

GOVERNMENT RESOURCES AND ACCOUNTS ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Sections 12 and 13: National Health Service – Health Authorities and Primary Care Trusts

65. Health Authorities, Special Health Authorities and Primary Care Trusts are established by the Secretary of State under sections 8, 11 and 16A of the National Health Service Act 1977 ("the 1977 Act") (section 16A was inserted by section 2 of the Health Act 1999) to administer the National Health Service and to perform functions under that Act. They are funded almost entirely by payments made directly by the Secretary of State, or, in the case of Primary Care Trusts, by Health Authorities.
66. To enable the Secretary of State to ensure that he does not exceed the resources voted by Parliament for a particular year it will be necessary for him to control the use of resources by Health Authorities, Special Health Authorities and Primary Care Trusts. Section 12 therefore provides for the Secretary of State to set a resource limit for each Health Authority and Special Health Authority, and section 13 provides for Health Authorities to set resource limits for Primary Care Trusts.
67. The existing statutory provisions dealing with the public funding of Health Authorities and Special Health Authorities are sections 97 and 97A of the 1977 Act, as inserted by paragraphs 47 and 48 of Schedule 1 to the Health Authorities Act 1995, and amended by section 36 of, and paragraph 23 of Schedule 2 to, the National Health Service (Primary Care) Act 1997 and section 4 of the Health Act 1999. These sections provide for a cash based allocation and control system. Health Authorities are paid money in each year by the Secretary of State under section 97(1) and (3); Special Health Authorities are paid under section 97(4) which is broadly similar to section 97(3). Section 97(1) concerns the remuneration of persons providing services under Part II of the 1977 Act (for example, General Medical Practitioners). Unless such remuneration is excepted from section 97(1), it is not cash-limited. The Secretary of State is under a duty to pay each Health Authority the cost of such remuneration, and cannot impose a ceiling on such expenditure. This provision is unaffected by the Bill. Section 97(3), however, provides that the Secretary of State must pay to each Health Authority money not exceeding the amount allotted to it by the Secretary of State. This amount is allotted towards meeting an authority's "main expenditure" (defined in paragraph 2 of Schedule 12A to the 1977 Act, as inserted by section 4 of the Health Act 1999) which, in the case of a Health Authority, includes all expenditure attributable to the performance of their functions in relation to the provision of hospital-based and community health services, all their administrative costs, the costs of drugs attributed to them by the Secretary of State and certain other expenditure. The amount allotted constitutes a limit on the cash which may be spent by the authority. To enforce the cash limits set by the Secretary of State, section 97A provides that each authority is under a duty to ensure that their expenditure does not exceed the aggregate of the amount allotted and certain other income received during the year.

68. The Health Act 1999 inserts new provisions into the 1977 Act which provide for the establishment and operation of Primary Care Trusts. Each Primary Care Trust will be established for an area contained within the area of a Health Authority. The existing statutory provisions dealing with the public funding of Primary Care Trusts mirror those for Health Authorities - sections 97C and 97D as inserted by section 3 of the Health Act 1999. Under section 97C, each year the Health Authority must pay each of its Primary Care Trusts (a) the cost of "general Part II expenditure" incurred by the trust (ie subject to certain exceptions, the remuneration of persons providing Part II services) and (b) money not exceeding the amount allotted by the authority for that year towards meeting "main expenditure". Under section 97D the Primary Care Trust has a statutory duty to ensure that their expenditure does not exceed the aggregate of the amount allotted and certain other income received during that year.
69. Sections 12 and 13 insert two new sections into the 1977 Act (sections 97AA and 97E). These new sections provide for the setting of "resource limits" for every Health Authority, Special Health Authority and Primary Care Trust in addition to the existing cash limits.
70. Section 97AA concerns resource limits for Health Authorities and Special Health Authorities. Subsection (1) imposes a duty on every Health Authority or Special Health Authority to ensure that their use of resources in a financial year does not exceed the "resource limit" set for them by the Secretary of State. This limit can be altered during the year (subsection (6)).
71. Subsections (2) to (4) of the new section 97AA are concerned with what is or is not to be taken into account for the purposes of determining whether an authority has remained within its resource limit for a particular year.
72. In particular subsection (2) ensures that the use of resources for the purpose of "general Part II expenditure", ie the cash expenditure on remuneration of persons providing Part II services, is not taken into account. This expenditure is not cash limited and will not therefore be subject to any resource limit. Subsection (3) enables the Secretary of State to give directions defining the categories of resources and uses of resources that are to be taken into account when considering whether or not an authority has met its duty under subsection (1). In particular paragraph (b) enables the Secretary of State to provide that certain uses of resources may be attributed to a Health Authority to reflect the payments for drugs that have been apportioned to the authority under paragraph 3 of Schedule 12A to the 1977 Act (as inserted by section 4 of the Health Act 1999). Subsection (4) applies section 97A(6) to (8) of the 1977 Act in relation to the duty under subsection (1) and so ensures that funds held by Health Authorities or Special Health Authorities as charitable trustees or obtained by their fund raising activities are outside the scope of the duty.
73. Subsection (5) applies the direction-making power in section 97A(3) to the duty under subsection (1). This enables the Secretary of State to give directions to a Health Authority or a Special Health Authority to secure that the authority complies with the duty imposed on them by subsection (1). Such directions might for instance mirror the current directions under section 97A(3) that require authorities to approve annual income and expenditure financial budgets for cash limited expenditure, and to monitor actual financial performance against these budgets on a monthly basis.
74. Subsection (7) ensures that a reference to the "use of resources" in section 97AA is to be interpreted in the same way as such references are to be interpreted in the Bill (section 27 of the Act and paragraph 115 of these Explanatory Notes).
75. Section 97E puts in place arrangements for Primary Care Trusts that mirror those that section 97AA puts in place for Health Authorities and Special Health Authorities. Subsection (1) of section 97E provides that it is the duty of every Primary Care Trust to ensure that it does not exceed the resource limit set for it by the Trust's Health Authority; the limit can be varied under subsection (4). As with Health Authorities -

*These notes refer to the Government Resources and Accounts
Act 2000 (c.20) which received Royal Assent on 28 July 2000*

- use of resources for the purposes of "general Part II expenditure" is excluded (*subsection (2)*);
 - the Secretary of State will be able to direct as to the categories of resources or uses of resources that are or are not to be taken into account (*subsection (3)*);
 - charitable funds and other property held on trust are excluded (*subsection (5)*);
 - the Secretary of State will be able to direct Primary Care Trusts to secure that they comply with the duty under subsection (1) (*subsection (6)*).
76. *Subsection (2)* of both sections 12 and 13 provide that in applying the new sections of the 1977 Act to Wales for each reference to the Secretary of State there shall be substituted a reference to the National Assembly for Wales.