



Isle of Man

Ellan Vannin

AT 14 of 2001

NATIONAL HEALTH SERVICE ACT 2001



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**Isle of Man***Ellan Vannin*

NATIONAL HEALTH SERVICE ACT 2001

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AN ACT to re-enact with amendments the enactments relating to health services.

PART 1 – ADMINISTRATION

1 Duty of Department

- (1) The Department of Health and Social Care (“the Department”) shall —
 - (a) continue to promote in the Island a comprehensive health service designed to secure improvement in —
 - (i) the physical and mental health of the people of the Island, and
 - (ii) the prevention, diagnosis and treatment of illness, and
 - (b) for that purpose provide or secure in the Island or elsewhere the effective provision of services in accordance with the following provisions of this Act.¹
- (2) Subject to any other provision of this Act, and to any provision made by regulations, the services provided under this Act shall be free of charge.

2 Consultative and executive bodies

- (1) The Department shall establish a body with whom it shall consult on —
 - (a) such general matters relating to the services provided under this Act, and
 - (b) such questions relating to those matters, as the Department may refer to it.
- (2) The body established under subsection (1) may tender to the Department its views on any general matters relating to the services provided under this Act.

- (3) In exercising its functions under this Act the Department shall have regard to any views given by the said body pursuant to subsection (1) or (2).
- (4) The Department may establish committees and other bodies for the purpose of –
 - (a) exercising on behalf of the Department any of its functions under this Act;
 - (b) co-ordinating the provision of services under this Act; or
 - (c) advising the Department on the provision of any of those services.
- (5) Regulations may provide for the constitution and functions of bodies established under subsection (1) and (4).

PART 2 – PRIMARY HEALTH SERVICES

General medical services

3 Arrangements for general medical services

- (1) The Department shall in accordance with regulations make arrangements with medical practitioners for the provision by them, or by medical practitioners employed or engaged by them, whether at a health centre or otherwise, of personal medical services for all persons in the Island who wish to take advantage of the arrangements.
- (2) Services provided in accordance with arrangements under subsection (1) are in this Act referred to as “**general medical services**”.
- (3) Regulations may make provision for –
 - (a) defining the personal medical services to be provided, and
 - (b) securing that the arrangements will be such that all persons availing themselves of those services will receive adequate personal care and attendance.
- (4) Regulations shall include provision for the issue by medical practitioners providing general medical services to patients or their personal representatives of such certificates as may be prescribed, being certificates reasonably required by them under or for the purposes of any statutory provision.²

4 List of general practitioners

- (1) The Department shall maintain a list of medical practitioners undertaking to provide general medical services for persons in the Island.
- (2) Subject to sections 12 and 13, any medical practitioner who has acquired the prescribed medical experience is eligible to be entered on the list maintained under subsection (1).

- (3) Regulations shall include provision —
- (a) for conferring a right on any person to choose, in accordance with the prescribed procedure, the medical practitioner by whom he is to be attended, subject to —
 - (i) the consent of the practitioner so chosen, and
 - (ii) any prescribed limit on the number of patients to be accepted by any practitioner;
 - (b) for the distribution among medical practitioners whose names are on the lists, of any persons who have indicated a wish to obtain general medical services but have been refused by the practitioner chosen.³

5 Prohibition of sale of medical practices

- (1) It is unlawful to sell the goodwill or any part of the goodwill of the medical practice of a medical practitioner whose name is, or has been at any time, entered on the list referred to in section 4(1).
- (2) Any person who sells or buys the goodwill or any part of the goodwill of a medical practice which it is unlawful to sell by virtue of subsection (1) is guilty of an offence and liable on conviction on information to a fine; and in imposing the fine the court shall have regard to any benefit he may have derived from the transaction.
- (3) Where a person has been convicted of an offence under subsection (2), he shall, if the court by which he is convicted so orders, forthwith repay the value of any consideration received by him or on his behalf in respect of the sale in question to the person or the successors in title of the person from whom it was so received.
- (4) For the purposes of this section references to the goodwill of a medical practice shall, in relation to a medical practitioner practising in partnership, be construed as referring to his share of the goodwill of the partnership practice.⁴

General dental services

6 Arrangements for general dental services

- (1) The Department shall in accordance with regulations make arrangements with dental practitioners under which any person in the Island for whom a dental practitioner undertakes in accordance with the arrangements to provide dental treatment and appliances shall receive such treatment and appliances.
- (2) Services provided in accordance with arrangements under subsection (1) are in this Act referred to as “**general dental services**”.

7 List of dental practitioners

- (1) The Department shall maintain a list of persons undertaking to provide general dental services in the Island.
- (2) Subject to sections 12 and 13, any dental practitioner is eligible to be entered on the list maintained under subsection (1).

General pharmaceutical services

8 Arrangements for pharmaceutical services

- (1) The Department shall in accordance with regulations make arrangements for the supply of —
 - (a) proper and sufficient medicines and prescribed appliances to all persons in the Island who are receiving general medical services,
 - (b) prescribed medicines to all persons in the Island who are receiving general dental services, and
 - (c) proper and sufficient medicines and prescribed appliances to all persons in the Island who are receiving services under the health service other than general medical services or general dental services.⁵
- (2) Services provided in accordance with arrangements under subsection (1) are in this Act referred to as “**general pharmaceutical services**”.
- (3) Regulations may make provision for securing that arrangements made under subsection (1) will be such as to enable —
 - (a) any person receiving general medical services to obtain proper and sufficient drugs and medicines and prescribed appliances, if ordered by the medical practitioner rendering those services,
 - (b) any person receiving general dental services to obtain prescribed drugs and medicines, if ordered by the dental practitioner rendering those services, and
 - (c) any person to obtain prescribed drugs, medicines and appliances, if ordered by a prescribed description of registered nurse or registered midwife in pursuance of the exercise of functions in the health service, and⁶
 - (d) any person to obtain prescribed drugs, medicines and appliances, if ordered by a prescribed description of any of the following in pursuance of the exercise of functions in the health service —
 - (i) registered chiropodist,
 - (ii) registered dietitian,
 - (iii) registered optometrist,
 - (iv) registered paramedic,

- (v) registered pharmacist,
- (vi) registered physiotherapist,
- (vii) registered podiatrist, or
- (viii) registered radiographer,⁷

from any persons with whom arrangements have been made under this section.

- (4) Except as provided by subsection (5), arrangements may not be made under this section except with persons who are either —
- (a) registered pharmacists, or
 - (b) lawfully conducting a retail pharmacy business in accordance with section 35 of the *Medicines Act 2003*,⁸

and undertake that all medicines supplied by them under the arrangements shall be dispensed by or under the direct supervision of a registered pharmacist.

- (5) If and to the extent that regulations so provide, arrangements may be made under this section with a medical practitioner or dental practitioner for the provision of pharmaceutical services to any person to whom he is rendering general medical services or general dental services, as the case may be.
- (6) In this section, “health service” means the service continued under section 1(1)(a).⁹

9 List of persons providing general pharmaceutical services

- (1) The Department shall maintain a list of persons undertaking to provide general pharmaceutical services in the Island.
- (2) Subject to sections 12 and 13, any person referred to in section 8(4)(a) or (b) is eligible to be entered on the list maintained under subsection (1).

General ophthalmic services

10 Arrangements for general ophthalmic services

- (1) The Department shall in accordance with regulations make arrangements with —
 - (a) medical practitioners having the prescribed qualifications, and
 - (b) ophthalmic opticians,for securing the testing of sight by them.
- (2) Services provided in accordance with arrangements under subsection (1) are in this Act referred to as “**general ophthalmic services**”.

- (3) Regulations shall make provision for conferring on any person a right to choose in accordance with the prescribed procedure the medical practitioner or ophthalmic optician —
 - (a) by whom his sight is to be tested, or
 - (b) from whom any prescription for the supply of optical appliances is to be obtained.
- (4) This section is without prejudice to the duty of the Department to provide, as part of the hospital services and specialist services, services in connection with the diagnosis and treatment of disease or defect of the eyes and the supply of optical appliances.

11 Lists of persons providing general ophthalmic services

- (1) The Department shall maintain lists of —
 - (a) medical practitioners having the prescribed qualifications, and
 - (b) ophthalmic opticians,undertaking to provide general ophthalmic services in the Island.
- (2) Subject to sections 12 and 13 —
 - (a) any medical practitioner having the prescribed qualifications, and
 - (b) any ophthalmic optician,is eligible to be entered on the list maintained under subsection (1).

Restrictions on entry on lists

12 Refusal on grounds of adequacy of services etc

- (1) In this section —

“list” means a list maintained by the Department under section 4, 7, 9 or 11;

“qualified person” means a person eligible to be entered on a list;

“relevant services”, in relation to any list, means general medical services, general dental services, general pharmaceutical services or general ophthalmic services, as the case may be.
- (2) Any qualified person may apply to the Department to be entered on a list as undertaking to provide relevant services —
 - (a) in the Island, or
 - (b) in such part of the Island as is specified in the application;and the Department shall not refuse any such application by a qualified person except as provided in subsection (3).
- (3) Regulations may provide in relation to any list specified in the regulations that —

- (a) the Department may refuse an application by a qualified person to be entered on the list on the ground that the number of qualified persons undertaking to provide the relevant services in the Island or in the part of the Island concerned is already adequate;
 - (b) if in the Department's opinion additional qualified persons are required for the Island or any part of the Island, but the number of persons who have made such applications exceeds the number required, it shall select the persons whose applications are to be granted and refuse the other applications;
 - (c) the Department may grant any such application subject to conditions excluding the provision of relevant services by the applicant in such part or parts of the Island as the Department may specify.
- (4) The Department may remove from a list the name of any person if it determines that he has never provided, or has ceased to provide, the relevant services in the Island.
- (5) Regulations shall prescribe the procedure for —
- (a) the making and determination of applications under subsection (2), and
 - (b) the removal of persons from the list under subsection (4).

13 Disqualification of practitioners

- (1) If the Department, after such inquiry as may be prescribed, is satisfied —
- (a) that a person has ceased to be eligible to be entered on a list maintained under section 4, 7, 9 or 11, or
 - (b) that the continued inclusion of a person in such a list would be prejudicial to the efficiency of the services in question,
- it may determine to remove his name from that list.
- (2) An appeal shall lie to the High Court from any determination of the Department under subsection (1), and the High Court may confirm or revoke that determination.
- (3) Where a person's name is removed from a list under this section, he shall be disqualified for inclusion in that list until such time as the Department, or the High Court on an appeal under subsection (2), directs to the contrary.
- (4) If, under any provisions in force in the United Kingdom corresponding to this Part, a person is for the time being disqualified for inclusion in any lists maintained under those provisions of persons undertaking to provide general medical services, general dental services, general pharmaceutical services or general ophthalmic services —

- (a) that person shall, so long as that disqualification is in force, be disqualified for inclusion in any list of persons undertaking to provide services of that kind or of those kinds, and
 - (b) the name of that person shall be removed from every such list in which his name is included.
- (5) Regulations shall make provision with respect to the procedure for the making of determinations by the Department and appeals to the High Court under this section.
- (6) Regulations may provide that, where the Department has instituted an inquiry with respect to any person for the purpose of subsection (1), it may direct that, until the inquiry is concluded —
 - (a) he shall be disqualified as mentioned in subsection (4)(a), and
 - (b) his name shall be deemed to be removed as mentioned in subsection (4)(b).

14 Powers of Department where services are inadequate

- (1) This section applies where the Department is satisfied, as respects any area in the Island, after such inquiry as it thinks fit and after consulting any profession concerned, that —
 - (a) the persons included in any list prepared under section 4, 7, 9 or 11, are not such as to secure the adequate provision in that area of general medical services, general dental services, general pharmaceutical services or general ophthalmic services, as the case may be, or
 - (b) for any other reason any considerable number of persons in any such area are not receiving satisfactory services under the arrangements in force under this Part.
- (2) Regulations may authorise the Department, where this section applies, to dispense with any of the requirements of any other regulations under this Part so far as appears to it to be necessary to meet exceptional circumstances and to enable other arrangements to be made.

15 Health centres

- (1) The Department may provide, equip and maintain premises at which facilities shall be available for the provision of all or any of the following services —
 - (a) general medical services;
 - (b) on such terms and conditions as may be determined by the Department, such other personal medical services (if any) provided by medical practitioners as may be so determined in the case of a particular health centre;
 - (c) general dental services;

- (d) general pharmaceutical services;
 - (e) general ophthalmic services;
 - (f) any other of the services which the Department are required or empowered to provide;
 - (g) the services of specialists or other services provided for out-patients;
 - (h) information or instruction through any medium on matters relating to health or disease.
- (2) Premises provided under this section are in this Act referred to as “**health centres**”.

Ancillary services

16 School medical service

- (1) The Department shall make arrangements for the medical inspection and dental inspection at appropriate intervals of the pupils under the age of 18 in attendance at any school or college in the Island.
- (2) The Department may provide health education and promotion for pupils in attendance at any school or college in the Island.
- (3) A person authorised for the purpose by the Department may require —
- (a) the parent of a pupil under the age of 16 who is in attendance at any school or college in the Island, or
 - (b) in the case of such a pupil who is accommodated at an independent school or college and whose parent is not in the Island, the proprietor of the school or college,
- to submit the pupil for medical inspection or dental inspection.
- (4) A person authorised for the purpose by the Department may require a pupil of the age of 16 or over who is in attendance at any school or college in the Island to submit himself for medical inspection or dental inspection.
- (5) Any person who fails without reasonable excuse to comply with a requirement under subsection (3) or (4) is guilty of an offence and liable on summary conviction to a fine not exceeding £200.
- (6) The Department in exercising its functions under subsections (1) to (4) shall act in consultation with —
- (a) the Department of Education, Sport and Culture, in relation to pupils in attendance at a school or college maintained by that Department; and¹⁰
 - (b) the proprietor of the school or college, in relation to pupils in attendance at any other school or college.

- (7) Regulations may make provision as to medical inspections or dental inspections under this section.
- (8) Nothing in this section affects any powers of the Department of Education, Sport and Culture under section 41 of the *Education Act 2001*.¹¹
- (9) In this section —
“medical inspection” and “dental inspection” mean inspection by or under the directions of a registered medical practitioner or a registered dentist, as the case may be, employed or engaged, whether regularly or for the purposes of any particular case, by the Department;
“proprietor”, in relation to a school or college, includes a governing body and any other person responsible for its management;
“pupil”, “school” and “college” have the same meanings as in the *Education Act 2001*.

17 Care of mothers and young children

The Department shall make arrangements for the care, including in particular dental care, of —

- (a) expectant and nursing mothers, and
- (b) children who have not attained the age of 5 years and are not attending schools maintained by the Department of Education, Sport and Culture.¹²

17A Breastfeeding

- (1) The Department must make arrangements to support and encourage the breastfeeding of babies.
- (2) Support and encouragement may be given in any manner the Department considers appropriate and may include financial support.
- (3) Without limiting subsection (2), the Department may provide support and encouragement to other persons or organisations that promote and encourage breastfeeding of babies.
- (4) The Department may disseminate, by whatever means, information promoting and encouraging the breastfeeding of babies.¹³

18 Midwifery

- (1) The Department shall secure that an adequate number of registered midwives is available in the Island for attendance on women in their homes during childbirth and for at least 10 days thereafter.
- (2) This section is without prejudice to the duty of the Department to provide the services of midwives and medical practitioners as part of the hospital services and specialist services.

19 Health visiting

The Department shall make provision for the visiting of persons in their homes by health visitors for the purpose of giving advice —

- (a) as to the care of young children and expectant mothers and their families, and
- (b) as to the measures for the promotion of health and the prevention of ill-health.

20 Home nursing

The Department may make provision for securing the attendance of nurses on persons who require nursing in their own homes.

21 Immunisation

- (1) The Department shall make such arrangements for the immunisation of such persons against such communicable diseases as the Department considers appropriate.
- (2) In making arrangements under this section the Department shall give every medical practitioner providing general medical services an opportunity to provide services under this section.
- (3) The Department may supply free of charge to medical practitioners providing services under this section, sera or other preparations for immunising persons against any disease.

22 Ambulance and paramedical services

The Department shall make provision for securing that ambulances and other means of transport, and suitably trained staff, are available where necessary to attend, administer appropriate treatment to and convey for treatment persons requiring medical attention.

23 Prevention of illness, care and after-care

- (1) The Department may make arrangements for the purpose of —
 - (a) the prevention of illness,
 - (b) the diagnosis, treatment and care of persons suffering from illness, and
 - (c) the after-care of such persons.
- (2) The purposes for which arrangements may be made by the Department under subsection (1) for the care or after-care of persons to whom this subsection applies include —

- (a) the provision, equipment and maintenance of residential accommodation, and the care of persons for the time being resident in accommodation so provided;
 - (b) the provision of centres or other facilities for training or occupation, and the equipment and maintenance of such centres; and
 - (c) the provision of any ancillary or supplementary services for or for the benefit of persons to whom this subsection applies.
- (3) Subsection (2) applies to persons who are or have been suffering from mental disorder.
- (4) This section is without prejudice to the Department's duty under section 115 (after-care) of the *Mental Health Act 1998*.

24 [Repealed]¹⁴

Supplemental

25 Exercise of choice of practitioner in certain cases

Regulations may provide that, where a right to choose the person by whom services are to be provided under this Part is conferred by or under any provision of this Part, that right shall, in the case of such persons as may be specified in the regulations, be exercised on their behalf by other persons so specified.

26 Provision of courses for persons providing services

For the purpose of affording opportunities for persons providing any services under this Part to keep themselves informed of the latest developments in professional knowledge, the Department may —

- (a) make arrangements with universities, medical schools and dental schools, and any other persons, for the provision of courses which the persons providing such services as aforesaid may attend, and
- (b) make payments towards the cost of the provision of such courses and the expenses of persons attending such courses.

PART 3 – HOSPITAL AND SPECIALIST SERVICES

Hospital and specialist services

27 Provision of hospital services

- (1) The Department shall make arrangements for the provision throughout the Island, to such extent as it considers necessary to meet all reasonable requirements, of —

- (a) hospital accommodation; and
 - (b) medical, nursing, dental and other services required at or for the purposes of hospitals.
- (2) The Department shall secure the use of such similar accommodation and services outside the Island as are required to render the health service comprehensive.
- (3) Any accommodation and services provided under this section are in this Act referred to as “**hospital services**”.
- (4) In the exercise of its functions under this section the Department may enter into contractual arrangements with the proprietor of any adult care home or independent hospital for the accommodation of patients for whom accommodation in a hospital is not available.¹⁵

28 Provision of specialist services

- (1) The Department shall make arrangements for the provision throughout the Island, to such extent as it considers necessary to meet all reasonable requirements, of the services of specialists at hospitals or elsewhere.
- (2) The Department shall secure the use of such similar services outside the Island as are required to render the health service comprehensive.
- (3) Any services provided under this section are in this Act referred to as “**specialist services**”.
- (4) This section is without prejudice to the Department’s duties under section 27.

Services ancillary to hospital and specialist services

29 Research

The Department may conduct, or assist by grants or otherwise any person to conduct, research into any matters relating to the causation, prevention, diagnosis or treatment of illness.

30 Pathological services

The Department —

- (a) shall make arrangements for the provision of pathological services, including the provision of laboratories; and
- (b) may allow persons to make use of services provided at such laboratories on such terms, including terms as to the payment of charges, as the Department thinks fit.

PART 4 – GENERAL PROVISIONS

Financial provisions

31 Arrangements for provision of services

- (1) Subject to regulations under subsections (3) and (4), arrangements by the Department for the provision of services under this Act may involve all or any of the following –
 - (a) the provision of such services by the Department itself;
 - (b) the appointment of persons for service with the Department;
 - (c) the employment or engagement of persons to provide such services, at such remuneration and on such conditions as the Department thinks fit;
 - (d) arrangements with persons or bodies for the provision by them of such services.
- (2) Arrangements under subsection (1)(d) may include contributions to voluntary organisations.
- (3) Regulations shall provide for the remuneration and conditions of service of persons with whom arrangements are made for the provision of general medical services, general dental services, general pharmaceutical services and general ophthalmic services.
- (4) Regulations may make provision with respect to the qualifications and appointment of persons appointed, engaged or employed to provide services under this Act.
- (5) Nothing in Part 2 shall be taken as precluding the making of arrangements by the Department, otherwise than in accordance with that Part, for the provision of any of the following services –
 - (a) personal medical services;
 - (b) dental treatment;
 - (c) the supply of medicines and medical and dental appliances;
 - (d) the testing of sight.

32 Charges for health services

- (1) Regulations may make provision –
 - (a) for the making by the Department, or by other persons by whom services are provided under this Act, of such charges as may be prescribed, or determined in a prescribed manner, in respect of such services; and
 - (b) for the remission or repayment of any such charge in respect of such persons or classes of persons as may be prescribed.

- (2) Charges due to persons other than the Department in pursuance of regulations under this section shall be payable subject to compliance by such persons with such conditions as to records, certificates or otherwise as the Department may determine.
- (3) Sums paid to the Department in pursuance of regulations under this section shall be paid into the general revenue of the Island.

33 Recovery of charges

- (1) Any charge payable by virtue of regulations under this Act shall be recoverable as a simple contract debt.
- (2) Regulations may make provision for the recovery by the Department, or by other persons by whom services are provided under this Act, of any prescribed charges from any person who, under any statutory provision relating to social security, is liable to maintain a patient.
- (3) Without prejudice to subsections (1) and (2), regulations may make provision for the appointment by the Department of a receiver of any property of a patient for the purpose of recovering any such charges, and the powers and duties of such a receiver.
- (4) Regulations may not provide for the recovery by the Department of charges from any person where, in its opinion, undue hardship would be thereby caused to that person.
- (5) In this section “patient” means a person for whom services are provided under this Act.

34 Private accommodation and treatment

- (1) The Department may make accommodation or services, or both, in any hospital provided by the Department available for patients who undertake, or in respect of whom an undertaking is given, to pay for the accommodation or services such charges as the Department may determine, being charges calculated on any basis which the Department considers to be the appropriate commercial basis.
- (2) The Department may allow any medical practitioner to make arrangements for the treatment of his private patients at any hospital provided by the Department.
- (3) Regulations may prescribe the maximum charges to be made and recovered by a medical practitioner in respect of the treatment of his private patients under subsection (2).

35 Payments towards expenses

- (1) Regulations may provide for payments to be made by the Department to meet, or to contribute towards, the cost incurred (whether by way of

charge under this Act or otherwise) for the supply of prescribed drugs, medicines or appliances to persons of a prescribed description.

- (2) Regulations may provide for the payment by the Department, in such cases as may be prescribed, of —
 - (a) travelling and accommodation expenses incurred or to be incurred by persons for the purpose of availing themselves of hospital services or specialist services;
 - (b) the travelling and accommodation expenses of a companion or visitor of a person availing himself of such services; and
 - (c) expenses incurred or to be incurred in removing to the Island the bodies of deceased persons who have died while availing themselves of such accommodation and services in the United Kingdom as are referred to in section 27(2) or 28(2).

36 Calculation of persons' means

- (1) Where the regulations provide for the making of any charge or payment, or the calculation of the amount of any charge or payment, according to the means of any person, they may direct how his means are to be calculated.
- (2) Without prejudice to the generality of subsection (1), regulations may direct that a person's means shall be calculated —
 - (a) by reference to any statutory provision, or to the person's being or having been entitled to benefits under any statutory provision, either —
 - (i) as it has effect when the regulations are made, or
 - (ii) as subsequently amended; or
 - (b) by reference to a scale or index or to any other data, either —
 - (i) in the form current when the regulations are made, or
 - (ii) in any subsequent form attributable to amendment or revision taking effect after that time or to any other cause.

37 Gifts and trusts for hospital purposes etc

- (1) The Department may accept, hold and administer any property upon trust for purposes relating to hospital services.
- (2) Schedule 1 has effect with respect to the powers of the Department in relation to —
 - (a) trusts for purposes relating to hospital services; and
 - (b) trusts for the provision of any services of a kind mentioned in sections 16 to 24 and voluntary organisations whose objects are or include the provision of any such services.

*Complaints procedure***38 Complaints procedure**

Regulations shall provide for —

- (a) arrangements to be made by the Department for dealing with complaints made by or on behalf of persons who are or have been provided with any services under Part 2 or Part 3; and
- (b) the steps to be taken by the Department for publicising the arrangements made under paragraph (a).

*Provision of services to non-residents***39 Provision of services to non-residents**

Services provided under this Act may be made available to such persons or classes of persons not ordinarily resident in the Island, to such extent and subject to such conditions as may be prescribed.

39A to 39D [Repealed]¹⁶**40 [Repealed]¹⁷***Supplemental***41 Consultation with professions**

- (1) Where for any purposes of this Act or of regulations under this Act the Department consults with any profession specified in column 1 of Schedule 2, it shall where practicable do so through the body specified in relation thereto in column 2 of that Schedule.
- (2) Regulations may amend Schedule 2.

42 Regulations

- (1) Regulations which make any provision under sections 32 to 36 shall not have effect unless they are approved by Tynwald.
- (2) Regulations other than those mentioned in subsection (1) shall be laid before Tynwald as soon as may be after they are made; and if Tynwald, at the sitting at which they are laid or the next following sitting, resolves that they be annulled, they shall cease to have effect.
- (3) Where any provision of regulations makes provision corresponding to a provision made by a statutory instrument made under the National Health Service Act 1977 (an Act of Parliament) or any Act amending or

replacing that Act, that provision may be made retrospective to such date as may be specified in the regulations, not being earlier than the date from which the corresponding provision had effect in England and Wales.

- (4) A statement contained in regulations that any provision of them corresponds to a provision made by a statutory instrument referred to in subsection (3) shall be conclusive evidence of that fact.
- (5) Before making any regulations the Department shall consult —
- (a) the body established under section 2(1); and
 - (b) any profession appearing to the Department to be affected by the regulations.

43 Interpretation

In this Act —

“**adult care home**” means an adult care home under the *Regulation of Care Act 2013*;¹⁸

“**dental practitioner**” means a registered dentist within the meaning of the *Dental Act 1985*;

“**the Department**” means the Department of Health and Social Care;¹⁹

“**general dental services**” has the meaning given by section 6;

“**general medical services**” has the meaning given by section 3;

“**general ophthalmic services**” has the meaning given by section 10;

“**general pharmaceutical services**” has the meaning given by section 8;

“**health centre**” has the meaning given by section 15(2);

“**hospital**” means —

- (a) any institution for the reception and treatment of persons suffering from illness,
- (b) an adult care home for the reception of pregnant women or women immediately after childbirth; or,²⁰
- (c) any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation,

and includes clinics, dispensaries and out-patient departments maintained in connection with any such institution or home, and “hospital accommodation” shall be construed accordingly;

“**hospital services**” has the meaning given by section 27;

“**illness**” includes —

- (a) mental disorder, and
- (b) any injury or disability requiring medical or dental treatment or nursing;

“**independent hospital**” means an independent hospital under the *Regulation of Care Act 2013*;²¹

“**medical**” includes surgical;

“**medical practitioner**” means a registered medical practitioner;²²

“**medicine**” includes any prescribed chemical re-agent;

“**maternity home**”, “**nursing home**” and “**mental nursing home**” [Repealed];²³

“**mental disorder**” has the same meaning as in the *Mental Health Act 1998*;

“**officer**” includes servant;

“**ophthalmic optician**” has the same meaning as in the *Opticians Act 1996*;

“**patient**” includes a woman giving birth or receiving ante-natal or post-natal care;

“**prescribed**” means prescribed by regulations;

“**registered**” —

- (a) in relation to nurses and midwives, has the same meaning as in section 39A;²⁴
- (b) in relation to pharmacists, means registered in the register of pharmaceutical chemists maintained under section 2(1) of the Pharmacy Act 1954 (an Act of Parliament);

“**regulations**” means regulations made by the Department;

“**specialist services**” has the meaning given by section 28;

“**voluntary**” means not carried on for profit and not provided by a public or local authority.

44 Transitional provisions, amendments and repeals

- (1) The transitional provisions in Schedule 3 shall have effect.
- (2) Regulations may make such further transitional provision as appears to the Department to be necessary or expedient for the purposes of this Act.
- (3) The enactments specified in Schedule 4 are amended in accordance with that Schedule.
- (4) The enactments specified in Schedule 5 are repealed to the extent specified in column 3 of that Schedule.

45 Short title and commencement

- (1) This Act may be cited as the National Health Service Act 2001.
- (2) This Act shall come into operation on such day or days as the Department may by order appoint.^{25 26}

SCHEDULE 1

TRUSTS AND VOLUNTARY ORGANISATIONS

Section 37

PART 1 - TRUSTS FOR HOSPITAL PURPOSES

Interpretation

1. In this Part “**hospital trust**” means any trust of property held for purposes relating to hospital services.

Schemes

2. (1) The Department may make a scheme to do all or any of the following in relation to any hospital trust —

- (a) to appoint trustees of the trust;
- (b) to amalgamate the trust with any other hospital trust;
- (c) where the purposes of the trust are restricted to any hospital, or to particular purposes relating to a hospital, to extend those purposes to any hospital or to any purposes relating to a hospital, as the case may be;
- (d) to make provision for the better administration of the trust;
- (e) to vest any property of the trust in the Department or in any body of trustees;
- (f) to authorise the disposal of any property of the trust, or of any interest therein;
- (g) to authorise any part of the income of the trust to be added to the capital thereof, or the capital of the trust or any part thereof to be applied as income;
- (h) subject to paragraph 3, to alter the purposes of the trust so as to allow the property thereof or part of it to be applied *cy-près*;
- (i) to modify, amend or repeal any enactment so far as it relates to the trust.

(2) A scheme under this paragraph may make such incidental, consequential, transitional and supplementary provisions as appear to the Department to be necessary or expedient for the purposes of the scheme.

Occasions for applying property cy-près

3. (1) The purposes for which property may be applied may not be altered under paragraph 2(1)(h) unless it appears to the Department —

- (a) that the original purposes of the gift were that the property should be wholly applied for purposes relating to hospital services; and
- (b) that the circumstances are as set out in sub-paragraph (2).

(2) The circumstances in which those purposes may be so altered are as follows —

- (a) where the original purposes, in whole or in part —
 - (i) have been fulfilled, as far as may be, or
 - (ii) cannot be carried out, or not according to the directions given and to the spirit of the gift; or
- (b) where the original purposes provide a use for part only of the property; or
- (c) where the property and other property applicable for similar purposes can be more effectively used in conjunction, and to that end can suitably be made applicable to common purposes, regard being had to the spirit of the gift; or
- (d) where the original purposes were laid down by reference to an institution which then was but has since ceased to be used for the purposes of hospital services, or by reference to a class of persons or to an institution or area which has for any reason ceased to be suitable, regard being had to the spirit of the gift, or to be practical in administering the trust; or
- (e) where the original purposes, in whole or in part, have since they were laid down
 - (i) been adequately provided for by other means;
 - (ii) ceased for any reason to be in law charitable; or
 - (iii) ceased in any other way to provide a suitable and effective method of using the property, regard being had to the spirit of the gift.

(3) In relation to property the application of which is regulated by a statutory provision (including a provision repealed by this Act or the *Charities Act 1986*), references in this paragraph to the original purposes of a gift are to the purposes for which the property is for the time being applicable.

Consents and approvals

4. (1) Before making a scheme under paragraph 2 the Department shall, if practicable, consult such persons as appear to it to be the trustees of any trust affected by the scheme.

- (2) A scheme under paragraph 2 shall not have effect —
- (a) in any case, unless it is approved by the High Court; and
 - (b) where it makes any provision under paragraph 2(1)(i), unless it is approved by Tynwald.
- (3) In the case of a scheme which does not affect a trust other than one —
- (a) the endowment of which does not include any land, and
 - (b) the gross income of which in the last preceding accounting year was the prescribed amount or less,

the approval of the Attorney General shall be substituted for the approval of the High Court under sub-paragraph (2)(a).

(4) In this paragraph “the prescribed amount” means £5,000 or such larger amount as may for the time being be specified in section 2(1)(b) of the *Charities Act 1986* by virtue of an order under section 3(5) of that Act.²⁷

Registration of schemes

5. Every scheme under paragraph 2 shall be filed in the General Registry.

Exclusion etc of certain trusts

6. Regulations may provide that paragraphs 2 to 5 shall not apply to any hospital trust specified in the regulations, or shall apply thereto subject to such modifications as may be so specified.

PART 2 – VOLUNTARY ORGANISATIONS AND TRUSTS FOR PROVIDING ANCILLARY SERVICES

Transfer of property to Department

7. (1) This paragraph applies to —
- (a) any voluntary organisation formed for the purpose of providing any services of a kind mentioned in sections 16 to 24;
 - (b) any trust of property relating to any such organisation or to the provision of any such service.

(2) Notwithstanding anything contained in the constitution or rules of any such organisation, or in any trust deed or other instrument relating to any such trust, any property vested in the organisation, or held by any persons on trust for the organisation or service, or for any specific purposes connected with the organisation or service, may be transferred to the Department on such terms as may be agreed between the Department and the organisation or trustees, with a view to the property being used or held by the Department for purposes similar to the purposes for which it was previously used or held.

Schemes

8. (1) The Department may make a scheme to do all or any of the following in relation to organisations or trusts mentioned in paragraph 7(1) —

- (a) to appoint trustees of such trusts;
- (b) to amalgamate or combine 2 or more of such organisations or trusts;
- (b) to alter the district of any such organisation or trust;
- (c) to extend or amend the objects of any such organisation or trust;
- (d) generally to secure and maintain the efficient administration of the funds of any such organisation or trust.

(2) A scheme under this paragraph in relation to a voluntary organisation, or to a trust of property relating to a voluntary organisation, shall not be made without the consent of every such organisation affected by it.

(3) A scheme under this paragraph may make such incidental, consequential, transitional and supplementary provisions as appear to the Department to be necessary or expedient for the purposes of the scheme.

(4) Paragraphs 4 and 5 apply to a scheme under this paragraph as they apply to a scheme under paragraph 2.

SCHEDULE 2**REPRESENTATIVE BODIES**

Section 41(1)

<i>Profession</i>	<i>Body</i>
Medical practitioners	Isle of Man Medical Society
Dental practitioners	Isle of Man Dental Association
Pharmacists	Isle of Man Pharmacy Contractors Association
Ophthalmic opticians	Isle of Man Association of Optometrists and Registered Opticians

SCHEDULE 3**TRANSITIONAL PROVISIONS**

Section 44(1)

Interpretation

1. In this Schedule “**the 1948 Act**” means the *National Health Service (Isle of Man) Act 1948*.

Paying patients

2. Where on the commencement of this Act a patient is occupying any such accommodation as is mentioned in section 6(1) or (2) of the 1948 Act, so long as he continues to do so charges shall be payable in respect of his occupation of that accommodation in accordance with any undertaking given by or in respect of him under the said section 6(1) or (2), as if this Act had not been passed.

Appointments of consultants

3. Where immediately before the commencement of this Act any consultant or specialist is employed at or for the purposes of a hospital providing hospital and specialist services under Part II of the 1948 Act, he shall continue to be so employed subject to the same terms and conditions as those in force immediately before such commencement.

Existing arrangements for provision of services

4. Any arrangements made by the Department for the provision of any services under Part III of the 1948 Act and in force immediately before the commencement of this Act shall remain in force until new arrangements for the purpose are made under Part 2.

Lists of practitioners

5. (1) Any list of persons undertaking to provide general medical services, general dental services, pharmaceutical services or supplementary ophthalmic services under Part IV of the 1948 Act in force immediately before the commencement of this Act shall remain in force as a list of persons undertaking to provide general medical services, general dental services, general pharmaceutical services or general ophthalmic services, as the case may be, under Part 2.

(2) In its application to a medical practitioner who is on a list of persons undertaking to provide general medical services in force immediately before the commencement of this Act, section 4(2) shall have effect with the omission of the words "who has acquired the prescribed medical experience".

Proceedings before committees

6. (1) Where any proceedings to which this paragraph applies are immediately before the commencement of this Act pending before any committee established by or under the 1948 Act, those proceedings may be continued and determined, and any appeal therefrom may be brought, heard and determined, as if this Act had not been passed.

(2) This paragraph applies to proceedings relating to —

(a) the admission of any person to, the removal of any person from, or the disqualification of any person for inclusion in, any list of

- persons undertaking to provide general medical services, general dental services, pharmaceutical services or supplementary ophthalmic services under Part IV of the 1948 Act;
- (b) the remuneration of any person undertaking to provide such services; or
 - (c) any complaint against any such person;

and any appeal arising out of any such proceedings.

Trustees of Noble's Hospital

7. (1) The *Noble's Hospital Act 1909*, so far as it had effect immediately before the commencement of this Act as an instrument establishing or regulating any charitable trust, shall continue to have effect as such, and may be varied or revoked by the High Court in the exercise of any of its powers under the *Charities Act 1962* or of its inherent jurisdiction relating to charities.

- (2) Subject to the exercise of any of those powers —
 - (a) the repeal by this Act of the said Act of 1909 does not affect the incorporation of the Hospital Trustees effected by that Act;
 - (b) the repeal by this Act of the *National Health Service (Isle of Man) Act 1963* does not affect any powers of the Department under section 3(2) of that Act (appointment of trustees) in relation to the said Trustees.

SCHEDULE 4

CONSEQUENTIAL AMENDMENTS

Section 44(3)

[Sch 4 amended by SD768/03 by Medicines Act 2003 Sch 4 and by Public Sector Pensions Act 2011 Sch 3, and amends the following Acts —

- Law Reform (Personal Injuries) Act 1949 q.v.
- Children and Young Persons Act 1966 q.v.
- Dental Act 1985 q.v.
- Nursing and Residential Homes Act 1988 q.v.
- Civil Service Act 1990 q.v.
- Design Right Act 1991 q.v.
- Sexual Offences Act 1992 q.v.
- Access to Health Records and Reports Act 1993 q.v.
- Post Office Act 1993 q.v.
- Termination of Pregnancy (Medical Defences) Act 1995 q.v.
- Video Recordings Act 1995 q.v.

Opticians Act 1996 q.v.
Mental Health Act 1998 q.v.]

SCHEDULE 5

CONSEQUENTIAL REPEALS

Section 44(4)

[Schedule 5 repeals the following Acts wholly —

Noble's Hospital Act 1909
Noble's Hospital Act 1921
National Health Service (Isle of Man) Act 1948
National Health Service (Isle of Man) Act 1950
National Health Service (Isle of Man) Act 1963
National Health Service (Isle of Man) (Amendment) Act 1975
National Health Service (Isle of Man) Act 1979
National Health Service (Amendment) Act 1995

and the following Acts in part —

Medicines Act 1976
Governor's General Functions (Transfer) Act 1980
Statute Law Revision Act 1982
Nurses and Midwives (Amendment) Act 1984
Superannuation Act 1984
Treasury Act 1985
Dental Act 1985
Statute Law Revision Act 1986
Health and Social Security Act 1986
Nursing and Residential Homes Act 1988
Statute Law Revision Act 1989
Civil Service Act 1990
Transfer of Governor's Functions Act 1992
Statute Law Revision Act 1997
Mental Health Act 1998.]

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

¹ Subs (1) amended by SD155/10 Sch 4 and by SD2014/08.

² S 3 only in force for the purpose of making regulations and schemes. For transitional provisions i.r.o. s 3 see SD25/04.

³ S 4 only in force for the purpose of making regulations and schemes.

⁴ S 5 only in force for the purpose of making regulations and schemes.

⁵ Para (c) inserted by SD2020/0587.

⁶ Para (c) amended by SD2020/0587.

⁷ Para (d) inserted by SD2020/0587.

⁸ Para (b) amended by Medicines Act 2003 Sch 3.

⁹ Subs (6) inserted by SD2020/0587.

¹⁰ Para (a) amended by SD155/10 Sch 10 and by SD2017/0325.

¹¹ Subs (8) amended by SD155/10 Sch 10 and by SD2017/0325.

¹² Para (b) amended by SD155/10 Sch 10 and by SD2017/0325.

¹³ S 17A inserted by Breastfeeding Act 2011, s4 with effect from 15/11/2011.

¹⁴ S 24 repealed by Social Services Act 2011 Sch 4.

¹⁵ Subs (4) amended by Regulation of Care Act 2013 s 205.

¹⁶ Ss 39A to 39D and cross heading repealed by Health Care Professionals Act 2014 s 13.

¹⁷ S 40 repealed by Health Care Professionals Act 2014 s 13.

¹⁸ Definition of “adult care home” inserted by Regulation of Care Act 2013 s 205.

¹⁹ Definition of “the Department” amended by SD155/10 Sch 4 and by SD2014/08.

²⁰ Para (b) substituted by Regulation of Care Act 2013 s 205.

²¹ Definition of “independent hospital” inserted by Regulation of Care Act 2013 s 205.

²² Definition of “medical practitioner” amended by Health Care Professionals Act 2014 s 13.

²³ Definitions of “maternity home”, “nursing home” and “mental nursing home” repealed by Regulation of Care Act 2013 s 205.

²⁴ Para (a) amended by Regulation of Care Act 2013 s 205.

²⁵ ADO (ss 40, 41, 43, 44(3) (in so far as it relates to para 8 of Sch 4), s 45, Sch 2, para 8 of Sch 4) 1/5/2002 (SD153/02); (ss 2, 3 to 39 and Sch 1 (but only for the purpose of making regulations and schemes), ss 42, 44(1) (in so far as it relates to para 7 of Sch 3), para 7 of Sch 3, s 44(4) and Sch 5 (in so far as they relate to Noble’s Hospital Act 1909, Noble’s Hospital Act 1921, and to ss 2 and 7 of the National Health Service (Isle of Man) Act 1948)) 1/2/2003 (SD818/02); (s 1 and Parts 2, 3 and 4 (except ss 3 to 5) in so far as they are not already in operation) 1/4/2004 (SD26/04)

²⁶ Ed. note: As of 1/4/2004 this whole Act is in force, except ss 3 to 5 which are in operation only for the purpose of making regulations and schemes. For transitional provisions i.r.o. s 3 see SD25/04.

²⁷ Subpara (4) amended by Audit Act 2006 Sch 1.