



# National Health Service Act 2006

## 2006 CHAPTER 41

### PART 13

#### MISCELLANEOUS

#### *[<sup>F1</sup>Co-operation in relation to public health functions*

#### Textual Amendments

- F1** S. 247B and cross-heading inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), ss. 60\(1\), 306\(4\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

#### **247B Co-operation in relation to public health functions**

- (1) This section applies to any body or other person that exercises functions similar to those of the Secretary of State under section 2A (whether or not in relation to the United Kingdom).
- (2) The Secretary of State must co-operate with the body or other person in the exercise by it of those functions.
- (3) If the Secretary of State acts under subsection (2) at the request of the body or other person, the Secretary of State may impose charges in respect of any costs incurred by the Secretary of State in doing so.
- (4) The body or other person must co-operate with the Secretary of State in the exercise by the Secretary of State of functions under section 2A.
- (5) If the body or other person acts under subsection (4) at the request of the Secretary of State, it may impose charges in respect of any costs incurred by it in doing so.]

*Status: Point in time view as at 24/05/2018.*

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### *[<sup>F2</sup>Duty to keep under review*

#### **Textual Amendments**

- F2** S. 247C and cross-heading inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 52**, 306(4); S.I. 2013/160, **art. 2(2)** (with **arts. 7-9**)

#### **247C Secretary of State's duty to keep health service functions under review**

- (1) The Secretary of State must keep under review the effectiveness of the exercise by the bodies mentioned in subsection (2) of functions in relation to the health service in England.
- (2) The bodies mentioned in this subsection are—
  - (a) the Board;
  - (b) Monitor;
  - (c) the Care Quality Commission and its Healthwatch England committee;
  - (d) the National Institute for Health and Care Excellence;
  - (e) the Health and Social Care Information Centre;
    - [ Health Education England;]
  - <sup>F3</sup>(ea) (f) Special Health Authorities.
- (3) The Secretary of State may include in an annual report under section 247D the Secretary of State's views on the effectiveness of the exercise by the bodies mentioned in subsection (2) of functions in relation to the health service.]

#### **Textual Amendments**

- F3** S. 247C(2)(ea) inserted (1.4.2015) by [Care Act 2014 \(c. 23\)](#), s. 127(1), **Sch. 5 para. 13(8)**; S.I. 2014/3186, **art. 2(f)**

### *[<sup>F4</sup>Annual report*

#### **Textual Amendments**

- F4** S. 247D and cross-heading inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 53**, 306(4); S.I. 2013/160, **art. 2(2)** (with **arts. 7-9**)

#### **247D Secretary of State's annual report**

- (1) The Secretary of State must publish an annual report on the performance of the health service in England.
- (2) The report must include the Secretary of State's assessment of the effectiveness of the discharge of the duties under sections 1A and 1C.
- (3) The Secretary of State must lay any report prepared under this section before Parliament.]

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### *Independent advocacy services*

## **F<sup>5</sup>248 Independent advocacy services**

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### **Textual Amendments**

- F5** S. 248 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. **185(2)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

### *Joint working with the prison service*

## **249 Joint working with the prison service**

- (1) In exercising their respective functions, NHS bodies (on the one hand) and the prison service (on the other) must co-operate with one another with a view to improving the way in which those functions are exercised in relation to securing and maintaining the health of prisoners.
- (2) The Secretary of State may by regulations make provision for or in connection with enabling prescribed NHS bodies (on the one hand) and the prison service (on the other) to enter into prescribed arrangements in relation to the exercise of—
  - (a) prescribed functions of the NHS bodies, and
  - (b) prescribed health-related functions of the prison service,if the arrangements are likely to lead to an improvement in the way in which those functions are exercised in relation to securing and maintaining the health of prisoners.
- (3) The arrangements which may be prescribed include arrangements—
  - (a) for or in connection with the establishment and maintenance of a fund—
    - (i) which is made up of contributions by one or more NHS bodies and by the prison service, and
    - (ii) out of which payments may be made towards expenditure incurred in the exercise of both prescribed functions of the NHS body or bodies and prescribed health-related functions of the prison service,
  - (b) for or in connection with the exercise by an NHS body on behalf of the prison service of prescribed health-related functions of the prison service in conjunction with the exercise by the NHS body of prescribed functions of the NHS body,
  - (c) for or in connection with the exercise by the prison service on behalf of an NHS body of prescribed functions of the NHS body in conjunction with the exercise by the prison service of prescribed health-related functions of the prison service,
  - (d) as to the provision of staff, goods or services in connection with any arrangements mentioned in paragraph (a), (b) or (c),
  - (e) as to the making of payments by the prison service to an NHS body in connection with any arrangements mentioned in paragraph (b),
  - (f) as to the making of payments by an NHS body to the prison service in connection with any arrangements mentioned in paragraph (c).

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(4) Any arrangements made by virtue of this section do not affect the liability of NHS bodies, or of the prison service, for the exercise of any of their functions.

[<sup>F6</sup>(4A) For the purposes of this section, each local authority (within the meaning of section 2B) is to be treated as an NHS body.]

(5) “The prison service” means the Minister of the Crown exercising functions in relation to prisons (within the meaning of the Prison Act 1952 (c. 52)); and “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975.

**Textual Amendments**

**F6** S. 249(4A) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), ss. 29\(3\), 306\(4\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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

**C1** S. 249 modified (temp.) (11.7.2012) by [The Health and Social Care Act 2012 \(Commencement No.2 and Transitional, Savings and Transitory Provisions\) Order 2012 \(S.I. 2012/1831\), art. 13\(3\)-\(5\)](#)

*Standing advisory committees*

<sup>F7</sup>**250 Secretary of State's standing advisory committees**

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**Textual Amendments**

**F7** S. 250 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\), ss. 283\(1\), 306\(4\)](#) (with s. 283(3)); S.I. 2012/1319, art. 2(3)

*The National Information Governance Board for Health and Social Care*

<sup>F8</sup>**250A National Information Governance Board: functions**

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**Textual Amendments**

**F8** Ss. 250A-250D omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), ss. 280\(2\), 306\(4\)](#) (with Sch. 20 para. 12); S.I. 2013/160, art. 2(2) (with arts. 7-9)

<sup>F8</sup>**250B National Information Governance Board: Wales**

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**Textual Amendments**

**F8** Ss. 250A-250D omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 280(2)**, 306(4) (with [Sch. 20 para. 12](#)); [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)

**<sup>F8</sup>250C National Information Governance Board: further provisions.**

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**Textual Amendments**

**F8** Ss. 250A-250D omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 280(2)**, 306(4) (with [Sch. 20 para. 12](#)); [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)

**<sup>F8</sup>250D National Information Governance Board: annual reports**

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**Textual Amendments**

**F8** Ss. 250A-250D omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 280(2)**, 306(4) (with [Sch. 20 para. 12](#)); [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)

*Patient information*

**251 Control of patient information**

- (1) The Secretary of State may by regulations make such provision for and in connection with requiring or regulating the processing of prescribed patient information for medical purposes as he considers necessary or expedient—
  - (a) in the interests of improving patient care, or
  - (b) in the public interest.
- (2) Regulations under subsection (1) may, in particular, make provision—
  - (a) for requiring prescribed communications of any nature which contain patient information to be disclosed by health service bodies [<sup>F9</sup>or relevant social care bodies] in prescribed circumstances—
    - (i) to the person to whom the information relates,
    - (ii) (where it relates to more than one person) to the person to whom it principally relates, or
    - (iii) to a prescribed person on behalf of any such person as is mentioned in sub-paragraph (i) or (ii),in such manner as may be prescribed,
  - (b) for requiring or authorising the disclosure or other processing of prescribed patient information to or by persons of any prescribed description subject to compliance with any prescribed conditions (including conditions requiring prescribed undertakings to be obtained from such persons as to the processing of such information),

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- (c) for securing that, where prescribed patient information is processed by a person in accordance with the regulations, anything done by him in so processing the information must be taken to be lawfully done despite any obligation of confidence owed by him in respect of it,
  - (d) for creating offences punishable on summary conviction by a fine not exceeding level 5 on the standard scale or such other level as is prescribed or for creating other procedures for enforcing any provisions of the regulations.
- (3) Subsections (1) and (2) are subject to subsections (4) to (7).
- (4) Regulations under subsection (1) may not make provision requiring the processing of confidential patient information for any purpose if it would be reasonably practicable to achieve that purpose otherwise than pursuant to such regulations, having regard to the cost of and the technology available for achieving that purpose.
- (5) Where regulations under subsection (1) make provision requiring the processing of prescribed confidential patient information, the Secretary of State—
- (a) must, at any time within the period of one month beginning on each anniversary of the making of such regulations, consider whether any such provision could be included in regulations made at that time without contravening subsection (4), and
  - (b) if he determines that any such provision could not be so included, must make further regulations varying or revoking the regulations made under subsection (1) to such extent as he considers necessary in order for the regulations to comply with that subsection.
- (6) Regulations under subsection (1) may not make provision for requiring the processing of confidential patient information solely or principally for the purpose of determining the care and treatment to be given to particular individuals.
- (7) Regulations under this section may not make provision for or in connection with the processing of prescribed patient information in a manner inconsistent with any provision made by or under the Data Protection Act 1998 (c 29).
- (8) Subsection (7) does not affect the operation of provisions made under subsection (2) (c).
- (9) Before making any regulations under this section the Secretary of State must, to such extent as he considers appropriate in the light of the requirements of section 252, consult such bodies appearing to him to represent the interests of those likely to be affected by the regulations as he considers appropriate.
- (10) In this section “patient information” means—
- (a) information (however recorded) which relates to the physical or mental health or condition of an individual, to the diagnosis of his condition or to his care or treatment, and
  - (b) information (however recorded) which is to any extent derived, directly or indirectly, from such information,
- whether or not the identity of the individual in question is ascertainable from the information.
- (11) For the purposes of this section, patient information is “confidential patient information” where—
- (a) the identity of the individual in question is ascertainable—

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- (i) from that information, or
  - (ii) from that information and other information which is in the possession of, or is likely to come into the possession of, the person processing that information, and
- (b) that information was obtained or generated by a person who, in the circumstances, owed an obligation of confidence to that individual.
- (12) In this section “medical purposes” means the purposes of any of—
- (a) preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of health and social care services, and
  - (b) informing individuals about their physical or mental health or condition, the diagnosis of their condition or their care and treatment.
- [<sup>F10</sup>(12A) In this section—
- “care” includes local authority social care,
  - “local authority social care” means—
- (a) social care provided or arranged for by a local authority, and
  - (b) any other social care all or part of the cost of which is paid for with funds provided by a local authority,
- “patient” includes an individual who needs or receives local authority social care or whose need for such care is being assessed by a local authority,
- “social care” includes all forms of personal care and other practical assistance provided for individuals who are in need of such care or assistance by reason of age, illness, disability, pregnancy, childbirth, dependence on alcohol or drugs or other similar circumstances.]
- (13) In this section—
- “health service body” means any body (including a government department) or person engaged in the provision of the health service that is prescribed, or of a description prescribed, for the purposes of this definition,
  - “processing”, in relation to information, means the use, disclosure or obtaining of the information or the doing of such other things in relation to it as may be prescribed for the purposes of this definition.
- [<sup>F11</sup>“relevant social care body” means—
- (a) a local authority, or
  - (b) any other body or person engaged in the provision of local authority social care.]

#### Textual Amendments

- F9** Words in s. 251(2)(a) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), s. 25\(2\)](#), [Sch. 4 para. 7\(2\)](#)
- F10** S. 251(12A) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), s. 25\(2\)](#), [Sch. 4 para. 7\(3\)](#)
- F11** Words in s. 251(13) inserted (28.1.2016 for specified purposes, 28.3.2016 in so far as not already in force) by [Cities and Local Government Devolution Act 2016 \(c. 1\), s. 25\(2\)](#), [Sch. 4 para. 7\(4\)](#)

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

- C2** S. 251 functions transferred (W.) (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), [43\(1\)](#)

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## [<sup>F12</sup>252 [<sup>F13</sup>Consultation with the Care Quality Commission]

- (1) Before laying before Parliament a draft of any statutory instrument containing regulations under section 251(1), or making any regulations pursuant to section 251(5)(b), the Secretary of State must seek and have regard to the views of [<sup>F14</sup>the Care Quality Commission] on the proposed regulations.
- (2) The Secretary of State must publish, in such manner as the Secretary of State considers appropriate, any views received from the Board on the proposed regulations.]

### Textual Amendments

- F12** S. 252 substituted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\), ss. 158, 170\(3\)\(4\)](#); S.I. 2008/2497, art. 7(2)(b)
- F13** S. 252 title substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), ss. 280\(5\)\(a\), 306\(4\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F14** Words in s. 252(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), ss. 280\(5\), 306\(4\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

### Modifications etc. (not altering text)

- C3** S. 252 excluded (W.) (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\), arts. 1\(1\), 43\(2\)](#)

## [<sup>F15</sup>Emergencies: role of the Secretary of State, the Board and clinical commissioning groups]

### Textual Amendments

- F15** S. 253 cross-heading substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), ss. 46, 306\(4\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

## [<sup>F16</sup>252A Role of the Board and clinical commissioning groups in respect of emergencies

- (1) The Board and each clinical commissioning group must take appropriate steps for securing that it is properly prepared for dealing with a relevant emergency.
- (2) The Board must take such steps as it considers appropriate for securing that each clinical commissioning group is properly prepared for dealing with a relevant emergency.
- (3) The steps taken by the Board under subsection (2) must include monitoring compliance by each clinical commissioning group with its duty under subsection (1).
- (4) The Board must take such steps as it considers appropriate for securing that each relevant service provider is properly prepared for dealing with a relevant emergency.
- (5) The steps taken by the Board under subsection (4) must include monitoring compliance by the service provider with any requirements imposed on it by its service arrangements for the purpose of securing that it is properly prepared for dealing with a relevant emergency.
- (6) The Board may take such steps as it considers appropriate for facilitating a co-ordinated response to an emergency by the clinical commissioning groups and relevant service providers for which it is a relevant emergency.



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- (7) The Board may arrange for any body or person to exercise any functions of the Board under subsections (2) to (6).
- (8) Where the Board makes arrangements with another body or person under subsection (7) it may also arrange for that other body or person to exercise any functions that the Board has, by virtue of being a Category 1 responder, under Part 1 of the Civil Contingencies Act 2004.
- (9) A relevant service provider must appoint an individual to be responsible for—
- (a) securing that the provider is properly prepared for dealing with a relevant emergency,
  - (b) securing that the provider complies with any requirements mentioned in subsection (5), and
  - (c) providing the Board with such information as it may require for the purpose of discharging its functions under this section.
- (10) In this section—
- “relevant emergency”—
- (a) in relation to the Board or a clinical commissioning group, means any emergency which might affect the Board or the group (whether by increasing the need for the services that it may arrange or in any other way);
  - (b) in relation to a relevant service provider, means any emergency which might affect the provider (whether by increasing the need for the services that it may provide or in any other way);
- “relevant service provider” means any body or person providing services in pursuance of service arrangements;
- “service arrangements”, in relation to a relevant service provider, means arrangements made by the Board or a clinical commissioning group under or by virtue of section 3, 3A, 3B, 4 or 7A or Schedule 1.]

#### Textual Amendments

**F16** S. 252A inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), ss. 46, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

## 253 Emergency powers

- (1) The Secretary of State may give directions under this section if he considers that by reason of an emergency [<sup>F17</sup>it is appropriate to do so].

[<sup>F18</sup>(1A) A direction under this section may be given to—

- (a) an NHS body other than a Local Health Board;
- (b) the National Institute for Health and Care Excellence;
- (c) the Health and Social Care Information Centre;
- (d) any body or person, other than an NHS body, providing services in pursuance of arrangements made—
  - (i) by the Secretary of State under section 12,
  - (ii) by the Board or a clinical commissioning group under section 3, 3A, 3B or 4 or Schedule 1,

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- (iii) by a local authority for the purpose of the exercise of its functions under or by virtue of section 2B or 6C(1) or Schedule 1, or
- (iv) by the Board, a clinical commissioning group or a local authority by virtue of section 7A.]

- (2) <sup>F19</sup>In relation to a body within subsection (1A)(a) to (c), the powers conferred by this section may be exercised—
- (a) to give directions to the body about the exercise of any of its functions;
  - (b) to direct the body to cease to exercise any of its functions for a specified period;
  - (c) to direct the body to exercise any of its functions concurrently with another body or person for a specified period;
  - (d) to direct the body to exercise any function conferred on another body or person under or by virtue of this Act for a specified period (whether to the exclusion of, or concurrently with, that body or person).

- (2A) In relation to a body or person within subsection (1A)(d), the powers conferred by this section may be exercised—
- (a) to give directions to the body or person about the provision of any services that it provides in pursuance of arrangements mentioned in subsection (1A)(d);
  - (b) to direct the body or person to cease to provide any of those services for a specified period;
  - (c) to direct the body or person to provide other services for the purposes of the health service for a specified period.]

<sup>F20</sup>(2B) The Secretary of State may direct the Board to exercise the functions of the Secretary of State under this section.

(2C) The Secretary of State may give directions to the Board about its exercise of any functions that are the subject of a direction under subsection (2B).

(2D) In this section, “specified” means specified in the direction.]

(3) The powers conferred on the Secretary of State by this section are in addition to any other powers exercisable by him.

<sup>F21</sup>(4) . . . . .

**Textual Amendments**

- F17** Words in s. 253(1) 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. 47(2)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F18** S. 253(1A) 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. 47(3)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F19** S. 253(2)(2A) substituted for s. 253(2) (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. 47(4)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F20** S. 253(2B)-(2D) 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. 47(5)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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**F21** S. 253(4) 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. 47\(6\), 306\(1\)\(d\)\(4\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

### *Local social services authorities*

## **254 Local social service authorities**

- <sup>F22</sup>(1) .....
- (2) A local social services authority which provides premises, furniture or equipment for any of the purposes of this Act may permit the use of the premises, furniture or equipment by—
- (a) any other local social services authority,
  - (b) any of the bodies established under this Act, or
  - [<sup>F23</sup>(c) a local authority (as defined in section 579(1) of the Education Act 1996) for the purposes of the exercise of any education functions (as defined in that section).]
- (3) The permission may be on such terms (including terms with respect to the services of any staff employed by the authority giving permission) as may be agreed.
- (4) A local social services authority may provide (or improve or furnish) residential accommodation for officers—
- (a) employed by it for the purposes of any of its functions as a local social services authority, <sup>F24</sup>...
  - <sup>F24</sup>(b) .....
- (5) In this section <sup>F25</sup>... “equipment” includes any machinery, apparatus or appliance, whether fixed or not, and any vehicle.

### **Textual Amendments**

- F22** S. 254(1) omitted (1.4.2015) by virtue of [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), [Sch. para. 82\(2\)](#) (with arts. 1(3), 3)
- F23** S. 254(2)(c) substituted (5.5.2010) by [The Local Education Authorities and Children’s Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, [Sch. 2 para. 60\(2\)](#)
- F24** S. 254(4)(b) and word omitted (1.4.2015) by virtue of [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), [Sch. para. 82\(3\)](#) (with arts. 1(3), 3)
- F25** Words in s. 254(5) omitted (1.4.2015) by virtue of [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), [Sch. para. 82\(4\)](#) (with arts. 1(3), 3)

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## *[<sup>F26</sup>Support functions of the Secretary of State*

### **Textual Amendments**

**F26** S. 254A and cross-heading inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 128](#); [S.I. 2013/160](#), art. 2(2) (with arts. 7-9)

- 254A** (1) The Secretary of State may, for the purpose of assisting any person exercising functions in relation to the health service or providing services for its purposes—
- (a) provide (or otherwise make available) to the person goods, materials or other facilities;
  - (b) facilitate the recruitment and management of the person's staff;
  - (c) develop or operate information or communication systems;
  - (d) do such other things to facilitate or support the carrying out of the person's functions or other activities as the Secretary of State considers appropriate;
  - (e) arrange for any other person to do anything mentioned in paragraphs (a) to (d) or to assist the Secretary of State in doing any such thing.
- (2) The power conferred by subsection (1)(a) includes power to purchase goods and materials for the purpose of providing them or making them available.
- (3) The Secretary of State may, in connection with anything done under subsection (1), make available the services of any person employed by the Secretary of State.
- (4) The powers conferred by this section may be exercised on such terms, including terms as to the making of payments to or by the Secretary of State, as may be agreed.
- (5) In this section, “the health service” does not include that part of the health service that is provided in pursuance of the public health functions of the Secretary of State or local authorities.]

## *Supplies by the Secretary of State*

### **255 Supplies not readily obtainable**

- (1) Where the Secretary of State has acquired—
- (a) supplies of human blood for the purposes of any service under this Act,
  - (b) any part of a human body for the purpose of, or in the course of providing, any such service, or
  - (c) supplies of any other substances or preparations not readily obtainable,
- he may arrange to make such supplies or that part available (on such terms, including terms as to charges, as he considers appropriate) to any person.
- (2) The Secretary of State may exercise the powers conferred by subsection (1) only if, and to the extent that, he is satisfied that anything which he proposes to do or allow under those powers—
- (a) will not to a significant extent interfere with the performance by him of any duty imposed on him by this Act to provide accommodation or services of any kind, and
  - (b) will not to a significant extent operate to the disadvantage of persons seeking or afforded admission or access to accommodation or services at health

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service hospitals (whether as resident or non-resident patients) otherwise than as private patients.

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

### *Community services*

## **256 Power of <sup>F27</sup>the Board or a clinical commissioning group] to make payments towards expenditure on community services**

- (1) <sup>F28</sup>The Board or a clinical commissioning group] may make payments to—
- (a) a local social services authority <sup>F29</sup>[in England] towards expenditure incurred or to be incurred by it in connection with any social services functions (within the meaning of the Local Authority Social Services Act 1970 (c. 42)), other than functions under section 3 of the Disabled Persons (Employment) Act 1958 (c. 33),
  - <sup>F30</sup>(aa) a local social services authority in Wales towards expenditure incurred or to be incurred by it in connection with any of its functions which are social services functions for the purposes of the Social Services and Well-being (Wales) Act 2014 (anaw 4).]
  - (b) a district council, or a Welsh county council or county borough council, towards expenditure incurred or to be incurred by it in connection with its functions under Part 2 of Schedule 9 to the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) (meals and recreation for old people),
  - (c) <sup>F31</sup>[a local authority (as defined in section 579(1) of the Education Act 1996)] (c. 56), towards expenditure incurred or to be incurred by it in connection with its functions under the Education Acts (within the meaning of that Act), in so far as it performs those functions for the benefit of disabled persons,
  - (d) a local housing authority within the meaning of the Housing Act 1985 (c. 68), towards expenditure incurred or to be incurred by it in connection with its functions under Part 2 of that Act (provision of housing), or
  - (e) any of the bodies mentioned in subsection (2), in respect of expenditure incurred or to be incurred by it in connection with the provision of housing accommodation.
- (2) The bodies are—
- <sup>F32</sup>(za) a private registered provider of social housing,]
  - (a) a registered social landlord within the meaning of the Housing Act 1985 (see section 5(4) and (5) of that Act),
  - <sup>F33</sup>(b) the Homes and Communities Agency,
  - (ba) the Welsh new towns residuary body,]
  - <sup>F34</sup>(bb) the Greater London Authority,]
  - (c) a new town development corporation,
  - <sup>F35</sup>(ca) a Mayoral development corporation,]
  - (d) an urban development corporation established under the Local Government, Planning and Land Act 1980 (c. 65),
  - <sup>F36</sup>(e) the Regulator of Social Housing.]

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- (3) [<sup>F37</sup>The Board or a clinical commissioning group] may make payments to a local authority towards expenditure incurred or to be incurred by the authority in connection with the performance of any of the authority's functions which, in the opinion of [<sup>F38</sup>the Board or (as the case may be) the clinical commissioning group]—
- (a) have an effect on the health of any individuals,
  - (b) have an effect on, or are affected by, any NHS functions, or
  - (c) are connected with any NHS functions.
- (4) “NHS functions” means functions exercised by an NHS body.
- (5) A payment under this section may be made in respect of expenditure of a capital or of a revenue nature or in respect of both kinds of expenditure.
- [<sup>F39</sup>(5A) The Secretary of State may by directions to the Board specify the minimum amount which the Board must spend in a financial year in making payments under—
- (a) this section;
  - (b) subsection (1) of this section;
  - (c) subsection (3) of this section.
- (5B) The Secretary of State may by directions to the Board specify—
- (a) a body or description of bodies to whom payments under subsection (1) or (3), or under either or both of those subsections, must be made by the Board in a financial year;
  - (b) functions or activities, or descriptions of functions or activities, in respect of which such payments must be made by the Board in a financial year;
  - (c) the minimum amount which the Board must spend in a financial year in making such payments—
    - (i) to a body or description of bodies specified in relation to the year under paragraph (a);
    - (ii) in respect of functions or activities, or descriptions of functions or activities, specified in relation to the year under paragraph (b);
    - (iii) to a body or description of bodies specified in relation to the year under paragraph (a) in respect of functions or activities or descriptions of functions or activities so specified under paragraph (b).]
- (6) The Secretary of State may by directions prescribe conditions relating to payments under this section or section 257.
- (7) The conditions include, in particular, conditions requiring, in such circumstances as may be specified—
- (a) repayment of the whole or part of a payment under this section, or
  - (b) in respect of property acquired with a payment under this section, payment of an amount representing the whole or part of an increase in the value of the property which has occurred since its acquisition.
- (8) No payment may be made under this section in respect of any expenditure unless the conditions relating to it conform with the conditions prescribed under subsection (6) for payments of that description.
- (9) “A disabled person” is a person who has a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities or who has such other disability as may be prescribed.

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### Textual Amendments

- F27** Words in s. 256 heading substituted (1.11.2013) by [The Health and Social Care Act 2012 \(Consequential Amendments\) \(No. 2\) Order 2013 \(S.I. 2013/2341\)](#), arts. 1(2), 4
- F28** Words in s. 256(1) 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. 129\(2\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F29** Words in s. 256(1)(a) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), [243\(a\)](#)
- F30** S. 256(1)(aa) inserted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), regs. 2(1), [243\(b\)](#)
- F31** Words in s. 256(1)(c) substituted (5.5.2010) by [The Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), art. 1, [Sch. 2 para. 60\(3\)](#)
- F32** S. 256(2)(za) inserted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), [Sch. 2 para. 134\(a\)](#) (with art. 6, Sch. 3)
- F33** S. 256(2)(ba) substituted for s. 256(2)(b) (1.12.2008) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2008 \(S.I. 2008/3002\)](#), art. 1(2), [Sch. 1 para. 52](#) (with Sch. 2) (see S.I. 2008/3068, art. 2(1)(b))
- F34** S. 256(2)(bb) inserted (1.4.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 19 para. 44](#); S.I. 2012/628, art. 6(i) (with arts. 9, 11, 14, 15, 17)
- F35** S. 256(2)(ca) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(1)(l), [Sch. 22 para. 57](#)
- F36** S. 256(2)(e) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2010 \(S.I. 2010/866\)](#), art. 1(2), [Sch. 2 para. 134\(b\)](#) (with art. 6, Sch. 3)
- F37** Words in s. 256(3) 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. 129\(3\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F38** Words in s. 256(3) 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. 129\(3\)\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F39** S. 256(5A)(5B) 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. 129\(4\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

### Modifications etc. (not altering text)

- C4** S. 256 modified (temp.) (11.7.2012) by [The Health and Social Care Act 2012 \(Commencement No.2 and Transitional, Savings and Transitory Provisions\) Order 2012 \(S.I. 2012/1831\)](#), [art. 13\(3\)-\(5\)](#)
- C5** S. 256(2)(e) modified (1.12.2008) by [The Transfer of Housing Corporation Functions \(Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/2839\)](#), arts. 1(1), 3, [Sch. para. 1](#) (with art. 6)
- C6** S. 256(3) modified by 2004 c. 17, s. 4(5)(a)(i) (as substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 258\(a\)](#)) (with Sch. 3 Pt. 1))

## 257 Payments in respect of voluntary organisations under section 256

- (1) This section applies where the expenditure in respect of which a payment under section 256 is proposed to be made is expenditure in connection with services to be provided by a voluntary organisation.
- (2) Where this section applies, [<sup>F40</sup>the Board or the clinical commissioning group] may make payments to the voluntary organisation towards the expenditure incurred or to be incurred by the organisation in connection with the provision of those services, instead of or in addition to making payments under section 256(1) or (3).



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- (3) Where this section applies—
- (a) a body falling within any of paragraphs (a) to (d) of section 256(1) which has received payments under the paragraph, and
  - (b) a local authority which has received payments under section 256(3),
- may make out of the sums paid to it payments to the voluntary organisation towards expenditure incurred or to be incurred by the organisation in connection with the provision of those services.
- (4) No payment may be made under subsection (2) or (3) except subject to conditions which conform with the conditions prescribed for payments of that description under section 256(6).

#### Textual Amendments

**F40** Words in s. 257(2) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 130](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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

**C7** S. 257(2) modified by 2004 c. 17, s. 4(5)(a)(i) (as substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 258\(a\)](#) (with Sch. 3 Pt. 1))

### Universities

#### 258 University clinical teaching and research

- (1) [<sup>F41</sup>The functions under this Act of the Secretary of State, the Board and each clinical commissioning group must be exercised] so as to secure that there are made available such facilities as [<sup>F42</sup>the Secretary of State, the Board or the clinical commissioning group (as the case may be)] considers are reasonably required by any university which has a medical or dental school, in connection with—
- (a) clinical teaching, and
  - (b) research connected with clinical medicine or clinical dentistry.
- (2) Regulations may provide for any functions—
- (a) exercisable by [<sup>F43</sup>the Board,] a [<sup>F44</sup>clinical commissioning group,]<sup>F45</sup> ... <sup>F46</sup> ... Special Health Authority or Local Health Board,
  - (b) in relation to the provision of facilities such as are mentioned in subsection (1), to be exercisable by the body jointly with one or more NHS body other than an NHS foundation trust.

#### Textual Amendments

**F41** Words in s. 258(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 131\(2\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F42** Words in s. 258(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 131\(2\)\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F43** Words in s. 258(2)(a) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 131\(3\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)



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- F44** Words in s. 258(2)(a) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 131(3)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F45** Words in s. 258(2)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 131(3)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F46** Words in s. 258(2)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 131(3)(d)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

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

- C8** S. 258 modified (temp.) (11.7.2012) by The Health and Social Care Act 2012 (Commencement No.2 and Transitional, Savings and Transitory Provisions) Order 2012 (S.I. 2012/1831), **art. 13(3)-(5)**

*Sale of medical practices*

**259 Sale of medical practices**

- (1) It is unlawful to sell the goodwill of the medical practice of a person to whom any of subsections (2) to (4) applies, unless the person—
- no longer provides or performs the services mentioned, and
  - has never carried on the practice in a relevant area.
- (2) This subsection applies to a person who has at any time provided general medical services under arrangements made—
- with any Council, Committee or Authority under the National Health Service Act 1946 (c. 81) or the National Health Service Reorganisation Act 1973 (c. 32), or
  - with any Primary Care Trust, Health Authority or Local Health Board under section 29 of the National Health Service Act 1977 (c. 49).
- (3) This subsection applies to a person who has at any time provided or performed personal medical services in accordance with section 28C of the National Health Service Act 1977 (prior to the coming into force of section 16CC of that Act).
- (4) This subsection applies to a person who has at any time, in prescribed circumstances or, if regulations so provide, in all circumstances, provided or performed primary medical services—
- in accordance with section 28C arrangements (within the meaning given by section 28D of the National Health Service Act 1977),
  - in accordance with arrangements under section 16CC(2)(b) of that Act,
  - under a general medical services contract (within the meaning of section 28Q(2) of that Act),
  - in accordance with section 92 arrangements or section 50 arrangements,
  - in accordance with arrangements under [<sup>F47</sup>section 83(2)] of this Act, or section 41(2)(b) of the National Health Service (Wales) Act 2006 (c. 42),
  - under a general medical services contract or a Welsh general medical services contract.

[<sup>F48</sup>(4A) The reference in subsection (4)(e) to arrangements under section 83(2) of this Act includes a reference to arrangements made under section 83(2)(b) of this Act before the commencement of paragraph 30 of Schedule 4 to the Health and Social Care Act 2012 (sub-paragraph (2) of which replaces section 83(2)).]

- (5) In this section—

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“goodwill” includes any part of goodwill and, in relation to a person practising in partnership, means his share of the goodwill of the partnership practice,

“medical practice” includes any part of a medical practice,

“relevant area” [<sup>F49</sup>—]

(a) in relation to any Council, Committee, Primary Care Trust, Local Health Board or Authority by arrangement or contract with whom a person has at any time provided or performed services, means the area, district or locality of that Council, Committee, Primary Care Trust, Local Health Board or Authority (at that time) [<sup>F50</sup>;

(b) in relation to the Board, in a case where a person has at any time provided or performed services by arrangement or contract with the Board, means the prescribed area (at the prescribed time).]

“section 50 arrangements” means arrangements for the provision of services made under section 50 of the National Health Service (Wales) Act 2006 (c. 42), and

“Welsh general medical services contract” means a contract under section 42(2) of the National Health Service (Wales) Act 2006.

(6) Schedule 21 makes further provision in relation to this section.

#### Textual Amendments

**F47** Words in s. 259(4)(e) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 132\(2\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F48** S. 259(4A) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 132\(3\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F49** Words in s. 259(5) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 132\(4\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

**F50** Words in s. 259(5) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 132\(4\)\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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

**C9** S. 259 transfer of functions (10.7.2008) by [Welsh Ministers \(Transfer of Functions\) Order 2008 \(S.I. 2008/1786\)](#), [art. 2\(b\)](#) reg. 1(2)

### *Price of medical supplies*

## **260 Control of maximum price of medical supplies other than health service medicines**

(1) The Secretary of State may by order provide for the control of maximum prices to be charged for any medical supplies, other than health service medicines, required for the purposes of [<sup>F51</sup>the health service].

[<sup>F52</sup>(1A) Before making an order under subsection (1) the Secretary of State must consult any body which appears to the Secretary of State appropriate to represent persons who manufacture, distribute or supply medical supplies falling within subsection (1).]

[<sup>F53</sup>(2) . . . . .]

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<sup>F53</sup>(3) .....

<sup>F53</sup>(4) .....

(5) In this section <sup>F54</sup>...—

“medical supplies” includes surgical, dental and optical materials and equipment, <sup>F55</sup>...

and “equipment” includes any machinery, apparatus or appliance, whether fixed or not, and any vehicle.

#### Textual Amendments

- F51** Words in s. 260(1) substituted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 7\(3\), 12\(3\); S.I. 2017/809, reg. 2\(f\)](#)
- F52** S. 260(1A) inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 7\(4\), 12\(3\); S.I. 2017/809, reg. 2\(f\)](#)
- F53** S. 260(2)-(4) omitted (7.8.2017) by virtue of [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 10\(3\)\(a\), 12\(3\); S.I. 2017/809, reg. 2\(h\) \(with reg. 3\)](#)
- F54** Words in s. 260(5) omitted (7.8.2017) by virtue of [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 10\(3\)\(b\)\(i\), 12\(3\); S.I. 2017/809, reg. 2\(h\) \(with reg. 3\)](#)
- F55** Words in s. 260(5) omitted (7.8.2017) by virtue of [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 10\(3\)\(b\)\(ii\), 12\(3\); S.I. 2017/809, reg. 2\(h\) \(with reg. 3\)](#)

## 261 Powers relating to voluntary schemes

- (1) The powers under this section may be exercised where there is in existence a scheme (referred to in this section and sections 262 [<sup>F56</sup>, 263 and 264A] as a “voluntary scheme”) made by the Secretary of State and the industry body for [<sup>F57</sup>one or more of the following purposes] —
- (a) limiting the prices which may be charged by any manufacturer or supplier to whom the scheme relates for the supply of any health service medicines, <sup>F58</sup>...
  - (b) limiting the profits which may accrue to any manufacturer or supplier to whom the scheme relates in connection with the manufacture or supply of any health service medicines,
  - [<sup>F59</sup>(c) providing for any manufacturer or supplier to whom the scheme relates to pay to the Secretary of State an amount calculated by reference to sales or estimated sales of any health service medicines (whether on the basis of net prices, average selling prices or otherwise).]
- (2) For the purposes of this section and sections 262 and 263, a voluntary scheme must be treated as applying to a manufacturer or supplier to whom it relates if—
- (a) he has consented to the scheme being so treated (and has not withdrawn that consent), and
  - (b) no notice is in force in his case under subsection (4).
- (3) For the purposes of this section a voluntary scheme has effect, in relation to a manufacturer or supplier to whom it applies, with any additions or modifications made by him and the Secretary of State.

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- (4) If any acts or omissions of any manufacturer or supplier to whom a voluntary scheme applies (a “scheme member”) have shown that, in the scheme member's case, the scheme is ineffective for [<sup>F60</sup>any] of the purposes mentioned in subsection (1), the Secretary of State may by a written notice given to the scheme member determine that the scheme does not apply to him.
- (5) A notice under subsection (4) must give the Secretary of State's reasons for giving the notice, and the Secretary of State may not give a notice under that subsection until he has given the scheme member an opportunity to make representations about the acts or omissions in question.
- (6) Consent under subsection (2)(a) must be given, or withdrawn, in the manner required by the Secretary of State.
- <sup>F61</sup>(7) . . . . .
- (8) The Secretary of State may—
- (a) prohibit any manufacturer or supplier to whom a voluntary scheme applies from increasing any price charged by him for the supply of any health service medicine covered by the scheme without the approval of the Secretary of State, and
  - (b) provide for any amount representing any increase in contravention of that prohibition in the sums charged by that person for that medicine, so far as the increase is attributable to supplies to the health service, to be paid to the Secretary of State within a specified period.
- [<sup>F62</sup>(9) The Secretary of State may provide for any amount payable in accordance with a voluntary scheme by any manufacturer or supplier to whom the scheme applies to be paid to the Secretary of State within a specified period.
- (10) Neither of the following affects any liability of a manufacturer or supplier to pay amounts to the Secretary of State arising during a period when a health service medicine was covered by a voluntary scheme treated as applying to the person or the taking of any action in relation to any such liability—
- (a) the withdrawal of consent by the person to the scheme being treated as applying to the person;
  - (b) the giving of notice to the person under subsection (4).]

#### Textual Amendments

- F56** Words in s. 261(1) substituted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 3\(2\)\(a\), 12\(3\); S.I. 2017/809, reg. 2\(b\)](#)
- F57** Words in s. 261(1) substituted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 3\(2\)\(b\), 12\(3\); S.I. 2017/809, reg. 2\(b\)](#)
- F58** Word in s. 261(1) omitted (7.8.2017) by virtue of [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 3\(2\)\(c\), 12\(3\); S.I. 2017/809, reg. 2\(b\)](#)
- F59** S. 261(1)(c) inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 3\(2\)\(d\), 12\(3\); S.I. 2017/809, reg. 2\(b\)](#)
- F60** Word in s. 261(4) substituted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 3\(3\), 12\(3\); S.I. 2017/809, reg. 2\(b\)](#)
- F61** S. 261(7) omitted (7.8.2017) by virtue of [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 10\(4\), 12\(3\); S.I. 2017/809, reg. 2\(h\) \(with reg. 3\)](#)

*Status: Point in time view as at 24/05/2018.*

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**F62** S. 261(9)(10) inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 3\(4\), 12\(3\); S.I. 2017/809, reg. 2\(b\)](#)

#### Commencement Information

**II** S. 261(8) in force at 7.8.2017 immediately after 1999 c. 8, s. 33(8) comes into force by [S.I. 2017/810, art. 2\(a\)](#)

## 262 Power to control prices

- (1) The Secretary of State may, after consultation with the industry body—
- (a) limit any price which may be charged by any manufacturer or supplier for the supply of any health service medicine, and
  - (b) provide for any amount representing sums charged by that person for that medicine in excess of the limit to be paid to the Secretary of State within a specified period.

[<sup>F63</sup>(2) If at any time a health service medicine is covered by a voluntary scheme applying to its manufacturer or supplier, the powers conferred by this section may not be exercised at that time in relation to that manufacturer or supplier as regards that medicine.]

#### Textual Amendments

**F63** S. 262(2) substituted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 4, 12\(3\); S.I. 2017/809, reg. 2\(c\)](#)

## 263 Statutory schemes

- (1) The Secretary of State may, after consultation with the industry body [<sup>F64</sup>and any other person the Secretary of State thinks appropriate], make a scheme (referred to in this section and section 264 as a statutory scheme) [<sup>F65</sup>one or more of the following purposes] —
- (a) limiting the prices which may be charged by any manufacturer or supplier for the supply of any health service medicines, <sup>F66</sup>...
  - (b) limiting the profits which may accrue to any manufacturer or supplier in connection with the manufacture or supply of any health service medicines,
  - [<sup>F67</sup>(c) providing for any manufacturer or supplier of any health service medicines to pay to the Secretary of State an amount calculated by reference to sales or estimated sales of those medicines (whether on the basis of net prices, average selling prices or otherwise).]

[<sup>F68</sup>(1A) Consultation about the proposed exercise of a power under subsection (1) must include consultation about the following—

- (a) the economic consequences for the life sciences industry in the United Kingdom;
- (b) the consequences for the economy of the United Kingdom;
- (c) the consequences for patients to whom any health service medicines are to be supplied and for other health service patients.]

- (2) A statutory scheme may, in particular, make any provision mentioned in subsections [<sup>F69</sup>(4)] to (6).

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<sup>F70</sup>(3) .....

(4) The scheme may provide for any amount representing sums charged by any manufacturer or supplier to whom the scheme applies, in excess of the limits determined under the scheme, for health service medicines covered by the scheme to be paid by that person to the Secretary of State within a specified period.

(5) The scheme may provide for any amount representing the profits, in excess of the limits determined under the scheme, accruing to any manufacturer or supplier to whom the scheme applies in connection with the manufacture or supply of health service medicines covered by the scheme to be paid by that person to the Secretary of State within a specified period.

[<sup>F71</sup>(5A) The scheme may provide for any amount payable in accordance with the scheme by any manufacturer or supplier to whom the scheme applies to be paid to the Secretary of State within a specified period.]

(6) The scheme may—

- (a) prohibit any manufacturer or supplier to whom the scheme applies from increasing, without the approval of the Secretary of State, any price charged by him for the supply of any health service medicine covered by the scheme, and
- (b) provide for any amount representing any increase in contravention of that prohibition in the sums charged by that person for that medicine, so far as the increase is attributable to supplies to the health service, to be paid to the Secretary of State within a specified period.

[<sup>F72</sup>(7) If at any time a health service medicine is covered by a voluntary scheme applying to its manufacturer or supplier, the powers conferred by this section may not be exercised at that time in relation to that manufacturer or supplier as regards that medicine.]

[<sup>F73</sup>(8) Subsection (7) does not affect any liability of a person to pay amounts to the Secretary of State arising during a period when a health service medicine was covered by a statutory scheme applying to the person or the taking of any action in relation to any such liability.]

#### Textual Amendments

- F64** Words in s. 263(1) inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), ss. 5(2)(a), 12(3); S.I. 2017/809, reg. 2(d)
- F65** Words in s. 263(1) substituted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), ss. 5(2)(b), 12(3); S.I. 2017/809, reg. 2(d)
- F66** Word in s. 263(1) omitted (7.8.2017) by virtue of Health Service Medical Supplies (Costs) Act 2017 (c. 23), ss. 5(2)(c), 12(3); S.I. 2017/809, reg. 2(d)
- F67** S. 263(1)(c) inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), ss. 5(2)(d), 12(3); S.I. 2017/809, reg. 2(d)
- F68** S. 263(1A) inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), ss. 5(3), 12(3); S.I. 2017/809, reg. 2(d)
- F69** Word in s. 263(2) substituted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), ss. 10(5)(a), 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F70** S. 263(3) omitted (7.8.2017) by virtue of Health Service Medical Supplies (Costs) Act 2017 (c. 23), ss. 10(5)(b), 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F71** S. 263(5A) inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), ss. 5(4), 12(3); S.I. 2017/809, reg. 2(d)



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- F72** S. 263(7) substituted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 5(5)**, 12(3); S.I. 2017/809, reg. 2(d)
- F73** S. 263(8) inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 5(6)**, 12(3); S.I. 2017/809, reg. 2(d)

**Commencement Information**

- I2** S. 263 in force at 7.8.2017 immediately after 1999 c. 8, s. 35 comes into force by **S.I. 2017/810, art. 2(b)**

**264 Statutory schemes: supplementary**

- (1) The Secretary of State may, after consultation with the industry body, make any provision he considers necessary or expedient for the purpose of enabling or facilitating—
- (a) the introduction of a statutory scheme or of a limit under section 262, or
  - (b) the determination of the provision to be made in a proposed statutory scheme.

<sup>F74</sup>(2) . . . . .

- (3) Where the Secretary of State is preparing to make or vary a statutory scheme, he may make any provision he considers necessary or expedient for transitional or transitory purposes which could be made by such a scheme.

**Textual Amendments**

- F74** S. 264(2) omitted (7.8.2017) by virtue of Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(6)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)

**Commencement Information**

- I3** S. 264 in force at 3.4.2007 in so far as not already in force immediately after 1999 c. 8, s. 36 comes into force by **S.I. 2007/1179, art. 2(b)**

**[<sup>F75</sup>264A Provision of information about health service products**

- (1) References in this section to a UK producer are to a person who manufactures, distributes or supplies any UK health service products.
- (2) Regulations may require any UK producer to—
- (a) record and keep information which the Secretary of State may require for the purpose specified in subsection (3), and
  - (b) provide that information to the Secretary of State, (subject to subsection (9)).
- (3) The purpose is that of enabling or facilitating any of the following—
- (a) the determination of the payments to be made to any persons who provide primary medical services under Part 4;
  - (b) the determination of the remuneration to be paid to any persons who provide pharmaceutical services under Part 7;
  - (c) the consideration by the Secretary of State of whether—
    - (i) adequate supplies of English health service products are available, and

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- (ii) the terms on which those products are available represent value for money;
  - (d) the determination of the payments to be made to any persons who provide primary medical services under Part 4 of the National Health Service (Wales) Act 2006;
  - (e) the determination of the remuneration to be paid to any persons who provide pharmaceutical services under Part 7 of that Act;
  - (f) the consideration by the Welsh Ministers of whether—
    - (i) adequate supplies of Welsh health service products are available, and
    - (ii) the terms on which those products are available represent value for money;
  - (g) the determination of the payments to be made to any persons who provide primary medical services under section 2C(1) of the National Health Service (Scotland) Act 1978 (“the 1978 Act”);
  - (h) the determination of the remuneration to be paid to any persons who provide pharmaceutical care services under section 2CA(1) of the 1978 Act;
  - (i) the consideration by the Scottish Ministers of whether—
    - (i) adequate supplies of Scottish health service products are available, and
    - (ii) the terms on which those products are available represent value for money;
  - (j) the determination of the remuneration to be paid to any persons who provide primary medical services or pharmaceutical services under Part 2 or 6 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14));
  - (k) the consideration by a Northern Ireland department of whether—
    - (i) adequate supplies of Northern Ireland health service products are available, and
    - (ii) the terms on which those products are available represent value for money;
  - (l) the exercise by the Secretary of State of any powers under sections 260 to 264 and 265;
  - (m) the operation of a voluntary scheme.
- (4) The information which the Secretary of State may require from a UK producer by virtue of this section includes the following—
- (a) the price charged or paid by the producer for UK health service products;
  - (b) the price charged or paid by the producer for delivery or other services in connection with the manufacturing, distribution or supply of UK health service products;
  - (c) the discounts or rebates or other payments given or received by the producer in connection with the manufacturing, distribution or supply of UK health service products;
  - (d) the revenue or profits accrued to the producer in connection with the manufacturing, distribution or supply of UK health service products (including, in relation to profits, the costs incurred by the producer in connection with the manufacturing, distribution or supply of the products);



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- (e) such information about medicinal products, other medical supplies or other related products as is necessary to verify whether they are UK health service products and, if so, which of the following they are—
  - (i) English health service products;
  - (ii) Welsh health service products;
  - (iii) Scottish health service products;
  - (iv) Northern Ireland health service products.
- (5) Regulations under this section must require the Secretary of State to give a UK producer an information notice if information is required in respect of the costs incurred by the producer in connection with the manufacturing, distribution or supply of a particular UK health service product (other than costs which relate to any transaction between the producer and a UK producer for that product).
- (6) An information notice is a notice stating—
  - (a) the period in relation to or for which, or intervals at which, information is required to be provided,
  - (b) the form and manner in which information is required to be provided,
  - (c) the time at which or period within which information is required to be provided, and
  - (d) that a right of appeal is conferred by virtue of section 265(5A).
- (7) Regulations under this section may require information which does not fall within subsection (5) to be provided—
  - (a) in relation to or for a prescribed period or at prescribed intervals,
  - (b) in a prescribed form and manner, and
  - (c) at a prescribed time or within a prescribed period.
- (8) The provision of information by virtue of this section does not breach—
  - (a) any obligation of confidence owed by the person providing it, or
  - (b) any other restriction on the provision of information (however imposed).
- (9) Regulations under this section may not do any of the following—
  - (a) require any person who provides primary medical services under Part 4 of the National Health Service (Wales) Act 2006, or any person who provides pharmaceutical services under Part 7 of that Act, to record, keep or provide information relating to any Welsh health service products which are supplied by the person in providing the services in question;
  - (b) require any person who provides primary medical services under section 2C(1) of the 1978 Act, or any person who provides pharmaceutical care services under section 2CA(1) of that Act, to record, keep or provide information relating to any Scottish health service products which are supplied by the person in providing the services in question;
  - (c) require any person who provides primary medical services or pharmaceutical services under Part 2 or 6 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)) to record, keep or provide information relating to Northern Ireland health service products which are supplied by the person in providing the services in question.
- (10) “English health service products” means any medicinal products used to any extent for the purposes of the health service continued under section 1(1) and any other medical supplies, or other related products, required for the purposes of that health service.

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- (11) “Medical supplies” is to be read in accordance with section 260(5).
- (12) “Northern Ireland health service products” means any medicinal products used to any extent for the purposes of health care provided by virtue of the Health and Social Care (Reform) Act (Northern Ireland) 2009 and any other medical supplies, or other related products, required for the purposes of health care provided by virtue of that Act.
- (13) “Scottish health service products” means any medicinal products used to any extent for the purposes of the health service within the meaning of the 1978 Act and any other medical supplies, or other related products, required for the purposes of that health service.
- (14) “UK health service products” means any English health service products, Welsh health service products, Scottish health service products or Northern Ireland health service products.
- (15) “Welsh health service products” means any medicinal products used to any extent for the purposes of the health service continued under section 1(1) of the National Health Service (Wales) Act 2006 and any other medical supplies, or other related products, required for the purposes of that health service.
- (16) Until the coming into force of the repeal of section 27 of the 1978 Act by schedule 3 to the Smoking, Health and Social Care (Scotland) Act 2005 the references in subsections (3)(h) and (9)(b) to pharmaceutical care services under section 2CA(1) of the 1978 Act are to be read as references to pharmaceutical services under section 27(1) of that Act.

#### Textual Amendments

**F75** Ss. 264A-264C inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\)](#), **ss. 8, 12(3)**; [S.I. 2017/809](#), **reg. 2(g)**

#### 264B Disclosure of information

- (1) Information provided by virtue of section 264A may be disclosed by the Secretary of State to any of the following persons—
  - (a) the Board;
  - (b) any Special Health Authority;
  - (c) the Health and Social Care Information Centre;
  - (d) any government department;
  - (e) the Welsh Ministers;
  - (f) the Scottish Ministers;
  - (g) the Common Services Agency for the Scottish Health Service constituted under section 10 of the 1978 Act;
  - (h) a Northern Ireland department;
  - (i) the Regional Business Services Organisation established under section 14 of the Health and Social Care (Reform) Act (Northern Ireland) 2009;
  - (j) any person who provides services to any person falling within any of paragraphs (a) to (i);
  - (k) any prescribed body appearing to the Secretary of State to represent UK producers;
  - (l) such of the following as may be prescribed—

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- (i) an NHS foundation trust;
  - (ii) any health service body within the meaning of section 9(4) (not falling within any of paragraphs (a) to (k) above).
- (2) A person to whom any confidential or commercially sensitive information is disclosed under subsection (1) may not—
  - (a) use the information for any purpose other than the purpose specified in relation to that person in subsection (3), or
  - (b) disclose the information to another person (subject to subsection (4)).
- (3) For the purposes of subsection (2)—
  - (a) in relation to a person falling within subsection (1)(a) to (c), the purpose is that of exercising functions connected with any of the matters specified in section 264A(3)(a) to (c), (l) or (m);
  - (b) in relation to a person falling within subsection (1)(d), the purpose is that of—
    - (i) exercising functions connected with any of the matters specified in section 264A(3)(a) to (c), (l) or (m), or
    - (ii) preventing, detecting or investigating any unlawful activities;
  - (c) in relation to a person falling within subsection (1)(e), the purpose is that of exercising functions connected with any of the matters specified in section 264A(3)(d) to (f), (l) or (m);
  - (d) in relation to a person falling within subsection (1)(f) or (g), the purpose is that of exercising functions connected with any of the matters specified in section 264A(3)(g) to (i), (l) or (m);
  - (e) in relation to a person falling within subsection (1)(h) or (i), the purpose is that of exercising functions connected with any of the matters specified in section 264A(3)(j) to (m);
  - (f) in relation to a person falling within subsection (1)(j), the purpose is that of providing services in connection with any purpose specified in relation to the person for whom the services are provided in any of paragraphs (a) to (e) above;
  - (g) in relation to a person falling within subsection (1)(k) or (l), the purpose is any prescribed purpose connected with any of the matters specified in section 264A(3).
- (4) The Welsh Ministers may disclose any confidential or commercially sensitive information disclosed to them under subsection (1) to any of the following persons—
  - (a) a Local Health Board or other person appointed under section 88(3)(b) of the National Health Service (Wales) Act 2006 to exercise the functions of a determining authority under Part 7 of that Act;
  - (b) a National Health Service trust established under section 18 of the National Health Service (Wales) Act 2006;
  - (c) any person who provides services to the Welsh Ministers or to any person falling within paragraph (a) or (b).
- (5) A person to whom any confidential or commercially sensitive information is disclosed under subsection (4) may not—
  - (a) use the information for any purpose other than the purpose of exercising functions connected with any of the matters specified in section 264A(3)(d) to (f), (l) or (m), or
  - (b) disclose the information to another person.

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#### Textual Amendments

**F75** Ss. 264A-264C inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\)](#), **ss. 8, 12(3)**; S.I. 2017/809, reg. 2(g)

### 264C Sections 264A and 264B: supplementary

- (1) Before making regulations under section 264A or 264B the Secretary of State must consult any body which appears to the Secretary of State appropriate to represent UK producers.
- (2) Nothing in section 264A or 264B requires information to be provided, or authorises information to be disclosed or used, in contravention of the Data Protection Act 1998.
- (3) Nothing in section 264A or 264B affects any duties, obligations or powers to require or authorise information to be provided, disclosed or used which exist apart from that section.]

#### Textual Amendments

**F75** Ss. 264A-264C inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\)](#), **ss. 8, 12(3)**; S.I. 2017/809, reg. 2(g)

### 265 Enforcement

- (1) Regulations may provide for a person who contravenes any provision of [<sup>F76</sup>orders, regulations or directions under sections 260] to [<sup>F77</sup>264A] to be liable to pay a penalty to the Secretary of State.
- (2) The penalty may be—
  - (a) a single penalty not exceeding £100,000, or
  - (b) a daily penalty not exceeding £10,000 for every day on which the contravention occurs or continues.
- (3) Regulations may provide for any amount required to be paid to the Secretary of State by virtue of section 261(8)(b), 262(1)(b) or 263(4) or (6)(b) to be increased by an amount not exceeding 50 per cent.
- (4) Regulations may provide for any amount payable to the Secretary of State by virtue of provision made under section 261(8)(b) [<sup>F78</sup>or (9)], 262(1)(b) or 263(4), (5) [<sup>F79</sup>, (5A)] or (6)(b) (including such an amount as increased under subsection (3)) to carry interest at a rate specified or referred to in the regulations.
- (5) Provision may be made by regulations for
  - [<sup>F80</sup>(a)] conferring on manufacturers and suppliers a right of appeal against enforcement decisions taken in respect of them in pursuance of sections [<sup>F81</sup>260] to 264 and this section [<sup>F82</sup>, and
  - (b) conferring on UK producers a right of appeal against enforcement decisions taken in respect of them in pursuance of section 264A and this section (other than enforcement decisions falling within subsection (5A)).]

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- [<sup>F83</sup>(5A) Provision must be made by regulations for conferring on UK producers a right of appeal against enforcement decisions taken in respect of them in pursuance of section 264A and this section if the enforcement decisions relate to information notices given by virtue of section 264A(5).]
- (6) The provision which may be made by virtue of subsection (5) includes any provision which may be made by model provisions with respect to appeals under section 6 of the Deregulation and Contracting Out Act 1994 (c. 40), reading—
- (a) the references in subsections (4) and (5) of that section to enforcement action as references to action taken to implement an enforcement decision,
  - (b) in subsection (5) of that section, the references to interested persons as references to any persons and the reference to any decision to take enforcement action as a reference to any enforcement decision.
- (7) In subsections (5) and (6), “enforcement decision” means a decision of the Secretary of State or any other person to—
- (a) require a specific manufacturer or supplier [<sup>F84</sup>, or other person who is a UK producer,] to provide information to him,
  - (b) limit, in respect of any specific manufacturer or supplier, any price or profit,
  - (c) refuse to give his approval to a price increase made by a specific manufacturer or supplier,
  - (d) require a specific manufacturer or supplier [<sup>F85</sup>, or other person who is a UK producer,] to pay any amount (including an amount by way of penalty) to him, and in this subsection “specific” means specified in the decision.
- (8) A requirement or prohibition, or a limit, under sections [<sup>F86</sup>260] to [<sup>F87</sup>264A], may only be enforced under this section and may not be relied on in any proceedings other than proceedings under this section.
- [<sup>F88</sup>(8A) Subsection (8) does not apply to any action by the Secretary of State to recover as a debt any amount required to be paid to the Secretary of State by virtue of any of sections 261 to 263 or this section.]
- [<sup>F89</sup>(9) Before making any regulations under this section the Secretary of State must consult the industry body and any other body which appears to the Secretary of State appropriate to represent UK producers.]
- (10) The Secretary of State may by order increase (or further increase) either of the sums mentioned in subsection (2).
- [<sup>F90</sup>(11) In this section “UK producer” is to be read in accordance with section 264A.]

#### Textual Amendments

- F76** Words in s. 265(1) substituted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 7\(5\)\(a\), 12\(3\); S.I. 2017/809, reg. 2\(f\)](#)
- F77** Word in s. 265(1) substituted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 10\(8\), 12\(3\); S.I. 2017/809, reg. 2\(h\) \(with reg. 3\)](#)
- F78** Words in s. 265(4) inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 6\(3\)\(a\), 12\(3\); S.I. 2017/809, reg. 2\(e\)](#)
- F79** Word in s. 265(4) inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\), ss. 6\(3\)\(b\), 12\(3\); S.I. 2017/809, reg. 2\(e\)](#)

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- F80** S. 265(5)(a): words in s. 265(5) renumbered as s. 265(5)(a) (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(9)(a)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F81** Word in s. 265(5)(a) substituted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 7(5)(b)**, 12(3); S.I. 2017/809, reg. 2(f)
- F82** S. 265(5)(b) and preceding word inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(9)(b)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F83** S. 265(5A) inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(10)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F84** Words in s. 265(7)(a) inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(11)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F85** Words in s. 265(7)(d) inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(11)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F86** Word in s. 265(8) substituted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 7(5)(c)**, 12(3); S.I. 2017/809, reg. 2(f)
- F87** Word in s. 265(8) substituted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(12)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F88** S. 265(8A) inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 6(4)**, 12(3); S.I. 2017/809, reg. 2(e)
- F89** S. 265(9) substituted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(13)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)
- F90** S. 265(11) inserted (7.8.2017) by Health Service Medical Supplies (Costs) Act 2017 (c. 23), **ss. 10(14)**, 12(3); S.I. 2017/809, reg. 2(h) (with reg. 3)

#### Commencement Information

- I4** S. 265(10) in force at 7.8.2017 immediately after 1999 c. 8, s. 37(10) comes into force by S.I. 2017/810, **art. 2(c)**

## 266 Controls: supplementary

- (1) Any power conferred on the Secretary of State by sections 261(6) to [F91(9)] and 262 to 264 may be exercised by—
  - (a) making regulations, or
  - (b) giving directions to a specific manufacturer or supplier.
- (2) Regulations under subsection (1)(a) may confer power for the Secretary of State to give directions to a specific manufacturer or supplier; and in this subsection “specific” means specified in the direction concerned.
- (3) The powers to refuse approval under section 261(8)(a) or 263(6)(a) or to impose a limit under section 262(1)(a) or 263(1)[F92(a) or (b)] are exercisable only with a view to limiting by reference to the prices or profits which would be reasonable in all the circumstances—
  - (a) the prices which may be charged for, or
  - (b) the profits which may accrue to any manufacturer or supplier in connection with,

the manufacture or supply for the purposes of the health service of health service medicines.
- (4) In so exercising those powers (in the case of sections 262(1)(a) and 263(1)[F93(a) and (b)] and (6)(a)) the Secretary of State and any other person must bear in mind, in particular—

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- (a) the need for medicinal products to be available for the health service on reasonable terms, and
  - (b) the costs of research and development.
- [<sup>F94</sup>(4A) The power under section 263(1)(c) is exercisable only with a view to requiring payments to be made which would be reasonable in all the circumstances, bearing in mind in particular—
- (a) the need for medicinal products to be available for the health service on reasonable terms, and
  - (b) the costs of research and development.]
- (5) The powers conferred by sections 261 to 264 do not affect any other powers of the Secretary of State to control prices or profits.
- (6) In this section and sections [<sup>F95</sup>260] to 265—
- “health service” includes the health services within the meaning of the National Health Service (Scotland) Act 1978 (c. 29) and the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I.14)),
  - “health service medicine” means a medicinal product used to any extent for the purposes of the health service,
  - “the industry body” means any body which appears to the Secretary of State appropriate to represent manufacturers and suppliers,
  - “manufacture” includes assemble and “manufacturer” means any person who manufactures health service medicines,
  - “medicinal product” has the meaning given by section 130 of the Medicines Act 1968 (c. 67),
  - “supplier” means any person who supplies health service medicines,
- and contravention of a provision includes a failure to comply with it, and supplying medicines includes selling them.

#### Textual Amendments

- F91** Word in s. 266(1) substituted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\)](#), [ss. 6\(6\)](#), 12(3); S.I. 2017/809, [reg. 2\(e\)](#)
- F92** Words in s. 266(3) inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\)](#), [ss. 6\(7\)](#), 12(3); S.I. 2017/809, [reg. 2\(e\)](#)
- F93** Words in s. 266(4) inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\)](#), [ss. 6\(8\)](#), 12(3); S.I. 2017/809, [reg. 2\(e\)](#)
- F94** S. 266(4A) inserted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\)](#), [ss. 6\(9\)](#), 12(3); S.I. 2017/809, [reg. 2\(e\)](#)
- F95** Word in s. 266(6) substituted (7.8.2017) by [Health Service Medical Supplies \(Costs\) Act 2017 \(c. 23\)](#), [ss. 7\(6\)](#), 12(3); S.I. 2017/809, [reg. 2\(f\)](#)

#### Commencement Information

- I5** S. 266 in force at 3.4.2007 for specified purposes immediately after 1999 c. 8, s. 38 comes into force by [S.I. 2007/1179](#), [art. 2\(c\)](#)
- I6** S. 266 in force at 7.8.2017 in so far as not already in force immediately after 1999 c. 8, s. 38 comes into force by [S.I. 2017/810](#), [art. 2\(d\)](#)

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### *Use of facilities in private practice*

#### **267 Permission for use of facilities in private practice**

- (1) A person to whom this section applies who wishes to use any relevant health service accommodation or facilities for the purpose of providing medical, dental, pharmaceutical, ophthalmic or chiropody services to non-resident private patients may apply in writing to the Secretary of State for permission under this section.
- (2) Any application for permission under this section must specify—
  - (a) which of the relevant health service accommodation or facilities the applicant wishes to use for the purpose of providing services to such patients, and
  - (b) which of the kinds of services mentioned in subsection (1) he wishes the permission to cover.
- (3) On receiving an application under this section the Secretary of State—
  - (a) must consider whether anything for which permission is sought would interfere with the giving of full and proper attention to persons seeking or afforded access otherwise than as private patients to any services provided under this Act, and
  - (b) must grant the permission applied for unless in his opinion anything for which permission is sought would so interfere.
- (4) Any grant of permission under this section is on such terms (including terms as to the payment of charges for the use of the relevant health service accommodation or facilities pursuant to the permission) as the Secretary of State may from time to time determine.
- (5) The persons to whom this section applies are—
  - (a) medical practitioners, registered pharmacists or other persons who provide pharmaceutical services under Chapter 1 of Part 7,
  - (b) chiropodists who provide services under this Act at premises where services are provided under that Chapter,
  - (c) persons providing primary medical services, primary dental services or primary ophthalmic services under a general medical services contract, a general dental services contract or a general ophthalmic services contract, or in accordance with section 92 arrangements or section 107 arrangements.
- (6) “Relevant health service accommodation or facilities”, in relation to a person to whom this section applies, means—
  - (a) any accommodation or facilities available at premises provided by the Secretary of State by virtue of this Act, being accommodation or facilities which that person is authorised to use for purposes of this Act, or
  - (b) in the case of a person to whom this section applies by virtue of subsection (5) (b), accommodation or facilities which that person is authorised to use for purposes of this Act at premises where services are provided under Chapter 1 of Part 7.



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F96 ...

#### Textual Amendments

- F96** S. 268 and cross-heading omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 4 para. 133](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

### **F96** 268 **Persons displaced by health service development**

*Registration of information, etc*

### **269 Special notices of births and deaths**

(1) The requirements of this section with respect to the notification of births and deaths are in addition to, and not in substitution for, the requirements of any Act relating to the registration of births and deaths.

[<sup>F97</sup>(2) Each registrar of births and deaths must furnish to such relevant body or bodies as may be determined in accordance with regulations the particulars of such births or deaths entered in a register of births or deaths kept for the registrar's sub-district as may be prescribed.]

(3) Regulations may provide as to the manner in which and the times at which particulars must be furnished under subsection (2).

(4) In the case of each child born—

- (a) the child's father, if at the time of the birth he is residing on the premises where the birth takes place, and
- (b) any person in attendance upon the mother at the time of, or within six hours after, the birth,

must give notice of the birth to [<sup>F98</sup>such relevant body or bodies as may be determined in accordance with regulations].

(5) Subsection (4) applies to any child which is born after the expiry of the twenty-fourth week of pregnancy whether alive or dead.

(6) Notice under subsection (4) [<sup>F99</sup>to a relevant body] must be given either—

- (a) by posting within 36 hours after the birth a prepaid letter or postcard addressed to [<sup>F100</sup>the body] at its offices and containing the required information, or
- (b) by delivering within that period at the offices of [<sup>F100</sup>the body] a written notice containing the required information.

(7) [<sup>F101</sup>A relevant body to whom notice is required to be given under subsection (4)] must, upon application to it, supply without charge to [<sup>F102</sup>such descriptions of medical practitioners or midwives as may be prescribed] prepaid addressed envelopes together with the forms of notice.

(8) Any person who fails to give notice of a birth in accordance with subsection (4) is liable on summary conviction to a fine not exceeding level 1 on the standard scale, unless he satisfies the court that he believed, and had reasonable grounds for believing, that notice had been duly given by some other person.

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- (9) Proceedings in respect of an offence under subsection (8) must not, without the Attorney-General's written consent, be taken by any person other than a party aggrieved or <sup>F103</sup>the relevant body or bodies to whom the failure relates].
- (10) A registrar of births and deaths must, for the purpose of obtaining information concerning births which have occurred in his sub-district, have access at all reasonable times to—
- (a) notices of births received by <sup>F104</sup>a relevant body] under this section, or
  - (b) any book in which those notices may be recorded.
- <sup>F105</sup>(11) For the purposes of this section, the following are relevant bodies—
- (a) the National Health Service Commissioning Board,
  - (b) clinical commissioning groups,
  - (c) local authorities.
- (12) Information received by a local authority by virtue of this section may be used by it only for the purposes of functions exercisable by it in relation to the health service.
- (13) In this section, “local authority” has the same meaning as in section 2B.]

#### Textual Amendments

- F97** S. 269(2) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 284(2)**, 306(4); S.I. 2013/160, **art. 2(2)** (with **arts. 7-9**)
- F98** Words in s. 269(4) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 284(3)**, 306(4); S.I. 2013/160, **art. 2(2)** (with **arts. 7-9**)
- F99** Words in s. 269(6) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 284(4)(a)**, 306(4); S.I. 2013/160, **art. 2(2)** (with **arts. 7-9**)
- F100** Words in s. 269(6) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 284(4)(b)**, 306(4); S.I. 2013/160, **art. 2(2)** (with **arts. 7-9**)
- F101** Words in s. 269(7) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 284(5)(a)**, 306(4); S.I. 2013/160, **art. 2(2)** (with **arts. 7-9**)
- F102** Words in s. 269(7) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 284(5)(b)**, 306(4); S.I. 2013/160, **art. 2(2)** (with **arts. 7-9**)
- F103** Words in s. 269(9) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 284(6)**, 306(4); S.I. 2013/160, **art. 2(2)** (with **arts. 7-9**)
- F104** Words in s. 269(10)(a) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 284(7)**, 306(4); S.I. 2013/160, **art. 2(2)** (with **arts. 7-9**)
- F105** S. 269(11)-(13) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 284(8)**, 306(4) (with s. 284(9)); S.I. 2013/160, **art. 2(2)** (with **arts. 7-9**)

## 270 Provision of information by Registrar General

- (1) The Registrar General may provide to <sup>F106</sup>any of the following persons] any information to which this section applies<sup>F107</sup>—
- (a) the Secretary of State,
  - (b) the Board,
  - (c) a clinical commissioning group,
  - (d) a local authority,
  - (e) the National Institute for Health and Care Excellence,
  - (f) the Health and Social Care Information Centre,

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- (g) a Special Health Authority which has functions that are exercisable in relation to England,
  - (h) the Care Quality Commission, and
  - (i) such other persons as the Secretary of State may specify in a direction.]
- (2) Any information provided under subsection (1) must be provided in such form as appears to the Registrar General appropriate for the purpose of assisting [<sup>F108</sup>the person to whom the information is provided] in the performance of [<sup>F109</sup>functions exercisable by the person] in relation to the health service.
- (3) This section applies to any information—
- (a) entered in any register kept under the Births and Deaths Registration Act 1953 (c. 20),
  - (b) entered in the Adopted Children Register maintained by the Registrar General under the Adoption and Children Act 2002 (c. 38), or
  - (c) which is kept by the Registrar General under any other enactment and relates to any birth or death.
- (4) “Enactment” includes an enactment contained in subordinate legislation.
- [<sup>F110</sup>(5) In this section, “local authority” has the same meaning as in section 2B.]

#### Textual Amendments

- F106** Words in s. 270(1) 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. 285(2)(a)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F107** S. 270(1)(a)-(i) 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. 285(2)(b)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F108** Words in s. 270(2) 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. 285(3)(a)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F109** Words in s. 270(2) 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. 285(3)(b)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F110** S. 270(5) 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. 285(4)**, 306(1)(d)(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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