



Health Service Medical Supplies (Costs) Act 2017

2017 CHAPTER 23

An Act to make provision in connection with controlling the cost of health service medicines and other medical supplies; to make provision in connection with the provision of pricing and other information by those manufacturing, distributing or supplying those medicines and supplies, and other related products, and the disclosure of that information; and for connected purposes. [27th April 2017]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Controlling cost of health service medicines

1 Remuneration for persons providing special medicinal products: England

In section 164 of the National Health Service Act 2006 (remuneration for persons providing pharmaceutical services), after subsection (8) insert—

“(8A) Regulations may impose requirements in relation to remuneration in respect of special medicinal products.

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

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

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

Status: This version of this Act contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Health Service Medical Supplies (Costs) Act 2017. (See end of Document for details)

- (a) carrying out inquiries to ensure that remuneration is reasonable, or
 - (b) estimating an amount of remuneration that is reasonable (whether or not the estimated amount corresponds exactly to expenses in respect of which remuneration is to be paid).
- (8D) Circumstances prescribed by virtue of subsection (8B)(b) may include circumstances in which special medicinal products are made available to persons who provide pharmaceutical services under this Part—
- (a) by a health service body, or
 - (b) under an arrangement for the supply of special medicinal products to which a health service body is a party.
- (8E) In subsections (8A) to (8D)—
- “health service body” has the meaning given by section 9(4);
 - “special medicinal product” means a product which is a special medicinal product for the purposes of regulation 167 of the Human Medicines Regulations 2012 (S.I. 2012/1916).”

Commencement Information

II [S. 1](#) in force at 7.8.2017 by [S.I. 2017/809](#), [reg. 2\(a\)](#)

PROSPECTIVE

2 Remuneration for persons providing special medicinal products: Wales

In section 88 of the National Health Service (Wales) Act 2006 (remuneration for persons providing pharmaceutical services), after subsection (8) insert—

- “(8A) Regulations may impose requirements in relation to remuneration in respect of special medicinal products.
- (8B) Such regulations may, for example, require determining authorities to ensure—
- (a) that remuneration is to be calculated by reference to the outcome of prescribed procedures, or
 - (b) that determinations do not provide for or permit remuneration to be paid in prescribed circumstances.
- (8C) Procedures prescribed by virtue of subsection (8B)(a) may include the person to whom remuneration is payable, a health service body or a determining authority—
- (a) carrying out inquiries to ensure that remuneration is reasonable, or
 - (b) estimating an amount of remuneration that is reasonable (whether or not the estimated amount corresponds exactly to expenses in respect of which remuneration is to be paid).
- (8D) Circumstances prescribed by virtue of subsection (8B)(b) may include circumstances in which special medicinal products are made available to persons who provide pharmaceutical services under this Part—
- (a) by a health service body, or

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(b) under an arrangement for the supply of special medicinal products to which a health service body is a party.

(8E) In subsections (8A) to (8D)—

“health service body” has the meaning given by section 7(4);

“special medicinal product” means a product which is a special medicinal product for the purposes of regulation 167 of the Human Medicines Regulations 2012 (S.I. 2012/1916).”

3 Voluntary schemes

(1) Section 261 of the National Health Service Act 2006 (voluntary schemes for controlling the cost of health service medicines) is amended as follows.

(2) In subsection (1)—

(a) for “and 263” substitute “, 263 and 264A ”,

(b) for “the purpose of” substitute “ one or more of the following purposes ”,

(c) omit the “or” before paragraph (b), and

(d) after paragraph (b) insert—

“(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).”

(3) In subsection (4) for “either” substitute “ any ”.

(4) After subsection (8) insert—

“(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).”

Commencement Information

I2 S. 3 in force at 7.8.2017 by S.I. 2017/809, reg. 2(b)

4 Power to control prices

For section 262(2) of the National Health Service Act 2006 (circumstances in which powers not exercisable) substitute—

“(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

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may not be exercised at that time in relation to that manufacturer or supplier as regards that medicine.”

Commencement Information

I3 S. 4 in force at 7.8.2017 by S.I. 2017/809, reg. 2(c)

5 Statutory schemes

(1) Section 263 of the National Health Service Act 2006 (statutory schemes for controlling the cost of health service medicines) is amended as follows.

(2) In subsection (1)—

- (a) after “body” insert “ and any other person the Secretary of State thinks appropriate ”,
- (b) for “the purpose of” substitute “ one or more of the following purposes ”,
- (c) omit the “or” before paragraph (b), and
- (d) after paragraph (b) insert—
 - “(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).”

(3) After subsection (1) insert—

- “(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.”

(4) After subsection (5) insert—

- “(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.”

(5) For subsection (7) substitute—

- “(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.”

(6) After subsection (7) insert—

- “(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.”

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Commencement Information

I4 S. 5 in force at 7.8.2017 by S.I. 2017/809, reg. 2(d)

6 Enforcement

- (1) The National Health Service Act 2006 is amended as follows.
- (2) Section 265 (enforcement) is amended as follows.
- (3) In subsection (4)—
 - (a) after “261(8)(b)” insert “ or (9) ”, and
 - (b) after “section 263(4), (5)” insert “ , (5A) ”.
- (4) After subsection (8) insert—

“(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.”
- (5) Section 266 (controls: supplementary) is amended as follows.
- (6) In subsection (1) (Secretary of State's powers exercisable by making regulations or giving directions) for “(8)” substitute “ (9) ”.
- (7) In subsection (3) after “section 263(1)” insert “ (a) or (b) ”.
- (8) In subsection (4) after “section 263(1)” insert “ (a) and (b) ”.
- (9) After subsection (4) insert—

“(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.”

Commencement Information

I5 S. 6 in force at 7.8.2017 by S.I. 2017/809, reg. 2(e)

Controlling cost of other medical supplies

7 Control of maximum price of other medical supplies

- (1) The National Health Service Act 2006 is amended as follows.
- (2) Section 260 (control of maximum price of medical supplies, other than health service medicines) is amended in accordance with subsections (3) and (4).
- (3) In subsection (1) for “this Act” substitute “ the health service ”.
- (4) After subsection (1) insert—