



Health and Social Care Act 2012

2012 CHAPTER 7

PART 1

THE HEALTH SERVICE IN ENGLAND

Further provision about the Board

24 Financial arrangements for the Board

Before the cross-heading preceding section 224 of the National Health Service Act 2006 insert—

“The Board

223B Funding of the Board

- (1) The Secretary of State must pay to the Board in respect of each financial year sums not exceeding the amount allotted for that year by the Secretary of State towards meeting the expenditure of the Board which is attributable to the performance by it of its functions in that year.
- (2) An amount is allotted to the Board for a financial year under this section when the Board is notified in writing by the Secretary of State that the amount is allotted to it for that year.
- (3) The Secretary of State may make a new allotment under this section increasing or reducing the allotment previously so made only if—
 - (a) the Board agrees to the change,
 - (b) a parliamentary general election takes place, or
 - (c) the Secretary of State considers that there are exceptional circumstances that make a new allotment necessary.

- (4) The Secretary of State may give directions to the Board with respect to the payment of sums by it to the Secretary of State in respect of charges or other sums referable to the valuation or disposal of assets.
- (5) Sums falling to be paid to the Board under this section are payable subject to such conditions as to records, certificates or otherwise as the Secretary of State may determine.

223C Financial duties of the Board: expenditure

- (1) The Board must ensure that total health expenditure in respect of each financial year does not exceed the aggregate of—
 - (a) the amount allotted to the Board for that year under section 223B,
 - (b) any sums received by the Board or clinical commissioning groups in that year under any provision of this Act (other than sums received by the Board under section 223B or by clinical commissioning groups under section 223G), and
 - (c) any sums received by the Board or clinical commissioning groups in that year otherwise than under this Act for the purpose of enabling it or them to defray such expenditure.
- (2) In this section, “total health expenditure”, in relation to a financial year, means—
 - (a) expenditure which is attributable to the performance by the Board of its functions in that year, other than sums paid by it under section 223G, and
 - (b) expenditure which is attributable to the performance by clinical commissioning groups of their functions in that year.
- (3) The Secretary of State may by directions determine whether expenditure by the Board or a clinical commissioning group which is of a description specified in the directions must, or must not, be treated for the purposes of this section as part of total health expenditure.
- (4) The Secretary of State may by directions determine the extent to which, and the circumstances in which, sums received by the Board or a clinical commissioning group under section 223B or (as the case may be) 223G but not yet spent must be treated for the purposes of this section as part of total health expenditure, and to which financial year’s expenditure they must be attributed.
- (5) The Secretary of State may by directions require the Board to use banking facilities specified in the directions for any purposes so specified.

223D Financial duties of the Board: controls on total resource use

- (1) In this Chapter—
 - “total capital resource use”, in relation to a financial year, means the use of capital resources in that year by the Board and clinical commissioning groups (taken together);
 - “total revenue resource use”, in relation to a financial year, means the use of revenue resources in that year by the Board and clinical commissioning groups (taken together).

- (2) The Board must ensure that total capital resource use in a financial year does not exceed the amount specified by the Secretary of State.
- (3) The Board must ensure that total revenue resource use in a financial year does not exceed the amount specified by the Secretary of State.
- (4) The Secretary of State may give directions, in relation to a financial year, specifying descriptions of resources which must, or must not, be treated as capital resources or revenue resources for the purposes of this Chapter.
- (5) The Secretary of State may give directions, in relation to a financial year, specifying uses of capital resources or revenue resources which must not be taken into account for the purposes of this Chapter.
- (6) The Secretary of State may give directions, in relation to a financial year, specifying uses of capital resources or revenue resources which must be taken into account for the purposes of this section.
- (7) The amount specified for the purposes of subsection (2) or (3) may be varied only if—
 - (a) the Board agrees to the change,
 - (b) a parliamentary general election takes place, or
 - (c) the Secretary of State considers that there are exceptional circumstances which make the variation necessary.
- (8) Any reference in this Chapter to the use of capital resources or revenue resources is a reference to their expenditure, consumption or reduction in value.

223E Financial duties of the Board: additional controls on resource use

- (1) The Secretary of State may direct the Board to ensure that total capital resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified.
- (2) The Secretary of State may direct the Board to ensure that total revenue resource use in a financial year which is attributable to matters specified in the direction does not exceed an amount so specified.
- (3) The Secretary of State may direct the Board to ensure —
 - (a) that total revenue resource use in a financial year which is attributable to such prescribed matters relating to administration as are specified in the direction does not exceed an amount so specified;
 - (b) that the Board's use of revenue resources in a financial year which is attributable to such prescribed matters relating to administration as are specified in the direction does not exceed an amount so specified.
- (4) The Secretary of State may give directions, in relation to a financial year, specifying uses of capital resources or revenue resources which must, or must not, be taken into account for the purposes of subsection (1) or (as the case may be) subsection (2) or (3).
- (5) The Secretary of State may not give a direction under subsection (1) or (2) unless the direction is for the purpose of complying with a limit imposed by the Treasury.

223F Power to establish contingency fund

- (1) The Board may use a proportion of the sums paid to it under section 223B to establish a contingency fund.
- (2) The Board may make a payment out of the fund where the payment is necessary in order to enable—
 - (a) the Board to discharge any of its commissioning functions, or
 - (b) a clinical commissioning group to discharge any of its functions.
- (3) The Board must publish guidance as to how it proposes to exercise its powers to make payments out of the contingency fund.
- (4) In this section, “commissioning functions” means functions in arranging for the provision of services as part of the health service.”