This Schedule has been prepared by the Department of Health in connection with the Health Service Medicines (Costs) Bill.

Health Service Medicines (Costs) Bill

Unofficial Keeling Schedule

1. This unofficial and informal Schedule shows the National Health Service Act 2006, including all previous amendments, as it would look when amended by the Health Service Medicines (Costs) Bill, were the Bill to be enacted in the state in which it was introduced to the House of Commons.

2. It has been prepared by the Department of Health, using legislation.gov.uk as its primary source, checked against Westlaw. Its purpose is to assist readers of the Bill and help inform debate on it. It does not form part of the Bill and has not been endorsed by Parliament.
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 this Act the health service.

(2) The Secretary of State may by direction given with respect to any undertaking, or by order made with respect to any class or description of undertakings, require persons carrying on the undertaking or undertakings of that class or description—

(a) to keep such books, accounts and records relating to the undertaking as may be prescribed by the direction, the order or a notice served under the order,

(b) to furnish at such times, in such manner and in such form as may be so prescribed such estimates, returns or information relating to the undertaking as may be so prescribed.

(3) The power to make an order under this section includes power to provide for any incidental and supplementary provisions which the Secretary of State considers it expedient for the purposes of the order to provide.

(4) Schedule 22 makes further provision in relation to this section.

(5) In this section and Schedule 22—

“medical supplies” includes surgical, dental and optical materials and equipment, and

“undertaking” means any public utility undertaking or any undertaking by way of trade or business, which is concerned with medical supplies required for the purposes of this Act,

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

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, and 263 and 264A as a “voluntary scheme”) made by the Secretary of State and the industry body for the purpose of 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, or
(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,
(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.

(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 either 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.

(7) The Secretary of State may after consultation with the industry body require any manufacturer or supplier to whom a voluntary scheme applies to–

(a) record and keep any information, and
(b) provide any information to the Secretary of State,

which the Secretary of State may require for the purpose of enabling the scheme to operate or facilitating its operation or for the purpose of giving full effect to any provision made under subsection (8).

(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.

(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).

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.

(2) The powers conferred by this section are not exercisable at any time in relation to a manufacturer or supplier to whom at that time a voluntary scheme applies. 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.

263 Statutory schemes

(1) The Secretary of State may, after consultation with the industry body, make a scheme (referred to in this section and section 264 as a statutory scheme) for the purpose of 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, or
(b) limiting the profits which may accrue to any manufacturer or supplier
in connection with the manufacture or supply of any health service medicines,

(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).

(2) A statutory scheme may, in particular, make any provision mentioned in subsections (3) to (6).

(3) The scheme may require any manufacturer or supplier to whom it applies to—

(a) record and keep information, and

(b) provide information to the Secretary of State.

(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.

(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.

(7) A statutory scheme may not apply to a manufacturer or supplier to whom a voluntary scheme applies. 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.

(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.

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.

(2) The provision may, in particular, require any person to whom such a scheme or limit may apply to—

   (a) record and keep information,
   (b) provide information to the Secretary of State.

(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.

264A Provision of information about health service products

(1) Regulations may require any person who manufactures, distributes or supplies English health service products (an “English producer”) to—

   (a) record and keep information which the Secretary of State may require for the purpose specified in subsection (2), and
   (b) provide that information to the Secretary of State.

(2) 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
      (ii) the terms on which those products are available represent value for money.

(3) Regulations may require any English producer or person who manufactures, distributes or supplies other UK health service products (an “other UK producer”) to—
(a) record and keep information which the Secretary of State may re-
require for the purpose specified in subsection (4), and
(b) provide that information to the Secretary of State.

(4) The purpose is that of enabling or facilitating either of the following—

(a) the exercise by the Secretary of State of any powers under sections
260 to 265;
(b) the operation of a voluntary scheme.

(5) The information which the Secretary of State may require from an English
producer or other UK producer by virtue of this section includes the follow-
ing—

(a) the price charged or paid by the producer for the English health
service products or other UK health service products, as the
case may require (“the products”);
(b) the price charged or paid by the producer for delivery or other
services in connection with the manufacturing, distribution or
supply of the products;
(c) the discounts or rebates or other payments given or received by
the producer in connection with the manufacturing, distribution or sup-
ply of the products;
(d) the revenue or profits accrued to the producer in connection
with the manufacturing, distribution or supply of the products;
(e) such information about medicinal products, other medical
supplies or other related products as is necessary to verify whether or
not they are English health service products or other UK health
service products.

(6) Regulations under this section may require information to be provided
in such form and manner, and at such time or within such period, as
may be prescribed.

(7) 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 im-
posed).

(8) “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, re-
quired for the purposes of that health service.

(9) “Medical supplies” is to be read in accordance with section 260(5).

(10) “Other UK health service products” means—

(a) 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,
the health service within the meaning of the National Health Service (Scotland) Act 1978, or
health care provided by virtue of the Health and Social Care (Reform) Act (Northern Ireland) 2009,
or
(b) any other medical supplies, or other related products, required for the purposes of anything specified in sub-paragraphs (i) to (iii) of paragraph (a).

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) a Northern Ireland Department;
(h) any person who provides services to any person falling within any of paragraphs (a) to (g);
(i) any prescribed body appearing to the Secretary of State to represent English producers or other UK producers;
(j) any other prescribed person.

(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.

(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(2) or (4);
(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(2) or (4), or
   (ii) preventing, detecting or investigating any unlawful activities;
(c) in relation to a person falling within subsection (1)(e) to (g), the purpose is that of exercising functions connected with either of the matters specified in section 264A(4);
(d) in relation to a person falling within subsection (1)(h), 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 (c) above;
(e) in relation to a person falling within subsection (1)(i) or (j), the purpose is any prescribed purpose connected with any of the matters specified in section 264A(2) or (4).

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 English producers or other 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.

265 Enforcement

(1) Regulations may provide for a person who contravenes any provision of orders, regulations or directions under sections 260 to 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) or (9), 262(1)(b) or 263(4), (5), (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

(a) conferring on manufacturers and suppliers a right of appeal against enforcement decisions taken in respect of them in pursuance of sections 260 to 264 and this section., and
(b) conferring on English producers and other UK producers a right of appeal against enforcement decisions taken in respect of them in pursuance of section 264A and this section.
(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, or other person who is an English producer or other 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, or other person who is an English producer or other 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 261 to 264, may only be enforced under this section and may not be relied on in any proceedings other than proceedings under this section.

(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.

(9) The Secretary of State must consult the industry body before making any regulations under this section. 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 English producers or other UK producers.

(10) The Secretary of State may by order increase (or further increase) either of the sums mentioned in subsection (2).

(11) In this section “English producer” and “other UK producer” are to be read in accordance with section 264A.

266 Controls: supplementary
(1) Any power conferred on the Secretary of State by sections 261(6) to (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)(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)(a) and (b) and (6)(a)) the Secretary of State and any other person must bear 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.

(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 264 260 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.

271 Territorial limit of exercise of functions

(1) The functions of a Minister of the Crown under this Act are exercisable only in relation to England.

(2) “Minister of the Crown” includes the Treasury.

(3) Subsection (1) does not apply in relation to—

(a) section 8(1) (directions to certain health service bodies) to such extent as it allows directions to be given in respect of matters concerning xenotransplantation, surrogacy agreements, embryology or human genetics,

(b) Chapter 5 of Part 2 (NHS foundation trusts),

(c) section 169 (3) (power of the Secretary of State to direct that the First-tier Tribunal exercise functions in relation to appeals),

(d) section 235 (superannuation of officers of certain hospitals),

(da) section 247B (co-operation in relation to public health functions),

(g) section 251 (control of patient information),

(h) Schedule 21 (prohibition as to the sale of medical practices),

(i) section 260 and Schedule 22 (control of maximum price of medical supplies other than health service medicines) and sections 261 to 266 (control of prices of medicines and profits),

and section 272(7) and (8), to the extent that they apply in relation to a provision mentioned in any of paragraphs (a) to (i).

272 Orders, regulations, rules and directions

(1) This section does not apply to—

(a) Chapter 5 of Part 2 (as to which, see section 64), and

(b) Part 10 (as to which, see section 209).

(2) Subject to subsection (3), any power under this Act to make an order, rules or regulations is exercisable by statutory instrument.

(3) Subsection (2) does not apply to an order under—
(a) section 66(2),
(c) section 211(4),
(e) paragraph 9, 27 or 29 of Schedule 4, or
(f) paragraph 2 of Schedule 18.

(4) Subject to subsections (5), (6) and (6A), a statutory instrument made by virtue of this Act is subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Subsection (4) does not apply to a statutory instrument containing an order under—

(za) section 14A(1),
(a) section 25,
(ab) section 65B(1), 65D(2), 65J(2), 65KC(3), 65L(2), or (7), 65LA(3), or 65V(2)
(b) Schedule 4, or
(c) paragraph 1(1) of Schedule 5.

(6) A statutory instrument containing—

(zza) regulations under section 3(1D),
(zzb) regulations under section 6C(1) or (2),
(zzc) regulations under section 6E, except where they do not include provision by virtue of subsection (7)(c) of that section,
(zzd) regulations under section 7(1C),
(za) an order under section 12C(8) or (10)
(zb) regulations under section 13Z1,
(zc) an order under section 28 which varies such an order as mentioned in section 28A(5),
(zd) regulations under section 186A(4),
(a) regulations under section 251, except where they are made by virtue of subsection (5)(b) of that section,
(b) an order under section 265(10), or
(c) an order under section 193(4),

may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.

(6ZA) The Statutory Instruments Act 1946 applies in relation to the power of the regulator to make an order under Chapter 5A as if the regulator were a Minister of the Crown.

(6A) A statutory instrument containing an order under 65B(1), 65D(2), 65J(2), 65KC(3), 65L(2) or (7), 65LA(3) or 65V(2) must be laid before Parliament after it is made.

(7) Any power under this Act to make orders, rules, regulations or schemes, and any power to give directions—
(a) may be exercised either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case, 
(b) may be exercised so as to make, as respects the cases in relation to which it is exercised—  
   (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise),  
   (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case, or different provision as respects the same case or class of case for different purposes of this Act,  
   (iii) any such provision either unconditionally or subject to any specified condition, and  
(c) may, in particular, except where the power is a power to make rules, make different provision for different areas.

(8) Any such power includes power—

   (a) to make such incidental, supplementary, consequential, saving or transitional provision (including, in the case of a power to make an order or regulations, provision amending, repealing or revoking enactments) as the person or body exercising the power considers to be expedient, and  
   (b) to provide for a person to exercise a discretion in dealing with any matter.

(9) Subsections (7) and (8) do not apply to an order under section 260 (but this does not affect subsection (1) of that section).

278 Short title, extent and application

(1) This Act may be cited as the National Health Service Act 2006.

(2) Subject to this section, this Act extends to England and Wales only.

(3) Sections 261 to 266 in Part 13 (price of medical supplies), and this Part to the extent that it applies to those sections, extend also to Scotland and Northern Ireland.

(4) The Secretary of State may by order provide that this Act, in its application to the Isles of Scilly, has effect with such modifications as may be specified in the order.

Schedule 22 CONTROL OF MAXIMUM PRICES FOR MEDICAL SUPPLIES

Orders and directions

1.

   (1) An order under section 260 may make such provision (including
provision for requiring any person to furnish any information) as the Secretary of State considers necessary or expedient for facilitating the introduction or operation of a scheme of control—

(a) for which provision has been made under that section, or
(b) for which, in his opinion, it will or may be necessary or expedient that provision should be made.

(2) An order under section 260—

(a) may prohibit the doing of anything regulated by the order except under the authority of a licence granted by such authority or person as may be specified in the order, and
(b) may be made so as to apply either to persons or undertakings generally or to any particular person or undertaking or class of persons or undertakings, and so as to have effect either generally or in any particular area.

Notices, authorisations and proof of documents

2

(1) A notice to be served on any person for the purposes of section 260, or of any order or direction made or given under that section, is deemed to have been duly served on the person to whom it is directed if—

(a) it is delivered to him personally, or
(b) it is sent by registered post or the recorded delivery service addressed to him at his last or usual place of abode or place of business.

(2) Where under section 260 or this Schedule a person has power to authorise other persons to act under those provisions, the power may be exercised so as to confer the authority either on particular persons or on a specified class of persons.

(3) Any permit, licence, permission or authorisation granted for the purposes of section 260 or this Schedule may be revoked at any time by the authority or person empowered to grant it.

(4) A document purporting to be duly executed under or by virtue of section 260 or this Schedule and signed by or on behalf of the person making it must be received in evidence and, unless the contrary is proved, taken to be so executed and signed.

Territorial extent

3

(1) Provisions in or having effect under section 260 or this Schedule which impose prohibitions, restrictions or obligations apply to—
(a) persons in the United Kingdom,
(b) persons on board any British ship or aircraft (other than an excepted ship or aircraft within the meaning of sub-paragraph (2)), and

(c) persons (wherever they are) who are ordinarily resident in the United Kingdom and are—
   (i) British citizens,
   (ii) British overseas territories citizens,
   (iii) British Overseas citizens,
   (iv) British subjects under the British Nationality Act 1981 (c. 61),
   (v) British Nationals (Overseas) (within the meaning of that Act), or
   (vi) British protected persons (within the meaning of that Act).

(2) In sub-paragraph (1)–

"British aircraft" means an aircraft registered in—
   (a) any part of Her Majesty's dominions
   (b) any country outside Her Majesty's dominions in which Her Majesty has jurisdiction,
   (c) any country consisting partly of one or more colonies and partly of one or more countries mentioned in paragraph (b),

"excepted ship or aircraft" means a ship or aircraft registered in any country listed in Schedule 3 to the British Nationality Act 1981 or in any territory administered by the government of any such country, other than a ship or aircraft at the disposal of, or chartered by or on behalf of, Her Majesty's Government in the United Kingdom.

False documents and false statements

4

(1) A person must not, with intent to deceive—

(a) use any document issued for the purposes of section 260 or this Schedule or of any order made under that section,
(b) have in his possession any document so closely resembling a document mentioned in paragraph (a) as to be calculated to deceive, or
(c) produce, furnish, send or otherwise make use of for purposes connected with that section or this Schedule or any order or direction made or given under that section, any book, account, estimate, return, declaration or other document which is false in a material particular.

(2) A person must not, in furnishing any information for the purposes of section 260 or this Schedule or of any order made under that section—

(a) make a statement which he knows to be false in a material particular, or
(b) recklessly make a statement which is false in a material particular.
**Restrictions on disclosing information**

5 No person who obtains any information by virtue of section 260 or this Schedule may, otherwise than in connection with the execution of that section or this Schedule or of an order made under that section, disclose that information except—

(a) for the purposes of any criminal proceedings, or of a report of any criminal proceedings, or
(b) with permission granted by or on behalf of a Minister of the Crown.

**Restrictions on disclosing information**

6 Paragraph 5 does not apply if—

(a) the person who has obtained any such information as is referred to in that paragraph is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000 (c. 36), and
(b) the information is not held by the public authority on behalf of another person.

**Offences by corporations**

7 (1) Where an offence under section 260 or this Schedule committed by a body corporate is proved—

(a) to have been committed with the consent or connivance of any director, manager, secretary of other similar officer of the body corporate, or a person purporting to act in any such capacity, or
(b) to be attributable to any neglect on the part of such a person,

that person, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) “Director”, in relation to a body corporate—

(a) established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, and
(b) whose affairs are managed by its members,

means a member of that body corporate.
Penalties

8

(1) A person who contravenes or fails to comply with—

(a) an order made under section 260,
(b) a direction given or requirement imposed under that section, or
(c) a provision of this Schedule,

is guilty of an offence.

(2) Sub-paragraph (1) does not apply if the contravention or failure is an offence under paragraph 9(3) or 10(5).

(3) A person guilty of an offence under sub-paragraph (1) is—

(a) on summary conviction, liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding the prescribed sum, or to both, or
(b) on conviction on indictment, liable to imprisonment for a term not exceeding two years or to a fine, or to both.

(4) Sub-paragraph (3) is subject to paragraph 11.

Production of documents

9

(1) For the purposes of—

(a) securing compliance with any order made or direction given under section 260 by or on behalf of the Secretary of State, or
(b) verifying any estimates, returns or information furnished to the Secretary of State in connection with section 260 or any order made or direction given under that section,

an officer of the Secretary of State duly authorised in that behalf has power, on producing (if required to do so) evidence of his authority, to require any person carrying on an undertaking or employed in connection with an undertaking to produce to that officer forthwith any documents relating to the undertaking which that officer may reasonably require for the purposes set out above.

(2) The power conferred by this paragraph to require any person to produce documents includes power—

(a) if the documents are produced, to take copies of them or extracts from them and to require that person, or where that person is a body corporate, any other person who is a present or past officer of, or is
employed by, the body corporate, to provide an explanation of any of them,

(b) if the documents are not produced, to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.

(3) If any requirement to produce documents or provide an explanation or make a statement which is imposed by virtue of this paragraph is not complied with, the person on whom the requirement was so imposed is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Sub-paragraph (3) is subject to paragraph 11.

(5) Where a person is charged with such an offence in respect of a requirement to produce any document, it is a defence to prove that it was not in his possession or under his control and that it was not reasonably practicable for him to comply with the requirement.

Production of documents

10

(1) A justice of the peace may issue a warrant under this paragraph if he is satisfied, on information on oath laid on the Secretary of State’s behalf, that there are any reasonable grounds for suspecting that there are on any premises any documents—

(a) of which production has been required by virtue of paragraph 9, and
(b) which have not been produced in compliance with that requirement.

(2) A warrant so issued may authorise any constable, together with any other persons named in the warrant and any other constables to—

(a) enter the premises specified in the information (using such force as is reasonably necessary for the purpose), and
(b) search the premises and take possession of any documents appearing to be such documents as are mentioned above, or to take in relation to any documents so appearing any other steps which may appear necessary for preserving them and preventing interference with them.

(3) Each warrant issued under this paragraph continues in force until the end of the period of one month after the date on which it is issued.

(4) Any documents of which possession is taken under this paragraph may be retained—

(a) for a period of three months, or
(b) if within that period proceedings to which they are relevant are commenced for an offence under section 260 or this Schedule, until the
(5) A person is guilty of an offence, and liable on summary conviction to a fine not exceeding level 3 on the standard scale, if he obstructs the exercise of—

(a) any right of entry or search conferred by virtue of a warrant under this paragraph, or
(b) any rights so conferred to take possession of any documents.

(6) Sub-paragraph (5) is subject to paragraph 11.

Penalties for offences: transitional modification for England and Wales

11

(1) In relation to an offence committed in England and Wales before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' courts' power to impose imprisonment) paragraph 8(3) has effect as if for “twelve months” there were substituted “three months”.

(2) In relation to an offence committed in England and Wales before the commencement of section 280 of the Criminal Justice Act 2003 (alteration of penalties for specified summary offences) paragraphs 9(3) and 10(5) have effect as if “to imprisonment for a term not exceeding three months or” were inserted after “conviction”.