may provide assistance or support to any person providing local pharmaceutical services.
- (2) Assistance or support provided by a Primary Care Trust under subsection (1) is provided on such terms, including terms as to payment, as the Primary Care Trust considers appropriate.
- (3) “Assistance” includes financial assistance.

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## [<sup>F65</sup>CHAPTER 4A

### LISTS OF PERFORMERS OF PHARMACEUTICAL SERVICES AND ASSISTANTS

#### Textual Amendments

**F65** Pt. 7 Ch. 4A inserted (27.3.2012 for specified purposes) by [Health and Social Care Act 2012 \(c. 7\), ss. 208\(2\), 306\(1\)\(d\)\(4\)](#)

#### 147A Performers of pharmaceutical services and assistants

- (1) Regulations may make provision for the preparation, maintenance and publication by [<sup>F1</sup>NHS England] of one or more lists of—
- (a) persons approved by [<sup>F1</sup>NHS England] for the purpose of assisting in the provision of pharmaceutical services which [<sup>F1</sup>NHS England] arranges;
  - (b) persons approved by [<sup>F1</sup>NHS England] for the purpose of performing local pharmaceutical services.
- (2) The regulations may, in particular, provide that—
- (a) a person of a prescribed description may not assist in the provision of pharmaceutical services which [<sup>F1</sup>NHS England] arranges unless the person is included in a list prepared by virtue of subsection (1)(a),
  - (b) a person of a prescribed description may not perform local pharmaceutical services unless the person is included in a list prepared by virtue of subsection (1)(b).
- (3) The regulations may, in particular, also include provision as to—
- (a) the preparation, maintenance and publication of a list,
  - (b) eligibility for inclusion in a list,
  - (c) applications for inclusion (including provision for the procedure for applications and the documents to be supplied on application, whether by the applicant or by arrangement with the applicant),
  - (d) the grounds on which an application for inclusion may or must be granted or refused or on which a decision on such an application may be deferred,
  - (e) requirements with which a person included in a list must comply (including the declaration of financial interests and gifts and other benefits),
  - (f) the grounds on which [<sup>F1</sup>NHS England] may or must suspend or remove a person from a list, the procedure for doing so, and the consequences of doing so,
  - (g) circumstances in which a person included in a list may not withdraw from it,
  - (h) payments to or in respect of a person suspended from a list (including provision for the amount of the payment, or the method of calculating it, to be determined by the Secretary of State or a person appointed by the Secretary of State),
  - (i) the supply to [<sup>F1</sup>NHS England] by an applicant for inclusion in a list, or by a person included in a list, of a criminal conviction certificate under section 112 of the Police Act 1997, a criminal record certificate under [<sup>F66</sup>section 113A of that Act, an enhanced criminal record certificate under section 113B of that Act or up-date information within the meaning given by section 116A of that Act,]

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- (j) the criteria to be applied in making decisions under the regulations,
  - (k) appeals against decisions made by [F1NHS England] under the regulations, and
  - (l) disclosure of information about applicants for inclusion, grants or refusals of applications or suspensions or removals,
- and may make any provision corresponding to anything in sections 151 to 159.
- (4) Regulations under this section may, in particular, also provide that approval for the purposes of either paragraph (a) or paragraph (b) of subsection (1) is to be treated for the purposes of this section as approval for the purposes of the other paragraph (and for lists prepared by virtue of that subsection to be read accordingly).
- (5) Regulations under this section may, in particular, also provide for—
- (a) a person's inclusion in a list to be subject to conditions determined by [F1NHS England],
  - (b) [F1NHS England] to vary the conditions or impose different ones,
  - (c) the consequences of failing to comply with a condition (including suspension or removal from a list),
  - (d) the review by [F1NHS England] of decisions made by it by virtue of the regulations.
- (6) The imposition of such conditions must be with a view to—
- (a) preventing any prejudice to the efficiency of the services to which a list relates, or
  - (b) preventing any acts or omissions of the type described in section 151(3)(a).
- (7) If the regulations provide under subsection (3)(f) or (5) that [F1NHS England] may suspend or remove a person (P) from a list, they must include provision—
- (a) requiring P to be given notice of any allegation against P,
  - (b) giving P the opportunity of putting P's case at a hearing before [F1NHS England] makes any decision as to P's suspension or removal, and
  - (c) requiring P to be given notice of the decision of [F1NHS England], the reasons for it and any right of appeal under subsection (8) or (9).
- (8) If the regulations provide under subsection (3)(d) or (f) that [F1NHS England] may refuse a person's application for inclusion in a list, or remove a person from one, the regulations must provide for an appeal to the First-tier Tribunal against the decision of [F1NHS England].
- (9) If the regulations make provision under subsection (5), they must provide for an appeal by the person in question to the First-tier tribunal against the decision of [F1NHS England]—
- (a) to impose conditions, or any particular condition,
  - (b) to vary a condition,
  - (c) to remove the person from the list for breach of condition,
  - (d) on any review of an earlier such decision of [F1NHS England].
- (10) Regulations making provision as to the matters referred to in subsection (3)(l) may, in particular, authorise the disclosure of information—
- (a) by [F1NHS England] to the Secretary of State, and
  - (b) by the Secretary of State to [F1NHS England].

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#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)
- F66** Words in [s. 147A\(3\)\(i\)](#) substituted (17.6.2013) by [Protection of Freedoms Act 2012 \(c. 9\), s. 120, Sch. 9 para. 123](#) (with s. 97); [S.I. 2013/1180, art. 2\(e\)\(v\)](#)

### 147B Further provision about regulations under section 147A

- (1) Regulations under section 147A may require a person (A) included in—
- (a) a pharmaceutical list, or
  - (b) a list under section 132(3) (provision of drugs, medicines or listed appliances),
- not to employ or engage a person (B) to assist A in the provision of the service to which the list relates unless B is included in a list mentioned in subsection (2).
- (2) The lists are—
- (a) a list referred to in subsection (1),
  - (b) a list under section 147A,
  - (c) a list under section 91, 106 or 123,
  - (d) a list corresponding to a list under section 91 prepared by [<sup>F1</sup>NHS England] by virtue of regulations made under section 145,
  - (e) a list corresponding to a list mentioned in any of paragraphs (a) to (d) prepared by a Local Health Board under or by virtue of the National Health Service (Wales) Act 2006,
- or, in any of the cases in paragraphs (a) to (e), such a list of a prescribed description.
- (3) If regulations do so require, they may, in particular, require that both A and B be included in lists prepared by [<sup>F1</sup>NHS England].]

#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)

## CHAPTER 5

### [<sup>F67</sup>CONDITIONAL INCLUSION IN PHARMACEUTICAL LISTS, AND SUPPLEMENTARY LISTS][<sup>F67</sup>CONDITIONAL INCLUSION IN PHARMACEUTICAL LISTS]

#### Textual Amendments

- F67** Pt. 7 Ch. 5 heading substituted (27.3.2012 for specified purposes) by [Health and Social Care Act 2012 \(c. 7\), ss. 208\(3\), 306\(1\)\(d\)\(4\)](#)

### 148 Conditional inclusion in pharmaceutical lists

- (1) Regulations may provide—



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- (a) that if a person is included in a pharmaceutical list he is subject, while he remains included in the list, to conditions determined by [F1NHS England],
  - (b) for [F1NHS England] to vary that person's terms of service for the purpose of or in connection with the imposition of any such conditions,
  - (c) for [F1NHS England] to vary the conditions or impose different ones,
  - (d) for the consequences of failing to comply with a condition (including removal from the list), and
  - (e) for the review by [F1NHS England] of any decision made by virtue of the regulations.
- (2) The imposition of conditions must be with a view to—
- (a) preventing any prejudice to the efficiency of the services in question, or
  - (b) preventing any acts or omissions within section 151(3)(a).
- (3) If regulations provide for a practitioner's removal from the list for breach of condition—
- (a) the regulations may provide that he may not withdraw from the list while [F1NHS England] is investigating whether there are grounds for exercising their power to remove him, or after [F1NHS England] has decided to remove him but before it has given effect to that decision, and
  - (b) the regulations must include provision—
    - (i) requiring the practitioner to be given notice of any allegation against him,
    - (ii) giving him the opportunity of putting his case at a hearing before [F1NHS England] makes any decision as to his removal from the list, and
    - (iii) requiring him to be given notice of the decision of [F1NHS England] and the reasons for it and of his right of appeal under subsection (4).
- (4) If regulations provide as mentioned in subsection (1), they must also provide for an appeal by the person in question to the [F68First-tier Tribunal] against the decision of [F1NHS England]—
- (a) to impose conditions, or any particular condition,
  - (b) to vary a condition,
  - (c) to vary his terms of service,
  - (d) on any review of an earlier such decision of [F1NHS England],
  - (e) to remove him from the list for breach of condition,
- and the appeal must be by way of redetermination of the decision of [F1NHS England].
- (5) The regulations may provide for any such decision not to have effect until the determination by the [F69First-tier Tribunal] of any appeal against it, and must so provide in relation to a decision referred to in subsection (4)(e).
- (6) Regulations under this section may provide for the disclosure by [F1NHS England], to prescribed persons or persons of prescribed descriptions, of information of a prescribed description—
- (a) about persons whose inclusion in a pharmaceutical list is subject to conditions imposed under this section, and
  - (b) about the removal of such persons from a pharmaceutical list for breach of condition.

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- (7) In this Part, “terms of service” means the terms upon which, by virtue of regulations, a person undertakes to provide pharmaceutical services.

#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1(1)(2); [S.I. 2022/734](#), reg. 2(a), Sch. (with regs. 13, 29, 30)
- F68** Words in s. 148(4) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 113** (with Sch. 5)
- F69** Words in s. 148(5) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 113** (with Sch. 5)

## 149 Supplementary lists

- [<sup>F70</sup>(1) The Secretary of State may make regulations providing for the preparation and publication by each Primary Care Trust of one or more lists of persons approved by the Primary Care Trust for the purpose of assisting in the provision of pharmaceutical services.
- (2) Such a list is referred to in this section, section 150 and section 159 as a “supplementary list”.
- (3) The regulations may, in particular, include provision as to—
- (a) the Primary Care Trust to which an application for inclusion in a supplementary list must be made,
  - (b) the procedure for applying for inclusion, including any information to be supplied to the Primary Care Trust (whether by the applicant or by arrangement with him),
  - (c) grounds on which the Primary Care Trust may, or must, refuse a person's application for inclusion in a supplementary list (including his unsuitability for inclusion in such a list), or on which it may defer its decision on the application,
  - (d) requirements with which a person included in a supplementary list must comply (including the declaration of financial interests and of gifts and other benefits),
  - (e) grounds on which a Primary Care Trust may, or must, suspend or remove a person from a supplementary list, the procedure for doing so, and the consequences of doing so,
  - (f) payments to or in respect of persons who are suspended from a supplementary list (including provision for the amount of the payments, or the method of calculating the amount, to be determined by the Secretary of State or by another person appointed for the purpose by the Secretary of State),
  - (g) the supply to the Primary Care Trust by an applicant for inclusion in a supplementary list, or by a person included in one, of a criminal conviction certificate under section 112 of the Police Act 1997 (c. 50), a criminal record certificate under section 113 of that Act or an enhanced criminal record certificate under section 115 of that Act,
  - (h) circumstances in which a person included in a supplementary list may not withdraw from it,
  - (i) criteria to be applied in making decisions under the regulations,

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- (j) appeals against decisions of Primary Care Trusts under the regulations,
  - (k) the disclosure by a Primary Care Trust, to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about applicants for inclusion in a supplementary list, refusals of such applications, and suspensions and removals from that list.
- (4) The regulations may, in particular, also provide for—
- (a) a person's inclusion in a supplementary list to be subject to conditions determined by the Primary Care Trust,
  - (b) the Primary Care Trust to vary the conditions or impose different ones,
  - (c) the consequences of failing to comply with a condition (including removal from the list), and
  - (d) the review by the Primary Care Trust of its decisions made by virtue of regulations under this subsection.
- (5) The imposition of such conditions must be with a view to—
- (a) preventing any prejudice to the efficiency of the services to which the supplementary list relates, or
  - (b) preventing any acts or omissions of the type described in section 151(3)(a).
- (6) Regulations made by virtue of subsection (3)(e) may (but need not) make provision corresponding to anything in sections 151 to 159.
- (7) If the regulations provide under subsection (3)(e) or (4) that a Primary Care Trust may suspend or remove a person from a supplementary list, they must include provision—
- (a) requiring him to be given notice of any allegation against him,
  - (b) giving him the opportunity of putting his case at a hearing before the Primary Care Trust makes any decision as to his suspension or removal, and
  - (c) requiring him to be given notice of the decision of the Primary Care Trust and the reasons for it and of any right of appeal under subsection (8) or (9).
- (8) If the regulations provide under subsection (3)(c) or (e) that a Primary Care Trust may refuse a person's application for inclusion in a supplementary list, or remove a person from one, the regulations must provide for an appeal (by way of redetermination) to the [<sup>F71</sup>First-tier Tribunal] against the decision of the Primary Care Trust.
- (9) If the regulations make provision under subsection (4), they must provide for an appeal (by way of redetermination) by the person in question to the [<sup>F72</sup>First-tier Tribunal] against the decision of the Primary Care Trust—
- (a) to impose conditions, or any particular condition,
  - (b) to vary a condition,
  - (c) to remove him from the supplementary list for breach of condition,
  - (d) on any review of an earlier such decision of the Primary Care Trust.]

#### Textual Amendments

**F70** S. 149 omitted (27.3.2012 for specified purposes) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 208\(1\)\(b\)](#), [306\(1\)\(d\)\(4\)](#) (with [s. 208\(7\)](#))

**F71** Words in s. 149(8) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), [Sch. 2 para. 114](#) (with [Sch. 5](#))

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**F72** Words in s. 149(9) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 114** (with Sch. 5)

## 150 Further provision about regulations under section 149

- [<sup>F73</sup>(1) Regulations under section 149 may require a person (“A”) included in—
- (a) a pharmaceutical list, or
  - (b) a list under section 132(3) (provision of drugs, medicines or listed appliances),
- not to employ or engage a person (“B”) to assist him in the provision of the service to which the list relates unless B is included in a list mentioned in subsection (2).
- (2) The lists are—
- (a) a list referred to in subsection (1),
  - (b) a supplementary list,
  - (c) a list under section 91, 106 or 123,
  - (d) a list under section 146 or a list corresponding to a list under section 91 prepared by a Primary Care Trust by virtue of regulations made under section 145,
  - (e) a list corresponding to a list mentioned in any of paragraphs (a) to (d) prepared by a Local Health Board under or by virtue of the National Health Service (Wales) Act 2006 (c. 42),
- or, in any of the cases in paragraphs (a) to (e), such a list of a prescribed description.
- (3) If regulations do so require, they—
- (a) need not require both A and B to be included in lists prepared by the same Primary Care Trust, but
  - (b) may, in particular, require that both A and B be included in lists prepared by Primary Care Trusts.]

### Textual Amendments

**F73** S. 150 omitted (27.3.2012 for specified purposes) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 208(1)(c), 306(1)(d)(4)**

## [<sup>F74</sup>CHAPTER 5A

### NOTICES AND PENALTIES

### Textual Amendments

**F74** Pt. 7 Ch. 5A inserted (1.9.2012) by [Health Act 2009 \(c. 21\)](#), **ss. 28, 40(1)**; S.I. 2012/1902, art. 2(c)

## 150A Notices and penalties

- (1) The Secretary of State may by regulations provide that where a practitioner who provides pharmaceutical services under arrangements with [<sup>F1</sup>NHS England] breaches a term of those arrangements, [<sup>F1</sup>NHS England] may—

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- (a) by a notice require the practitioner to do, or not do, specified things or things of a specified description within a specified period, or
  - (b) in prescribed circumstances or for a prescribed period, withhold all or part of a payment due to the practitioner under the arrangements.
- (2) Regulations under this section must include provision conferring on such persons as may be prescribed rights of appeal from decisions of [F1NHS England] made by virtue of this section.
- (3) In this section—
- “practitioner” means a person included in a pharmaceutical list, and
  - “specified” means specified in a notice under paragraph (a) of subsection (1).]

#### Textual Amendments

**F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

## CHAPTER 6

### DISQUALIFICATION

#### 151 Disqualification of practitioners

- (1) If it appears to [F1NHS England] that any of the conditions set out in subsections (2) to (4) is established in relation to a person included in a pharmaceutical list it may (or, in cases falling within subsection (5), must) decide to remove him from that list.
- (2) The first condition is that the continued inclusion of the practitioner in the list would be prejudicial to the efficiency of the services which those included in the list undertake to provide (and such a case is referred to in this Chapter as an “efficiency case”).
- (3) The second condition is that the practitioner—
  - (a) has (whether on his own or together with another) by an act or omission caused, or risked causing, detriment to any health scheme by securing or trying to secure for himself or another any financial or other benefit, and
  - (b) knew that he or the other was not entitled to the benefit,(and such a case is referred to in this Chapter as a “fraud case”).
- (4) The third condition is that the practitioner is unsuitable to be included in the list (and such a case is referred to in this Chapter as an “unsuitability case”).
- (5) In unsuitability cases, [F1NHS England] must remove the practitioner from the list in prescribed circumstances.
- (6) [F1NHS England] must state which condition (or conditions) it is relying on when removing a practitioner from a list.
- (7) “Health scheme” means—
  - (a) any of the health services under section 1(1) of this Act, section 1(1) of the National Health Service (Wales) Act 2006 (c. 42), or any enactment

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corresponding to section 1(1) of this Act and extending to Scotland or Northern Ireland, and

(b) any prescribed scheme,

and regulations may prescribe any scheme for the purposes of this subsection which appears to the Secretary of State to be a health or medical scheme paid for out of public funds.

(8) Detriment to a health scheme includes detriment to any patient of, or person working in, that scheme or any person liable to pay charges for services provided under that scheme.

(9) In this Chapter a “practitioner” means a person included in a pharmaceutical list.

#### Textual Amendments

**F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

## 152 Contingent removal

(1) In an efficiency case or a fraud case, [F1NHS England] may, instead of deciding to remove a practitioner from its list, decide to remove him contingently.

(2) If it so decides, it must impose such conditions as it may decide on his inclusion in the list with a view to—

- (a) removing any prejudice to the efficiency of the services in question (in an efficiency case), or
- (b) preventing further acts or omissions within section 151(3)(a) (in a fraud case).

(3) If [F1NHS England] determines that the practitioner has failed to comply with a condition, it may decide to—

- (a) vary the conditions, or impose different conditions, or
- (b) remove him from its list.

(4) [F1NHS England] may decide to vary the terms of service of the person concerned for the purpose of or in connection with the imposition of any conditions by virtue of this section.

#### Textual Amendments

**F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

## 153 Fraud and unsuitability cases: supplementary

(1) Where the practitioner is a body corporate providing pharmaceutical services, the body corporate must be treated for the purposes of this Chapter as meeting a condition referred to in section 151(3) or (4) if any one of the body of persons controlling the body meets that condition (whether or not he first did so when he was such a person).

(2) A practitioner must be treated for the purposes of this Chapter as meeting the condition referred to in section 151(3) if—

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- (a) another person, because of an act or omission of his occurring in the course of providing any services mentioned in section 151(1) on the practitioner's behalf, meets that condition, and
- (b) the practitioner failed to take all such steps as were reasonable to prevent acts or omissions within section 151(3)(a) occurring in the course of the provision of those services on his behalf.

## 154 Suspension

- (1) If [F1NHS England] is satisfied that it is necessary to do so for the protection of members of the public or is otherwise in the public interest, it may suspend a practitioner from its list—
  - (a) while it decides whether or not to exercise its powers under section 151 or 152 (other than in circumstances falling within paragraph (b)), or
  - (b) while it waits for a decision affecting the practitioner of a court or of a body which regulates—
    - (i) the practitioner's profession,
    - (ii) the profession of a person providing any of the services mentioned in section 151(1) on the practitioner's behalf, or
    - (iii) if the practitioner is a body corporate, the profession of one of its directors, or one of the body of persons controlling it or (if it is a limited liability partnership) one of its members,or one of that regulatory body's committees.
- (2) The references in subsection (1)(b) to a court or regulatory body are to a court or such a body anywhere in the world.
- (3) In a case falling within subsection (1)(a), [F1NHS England] must specify the length of the period of suspension.
- (4) In a case falling within subsection (1)(b), [F1NHS England] may specify that the practitioner remains suspended after the decision referred to there for an additional period which [F1NHS England] must specify.
- (5) In either case—
  - (a) before that period expires it may extend, or further extend, the suspension for a further specified period, or
  - (b) if that period has expired, it may impose a further suspension, for a period which it must specify.
- (6) The period of suspension (in a subsection (1)(a) case) or the additional period (in a subsection (1)(b) case), including in both cases the period of any further suspension imposed under subsection (5)(b), may not exceed six months in aggregate, except—
  - (a) in prescribed circumstances, when it may not extend beyond any prescribed event (which may be the expiry of a prescribed period),
  - (b) if, on the application of [F1NHS England], the [F75First-tier Tribunal] orders accordingly before the expiry of the period of suspension, or
  - (c) if [F1NHS England] has applied under paragraph (b) before the expiry of the period of suspension, but the [F76First-tier Tribunal] has not made an order by the time it expires, in which case it continues until the [F76First-tier Tribunal] has made an order.

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- (7) If the [<sup>F77</sup>First-tier Tribunal] does so order, it must specify—
  - (a) the date on which the period of suspension will end, or
  - (b) an event beyond which it will not continue.
- (8) The [<sup>F78</sup>First-tier Tribunal] may, on the application of [<sup>F1</sup>NHS England], make a further order (complying with subsection (7)) at any time while the period of suspension pursuant to the earlier order is still continuing.
- (9) The Secretary of State may make regulations providing for payments to practitioners who are suspended.
- (10) Those regulations may include provision for the amount of the payments, or the method of calculating the amount, to be determined by the Secretary of State or by another person appointed for the purpose by the Secretary of State.

#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)
- F75** Words in s. 154(6)(b) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(1\), Sch. 2 para. 115](#) (with Sch. 5)
- F76** Words in s. 154(6)(c) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(1\), Sch. 2 para. 115](#) (with Sch. 5)
- F77** Words in s. 154(7) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(1\), Sch. 2 para. 115](#) (with Sch. 5)
- F78** Words in s. 154(8) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(1\), Sch. 2 para. 115](#) (with Sch. 5)

## 155 Suspension pending appeal

- (1) This section applies if [<sup>F1</sup>NHS England] decides to remove a practitioner from a list under section 151.
- (2) In such a case it may also decide to suspend the practitioner from the list pending any appeal by him, if it is satisfied that it is necessary to do so for the protection of members of the public or is otherwise in the public interest.
- (3) If it does suspend the practitioner under this section, the suspension has effect from the date when [<sup>F1</sup>NHS England] gave him notice of the suspension.
- (4) The suspension has effect until its revocation under subsection (5) or (6) or, if later, until the expiry of the period of 28 days referred to in section 158(1), or, if the practitioner appeals under section 158, until the [<sup>F79</sup>First-tier Tribunal] has disposed of the appeal.
- (5) [<sup>F1</sup>NHS England] may revoke a suspension imposed under this section.
- (6) If the practitioner appeals under section 158 against the decision of [<sup>F1</sup>NHS England] to remove him from the list, the [<sup>F80</sup>First-tier Tribunal] may also revoke a suspension imposed on him under this section.
- (7) Subsections (9) and (10) of section 154 apply for the purposes of this section as they apply for the purposes of that.



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#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\); S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)
- F79** Words in s. 155(4) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(1\), Sch. 2 para. 116](#) (with Sch. 5)
- F80** Words in s. 155(6) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(1\), Sch. 2 para. 116](#) (with Sch. 5)

### 156 Effect of suspension

While a practitioner is suspended (whether under section 154 or under section 155) he must be treated as not being included in the list from which he has been suspended even though his name appears in it.

### 157 Review of decisions

- (1) [<sup>F1</sup>NHS England] may, and (except in prescribed cases) if requested in writing to do so by the practitioner must, review a contingent removal or a suspension (other than a contingent removal or a suspension imposed by, or a suspension continuing pursuant to, an order of the [<sup>F81</sup>First-tier Tribunal], or a suspension imposed under section 155).
- (2) The practitioner may not request a review before the expiry of the period of—
  - (a) three months beginning with the date of the decision of [<sup>F1</sup>NHS England] to suspend or contingently remove him, or (as appropriate),
  - (b) six months beginning with the date of its decision on the previous review.
- (3) On such a review, [<sup>F1</sup>NHS England] may—
  - (a) confirm the contingent removal or the suspension,
  - (b) in the case of a suspension, terminate it,
  - (c) in the case of a contingent removal, vary the conditions, impose different conditions, revoke the contingent removal, or remove the practitioner from the list.

#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\); S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)
- F81** Words in s. 157(1) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(1\), Sch. 2 para. 117](#) (with Sch. 5)

### 158 Appeals

- (1) A practitioner may appeal to the [<sup>F82</sup>First-tier Tribunal] against a decision of [<sup>F1</sup>NHS England] mentioned in subsection (2) <sup>F83</sup>....
- (2) [<sup>F1</sup>NHS England] decisions in question are—
  - (a) to remove the practitioner from a list (under section 151 or 152(3) or under subsection (5)(b) of this section),
  - (b) to remove him contingently (under section 152),

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- (c) to impose any particular condition under section 152, or to vary any condition or to impose any different condition under that section,
  - (d) to vary his terms of service (under section 152(4)),
  - (e) any decision on a review of a contingent removal under section 157.
- (3) The appeal must be way of redetermination of the decision of [F1NHS England].
- (4) On an appeal, the [F84First-tier Tribunal] may make any decision which [F1NHS England] could have made.
- (5) If the FHSAA decides to remove the practitioner contingently—
- (a) [F1NHS England] and the practitioner may each apply to the [F85First-tier Tribunal] for the conditions imposed on the practitioner to be varied, for different conditions to be imposed, or for the contingent removal to be revoked, and
  - (b) [F1NHS England] may remove him from its list if it determines that he has failed to comply with a condition.
- (6) [F1NHS England] may not remove a person from a list, or impose a contingent removal—
- (a) until the expiry of the period of 28 days referred to in subsection (1), or
  - (b) if the practitioner appeals within that period, until the [F86First-tier Tribunal] has disposed of the appeal.
- (7) Regulations may provide for payments by [F1NHS England] to practitioners who are removed from lists pursuant to decisions of the [F87First-tier Tribunal] under this section, but whose appeals against those decisions are successful.
- (8) Regulations under subsection (7) may include provision for the amount of the payments, or the method of calculating the amount, to be determined by the Secretary of State or by another person appointed for the purpose by the Secretary of State.

#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\); S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)
- F82** Words in s. 158(1) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(1\), Sch. 2 para. 118\(a\)\(i\)](#) (with Sch. 5)
- F83** Words in s. 158(1) omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(1\), Sch. 2 para. 118\(a\)\(ii\)](#) (with Sch. 5)
- F84** Words in s. 158(4) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(1\), Sch. 2 para. 118\(b\)](#) (with Sch. 5)
- F85** Words in s. 158(5) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(1\), Sch. 2 para. 118\(b\)](#) (with Sch. 5)
- F86** Words in s. 158(6)(b) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(1\), Sch. 2 para. 118\(b\)](#) (with Sch. 5)
- F87** Words in s. 158(7) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(1\), Sch. 2 para. 118\(b\)](#) (with Sch. 5)

## 159 National disqualification

- (1) If the [F88First-tier Tribunal] removes the practitioner from a list, it may also decide to disqualify him from inclusion in—

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- (a) the pharmaceutical lists prepared by [F1NHS England],
  - (b) [F89the supplementary lists prepared by [F1NHS England],]
  - (c) the lists under section 91, 106, or 123 prepared by [F1NHS England],
  - (d) the lists under [F90section 146][F90section 147A] prepared by [F1NHS England], or the lists corresponding to the lists under section 91 prepared by [F1NHS England] by virtue of regulations made under section 145,
  - (e) the lists corresponding to the lists mentioned in paragraphs (a) to (d) prepared by each Local Health Board under or by virtue of the National Health Service (Wales) Act 2006 (c. 42),
- or only from inclusion in one or more descriptions of such lists prepared by [F1NHS England] and each Local Health Board, the description being specified by the [F88First-tier Tribunal] in its decision.
- (2) A decision by the [F88First-tier Tribunal] to do what is mentioned in subsection (1) is referred to in this section as the imposition of a national disqualification.
- (3) The [F88First-tier Tribunal] may also impose a national disqualification on a practitioner if it dismisses an appeal by him against the refusal by [F1NHS England] to include him in such a list.
- (4) [F1NHS England] may apply to the [F88First-tier Tribunal] for a national disqualification to be imposed on a person after [F1NHS England] has—
  - (a) removed him from a list prepared by it of any of the kinds referred to in subsection (1)(a) to (d), or
  - (b) refused to include him in such a list.
- (5) Any such application must be made before the end of the period of three months beginning with the date of the removal or of [F1NHS England's] refusal.
- (6) If the [F91First-tier Tribunal] imposes a national disqualification on a person—
  - (a) [F92neither [F1NHS England] nor a] Local Health Board may include him in a list of any of the kinds prepared by it from which he has been disqualified from inclusion, and
  - (b) if he is included in such a list, [F93[F1NHS England] (if he is included in a list prepared by it)] and each Local Health Board in whose list he is included must remove him from it.
- (7) The [F94First-tier Tribunal] may at the request of the person upon whom it has been imposed review a national disqualification, and on a review may confirm it or revoke it.
- (8) Subject to subsection (9), the person may not request such a review before the end of the period of—
  - (a) two years beginning with the date on which the national disqualification was imposed, or
  - (b) one year beginning with the date of the [F95First-tier Tribunal's] decision on the last such review.
- (9) The Secretary of State may provide in regulations for subsection (8) to have effect in prescribed circumstances as if the reference there to “two years” or “one year” were a reference to a different period specified in the regulations.

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### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F88** Words in s. 159(1)-(4) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 119(a)** (with Sch. 5)
- F89** S. 159(1)(b) omitted (27.3.2012 for specified purposes) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 208(4)(a)**, 306(1)(d)(4)
- F90** Words in s. 159(1)(d) substituted (27.3.2012 for specified purposes) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 208(4)(b)**, 306(1)(d)(4)
- F91** Words in s. 159(6) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 119(a)** (with Sch. 5)
- F92** Words in s. 159(6)(a) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 4 para. 85(6)(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F93** Words in s. 159(6)(b) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 4 para. 85(6)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F94** Words in s. 159(7) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 119(a)** (with Sch. 5)
- F95** Words in s. 159(8)(b) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 2 para. 119(b)** (with Sch. 5)

### Modifications etc. (not altering text)

- C20** S. 159 modified (18.9.2023) by S.I. 2013/335, reg. 17A (as inserted by [The National Health Service \(Performers Lists\) \(England\) \(Amendment\) \(No. 2\) Regulations 2023 \(S.I. 2023/828\)](#), regs. 1(1), **14**)
- C21** S. 159(8) modified (E.) (1.9.2012) by [The National Health Service \(Pharmaceutical Services\) Regulations 2012 \(S.I. 2012/1909\)](#), regs. 1, **87(3)**
- C22** S. 159(8) modified (1.4.2013) by [The National Health Service \(Pharmaceutical and Local Pharmaceutical Services\) Regulations 2013 \(S.I. 2013/349\)](#), regs. 1, **87(3)**
- C23** S. 159(8)(a) modified (E.) (1.9.2012) by [The National Health Service \(Pharmaceutical Services\) Regulations 2012 \(S.I. 2012/1909\)](#), regs. 1, **87(1)**
- C24** S. 159(8)(a) modified (1.4.2013) by [The National Health Service \(Pharmaceutical and Local Pharmaceutical Services\) Regulations 2013 \(S.I. 2013/349\)](#), regs. 1, **87(1)**
- C25** S. 159(8)(b) modified (E.) (1.9.2012) by [The National Health Service \(Pharmaceutical Services\) Regulations 2012 \(S.I. 2012/1909\)](#), regs. 1, **87(2)**
- C26** S. 159(8)(b) modified (1.4.2013) by [The National Health Service \(Pharmaceutical and Local Pharmaceutical Services\) Regulations 2013 \(S.I. 2013/349\)](#), regs. 1, **87(2)**

## 160 Notification of decisions

Regulations may require [<sup>F1</sup>NHS England] to notify prescribed persons, or persons of prescribed descriptions, of any decision it makes under this Chapter, and of any information relevant to the decision which it considers appropriate to include in the notification.

### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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## 161 Withdrawal from lists

Regulations may provide for circumstances in which a practitioner—

- (a) whom [F1NHS England] is investigating in order to see whether there are grounds for exercising its powers under section 151, 152 or 154,
- (b) whom [F1NHS England] has decided to remove from a list under section 151 or 152, or contingently remove under section 152, but who has not yet been removed or contingently removed, or
- (c) who has been suspended under section 154,

may not withdraw from a list in which he is included.

### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\); S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)

## 162 Regulations about decisions under this Chapter

- (1) Any decision by [F1NHS England] referred to in this Chapter must be reached in accordance with regulations about such decisions.
- (2) The regulations must include provision—
  - (a) requiring the practitioner to be given notice of any allegation against him,
  - (b) giving him the opportunity of putting his case at a hearing before [F1NHS England] makes any decision affecting him under this Chapter,
  - (c) requiring him to be given notice of the decision of [F1NHS England] and the reasons for it and of any right of appeal which he may have.
- (3) The regulations may, in particular, make provision as to criteria which [F1NHS England] must apply when making decisions in unsuitability cases.

### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 1 para. 1\(1\)\(2\); S.I. 2022/734, reg. 2\(a\), Sch.](#) (with regs. 13, 29, 30)

## 163 Corresponding provisions in Scotland and Northern Ireland

- (1) This section applies where it appears to the Secretary of State that there is provision in Scotland or Northern Ireland under which a person may be dealt with in any way which corresponds (whether or not exactly) with a way in which a person may be dealt with under this Chapter.
- (2) A decision in Scotland or Northern Ireland to deal with such a person in such a way is referred to in this section as a “corresponding decision”.
- (3) If this section applies, the Secretary of State may make regulations providing for the effect to be given in England to a corresponding decision.
- (4) That effect need not be the same as the effect of the decision in the place where it was made.

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- (5) The regulations may not provide for a corresponding decision to be reviewed or revoked in England.

## CHAPTER 7

### MISCELLANEOUS

#### *Remuneration*

#### **164 Remuneration for persons providing pharmaceutical services**

- (1) The remuneration to be paid to persons who provide pharmaceutical services under this Part must be determined by determining authorities.
- (2) Determining authorities may also determine the remuneration to be paid to persons who provide those services in respect of the instruction of any person in matters relating to those services.
- (3) For the purposes of this section and section 165 determining authorities are—
- (a) the Secretary of State, and
  - (b) so far as authorised by him to exercise the functions of determining authorities, [F1NHS England] or other person appointed by him in an instrument.
- (4) The instrument mentioned in subsection (3)(b) is called in this section an “instrument of appointment”.

[F96(4A) An instrument of appointment—

- (a) must be contained in regulations if it provides for the appointment of [F1NHS England] or other person as a determining authority in relation to the remuneration to be paid [F97for providing] services under section 126, and
- (b) if paragraph (a) does not apply, may be contained in regulations.]

(5) An instrument of appointment—

- (a) may contain requirements with which a determining authority appointed by that instrument must comply in making determinations, F98 ...

F98(b) .....

(6) Subject to this section and section 165, regulations may make provision about determining remuneration under this section and may in particular impose requirements with which determining authorities must comply in making, or in connection with, determinations (including requirements as to consultation and publication).

(7) Regulations may provide that determinations may be made by reference to any of—

- (a) rates or conditions of remuneration of any persons or any descriptions of persons which are fixed or determined, or will be fixed or determined, otherwise than by way of a determination under this section,
- (b) scales, indices or other data of any description specified in the regulations.

(8) Where regulations provide as mentioned in subsection (7)(b), they may provide that any determination which falls to be made by reference to a scale, index or other data may be made by reference to the scale, index or data—

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- (a) in the form current at the time of the determination, and
- (b) in any subsequent form taking effect after that time.

[<sup>F99</sup>(8A) Regulations may impose requirements in relation to remuneration in respect of [<sup>F100</sup>any of the following—

- (a) drugs or medicines used for vaccinating or immunising people against disease,
- (b) anything used in connection with the supply or administration of drugs or medicines within paragraph (a),
- (c) drugs or medicines, not within paragraph (a), that are used for preventing or treating a disease that, at the time the regulations are made, the Secretary of State considers to be a pandemic disease or at risk of becoming a pandemic disease,
- (d) anything used in connection with the supply or administration of drugs or medicines within paragraph (c), or
- (e) a product which is a special medicinal product for the purposes of regulation 167 of the Human Medicines Regulations 2012 (S.I. 2012/1916).]

(8B) Such regulations may, for example, require determining authorities to ensure—

- (a) that remuneration is to be calculated by reference to the outcome of prescribed procedures, or
- (b) that determinations do not provide for or permit remuneration to be paid in prescribed circumstances.

(8C) Procedures prescribed by virtue of subsection (8B)(a) may include the person to whom remuneration is payable, a health service body or a determining authority—

- (a) carrying out inquiries to ensure that remuneration is reasonable, or
- (b) estimating an amount of remuneration that is reasonable (whether or not the estimated amount corresponds exactly to expenses in respect of which remuneration is to be paid).

(8D) Circumstances prescribed by virtue of subsection (8B)(b) may include circumstances in which [<sup>F101</sup>anything within subsection (8A)(a) to (e)] made available to persons who provide pharmaceutical services under this Part—

- (a) by a health service body, or
- (b) under an arrangement for the supply of [<sup>F102</sup>that thing,] to which a health service body is a party.

(8E) In subsections (8A) to (8D)—

“health service body” has the meaning given by section 9(4);  
<sup>F103</sup> ...]

[<sup>F104</sup>(8F) Where regulations include provision made in reliance on subsection (8A)(c) or (d) and the Secretary of State considers that the disease to which it relates is no longer a pandemic disease or at risk of becoming a pandemic disease, the Secretary of State must revoke that provision within such period as the Secretary of State considers reasonable (taking into account, in particular, the need for any transitional arrangements).]

(9) Regulations may—

- (a) provide that determining authorities may make determinations which have effect in relation to remuneration in respect of a period beginning on or after a date specified in the determination, which may be the date of the

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determination or an earlier or later date, but may be an earlier date only if, taking the determination as a whole, it is not detrimental to the persons to whose remuneration it relates,

- (b) provide that any determination which does not specify such a date has effect in relation to remuneration in respect of a period beginning—
  - (i) if it is required to be published, on the date of publication,
  - (ii) if it is not so required, on the date on which it is made.

- (10) A reference in this section or section 165 to a determination is to a determination of remuneration under this section.

#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F96** S. 164(4A) inserted (1.4.2013) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 141(1)(a), 170(3)(4); S.I. 2013/159, art. 2(a)
- F97** Words in s. 164(4A)(a) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), Sch. 4 para. 89(3)(b); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F98** S. 164(5)(b) and word repealed (1.4.2013) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 141(1)(b), 170(3)(4), Sch. 15 Pt. 4; S.I. 2013/159, art. 2(a)(c)
- F99** S. 164(8A)-(8E) inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\)](#), ss. 1, 12(3); S.I. 2017/809, reg. 2(a)
- F100** Words in s. 164(8A) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), ss. 161(1)(a), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F101** Words in s. 164(8D) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), ss. 161(1)(b)(i), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F102** Words in s. 164(8D)(b) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), ss. 161(1)(b)(ii), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F103** Words in s. 164(8E) omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\)](#), ss. 161(1)(c), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F104** S. 164(8F) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), ss. 161(1)(d), 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

#### 165 Section 164: supplementary

- (1) Before a determination is made by the Secretary of State which relates to all persons who provide pharmaceutical services, or a category of such services, he—
  - (a) must consult a body appearing to him to be representative of persons to whose remuneration the determination would relate, and
  - (b) may consult such other persons as he considers appropriate.
- (2) Determinations may make different provision for different cases, including different provision for any particular case, class of case or area.
- (3) Determinations may be—
  - (a) made in more than one stage,
  - (b) made by more than one determining authority,
  - (c) varied or revoked by subsequent determinations.
- (4) A determination may be varied—
  - (a) to correct an error, or



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- (b) where it appears to the determining authority that it was made in ignorance of or under a mistake as to a relevant fact.
- (5) Determinations may, in particular, provide that the whole or any part of the remuneration—
- (a) is payable only if the determining authority is satisfied as to certain conditions, or
  - (b) must be applied for certain purposes or is otherwise subject to certain conditions.
- (6) Remuneration under section 164 may be determined from time to time and may consist of payments by way of—
- (a) salary,
  - (b) fees,
  - (c) allowances,
  - (d) reimbursement (in full or in part) of expenses incurred or expected to be incurred in connection with the provision of the services or instruction.
- (7) At the time a determination is made or varied, certain matters which require determining may be reserved to be decided at a later time.
- (8) The matters which may be reserved include in particular—
- (a) the amount of remuneration to be paid in particular cases,
  - (b) whether any remuneration is to be paid in particular cases.
- (9) Any determination may be made only after taking into account all the matters which are considered to be relevant by the determining authority.
- (10) Such matters may include in particular—
- (a) the amount or estimated amount of expenses (taking into account any discounts) incurred in the past or likely to be incurred in the future (whether or not by persons to whose remuneration the determination will relate) in connection with the provision of pharmaceutical services or of any category of pharmaceutical services,
  - (b) the amount or estimated amount of any remuneration paid or likely to be paid to persons providing such services,
  - (c) the amount or estimated amount of any other payments or repayments or other benefits received or likely to be received by any such persons,
  - (d) the extent to which it is desirable to encourage the provision, either generally or in particular places, of pharmaceutical services or the category of pharmaceutical services to which the determination will relate,
  - (e) the desirability of promoting pharmaceutical services which are—
    - (i) economic and efficient, and
    - (ii) of an appropriate standard.
- (11) If the determination is of remuneration for a category of pharmaceutical services, the reference in subsection (10)(a) to a category of pharmaceutical services is a reference to the same category of pharmaceutical services or to any other category of pharmaceutical services falling within the same description.

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## [<sup>F105</sup>165A] **Pharmaceutical remuneration: further provision**

- (1) [<sup>F1</sup>NHS England] must provide the Secretary of State with such information relating to the remuneration paid by [<sup>F1</sup>NHS England] to persons providing pharmaceutical services or local pharmaceutical services as the Secretary of State may require.
- (2) The information must be provided in such form, and at such time or within such period, as the Secretary of State may require.
- (3) Schedule 12A makes further provision about pharmaceutical remuneration.]

### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F105** S. 165A inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), ss. 51(1), 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

### *Indemnity cover*

## 166 Indemnity cover

- (1) Regulations may make provision for the purpose of securing that, in prescribed circumstances, prescribed persons included in a pharmaceutical list hold approved indemnity cover.
- (2) The regulations may, in particular, make provision as to the consequences of a failure to hold approved indemnity cover, including provision—
  - (a) for securing that a person must not be added to a pharmaceutical list unless he holds approved indemnity cover,
  - (b) for the removal from a pharmaceutical list prepared by [<sup>F1</sup>NHS England] of a person who does not within a prescribed period after the making of a request by [<sup>F1</sup>NHS England] in the prescribed manner satisfy [<sup>F1</sup>NHS England] that he holds approved indemnity cover.
- (3) For the purposes of this section—
 

“approved body” means a person or persons approved in relation to indemnity cover of any description, after such consultation as may be prescribed, by the Secretary of State or by such other person as may be prescribed,

“approved indemnity cover” means indemnity cover made—

  - (a) on prescribed terms, and
  - (b) with an approved body,

“indemnity cover”, in relation to a person included in a pharmaceutical list (or a person who proposes to provide pharmaceutical services), means a contract of insurance or other arrangement made for the purpose of indemnifying him, and any person prescribed in relation to him, to any prescribed extent against any liability which—

  - (a) arises out of the provision of pharmaceutical services in accordance with arrangements made by him with [<sup>F1</sup>NHS England], and

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(b) is incurred by him or any such person in respect of the death or personal injury of a person,

“personal injury” means any disease or impairment of a person's physical or mental condition and includes the prolongation of any disease or such impairment,

and a person holds approved indemnity cover if he has entered into a contract or arrangement which constitutes approved indemnity cover.

(4) The regulations may provide that a person of any description who has entered into a contract or arrangement which is—

(a) in a form identified in accordance with the regulations in relation to persons of that description, and

(b) made with a person or persons so identified,

must be treated as holding approved indemnity cover for the purposes of the regulations.

#### Textual Amendments

**F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1(1)(2); [S.I. 2022/734](#), reg. 2(a), Sch. (with regs. 13, 29, 30)

### Local Pharmaceutical Committees

#### 167 Local Pharmaceutical Committees

(1) [<sup>F106</sup>[<sup>F1</sup>NHS England] may recognise a committee formed for an area] which it is satisfied is representative of—

- (a) the persons providing pharmaceutical services from premises in the area for which the committee is formed (“pharmaceutical services providers”),
- (b) pharmaceutical services providers and the persons to whom subsections (2) and (3) apply,
- (c) pharmaceutical services providers and the persons to whom subsection (2) applies, or
- (d) pharmaceutical services providers and the persons to whom subsection (3) applies.

(2) This subsection applies to each person who—

- (a) is providing local pharmaceutical services <sup>F107</sup>... under an LPS scheme made (whether with himself or another person) by [<sup>F1</sup>NHS England], and
- (b) has notified [<sup>F1</sup>NHS England] that he wishes to be represented by the committee (and has not notified it that he wishes to cease to be so represented).

(3) This subsection applies to each person who—

- (a) is providing local pharmaceutical services <sup>F108</sup>... under a pilot scheme made (whether with himself or another person) by [<sup>F1</sup>NHS England], and
- (b) has notified [<sup>F1</sup>NHS England] that he wishes to be represented by the committee (and has not notified it that he wishes to cease to be so represented).

(4) A committee recognised under this section is called the Local Pharmaceutical Committee for the area for which it is formed.

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- (5) Any such committee may delegate any of its functions, with or without restrictions or conditions, to sub-committees composed of members of that committee.
- (6) Regulations may require [F1NHS England], in the exercise of functions relating to pharmaceutical services or local pharmaceutical services, to consult committees recognised by it under this section on such occasions and to such extent as may be prescribed.
- (7) Subsection (6) does not affect any other power to require [F1NHS England] to consult committees recognised by it under this section.
- (8) A committee recognised under this section has such other functions as may be prescribed.
- (9) [F1NHS England] may, on the request of any committee recognised by it under this section, allot to that committee such sums for defraying the committee's administrative expenses (other than any determined under subsection (12)) as may be determined by [F1NHS England].
- (10) Any sums so allotted must be out of the moneys available to [F1NHS England] for the remuneration of persons of whom the committee is representative under subsection (1) (a).
- (11) The amount of any such sums must be deducted from the remuneration of those persons in such manner as may be determined by [F1NHS England].
- (12) A committee recognised under subsection (1)(b), (c) or (d) must, in respect of each year, determine the amount of its administrative expenses for that year attributable to the persons of whom it is representative under subsection (2) or (3).
- (13) The committee must apportion the amount determined under subsection (12) among the persons of whom it is representative under subsection (2) or (3), and each such person must pay in accordance with the committee's directions the amount so apportioned to him.
- (14) The administrative expenses of a committee include the travelling and subsistence allowances payable to its members.

#### Textual Amendments

- F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F106** Words in s. 167(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 4 para. 91(2)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F107** Words in s. 167(2)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 4 para. 91(3)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F108** Words in s. 167(3)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 4 para. 91(3)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

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### *Provision of accommodation by the Secretary of State*

#### **168 Use of accommodation: provision of pharmaceutical services and local pharmaceutical services**

If the Secretary of State considers that any accommodation provided by him by virtue of this Act is suitable for use in connection with the provision of pharmaceutical services or local pharmaceutical services, he may make the accommodation available on such terms as he considers appropriate to persons providing those services.

#### *[<sup>F109</sup>Directions*

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##### **Textual Amendments**

**F109** S. 168A and cross-heading inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 49\(4\), 306\(1\)\(d\)\(4\)](#); [S.I. 2013/160](#), [art. 2\(2\)](#) (with arts. 7-9)

#### **168A Exercise of functions**

- (1) The Secretary of State may direct [<sup>F1</sup>NHS England] to exercise any of the Secretary of State's functions relating to services that may be provided as pharmaceutical services, or as local pharmaceutical services, under this Part.
- (2) Subsection (1) does not apply to any function of the Secretary of State of making an order or regulations.
- (3) The Secretary of State may give directions to [<sup>F1</sup>NHS England] about its exercise of any functions relating to pharmaceutical services or to local pharmaceutical services (including functions which [<sup>F1</sup>NHS England] has been directed to exercise under subsection (1)).]

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##### **Textual Amendments**

**F1** Words in Act substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), [s. 186\(6\)](#), [Sch. 1 para. 1\(1\)\(2\)](#); [S.I. 2022/734](#), [reg. 2\(a\)](#), [Sch.](#) (with regs. 13, 29, 30)

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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\(3\)](#)