



Health and Care Act 2022

2022 CHAPTER 31

PART 6

MISCELLANEOUS

Pharmaceutical services

161 Pharmaceutical services: remuneration in respect of vaccines etc

- (1) In section 164 of the National Health Service Act 2006 (remuneration for persons providing pharmaceutical services)—
- (a) in subsection (8A) for “special medicinal products” substitute “any of the following—
 - (a) drugs or medicines used for vaccinating or immunising people against disease,
 - (b) anything used in connection with the supply or administration of drugs or medicines within paragraph (a),
 - (c) drugs or medicines, not within paragraph (a), that are used for preventing or treating a disease that, at the time the regulations are made, the Secretary of State considers to be a pandemic disease or at risk of becoming a pandemic disease,
 - (d) anything used in connection with the supply or administration of drugs or medicines within paragraph (c), or
 - (e) a product which is a special medicinal product for the purposes of regulation 167 of the Human Medicines Regulations 2012 ([S.I. 2012/1916](#)).”;
 - (b) in subsection (8D)—
 - (i) for “special medicinal products are” substitute “anything within subsection (8A)(a) to (e) is”;
 - (ii) in paragraph (b), for “special medicinal products” substitute “that thing”;
 - (c) in subsection (8E), omit the definition of “special medicinal product”;

Status: This is the original version (as it was originally enacted).

(d) after subsection (8E) insert—

“(8F) Where regulations include provision made in reliance on subsection (8A)(c) or (d) and the Secretary of State considers that the disease to which it relates is no longer a pandemic disease or at risk of becoming a pandemic disease, the Secretary of State must revoke that provision within such period as the Secretary of State considers reasonable (taking into account, in particular, the need for any transitional arrangements).”

(2) In section 88 of the National Health Service (Wales) Act 2006 (remuneration for persons providing pharmaceutical services)—

(a) in subsection (8A) for “special medicinal products” substitute “any of the following—

- (a) drugs or medicines used for vaccinating or immunising people against disease,
- (b) anything used in connection with the supply or administration of drugs or medicines within paragraph (a),
- (c) drugs or medicines, not within paragraph (a), that are used for preventing or treating a disease that, at the time the regulations are made, the Welsh Ministers consider to be a pandemic disease or at risk of becoming a pandemic disease,
- (d) anything used in connection with the supply or administration of drugs or medicines within paragraph (c), or
- (e) a product which is a special medicinal product for the purposes of regulation 167 of the Human Medicines Regulations 2012 (S.I. 2012/1916);

(b) in subsection (8D)—

- (i) for “special medicinal products are” substitute “anything within subsection (8A)(a) to (e) is”;
- (ii) in paragraph (b), for “special medicinal products” substitute “that thing”;

(c) in subsection (8E), omit the definition of “special medicinal product”;

(d) after subsection (8E) insert—

“(8F) Where regulations include provision made in reliance on subsection (8A)(c) or (d) and the Welsh Ministers consider that the disease to which it relates is no longer a pandemic disease or at risk of becoming a pandemic disease, the Welsh Ministers must revoke that provision within such period as the Welsh Ministers consider reasonable (taking into account, in particular, the need for any transitional arrangements).”

International healthcare

162 International healthcare arrangements

(1) The Healthcare (European Economic Area and Switzerland Arrangements) Act 2019 is renamed the Healthcare (International Arrangements) Act 2019.

(2) That Act is amended as follows.

(3) Omit section 1 (power to make healthcare payments).

(4) For section 2 substitute—

“2 Healthcare agreements and payments

- (1) The Secretary of State may by regulations make provision for the purpose of giving effect to a healthcare agreement (including provision about payments).
- (2) The Secretary of State may by regulations make provision authorising the Secretary of State to make a payment (otherwise than under a healthcare agreement) in respect of healthcare provided in a relevant country or territory, but only where the Secretary of State considers that exceptional circumstances justify the payment.
- (3) In subsection (2) “relevant country or territory” means a country or territory, outside the United Kingdom, in respect of which there is a healthcare agreement.
- (4) Regulations under this section may include provision about administrative arrangements (including provision about evidential requirements).
- (5) Regulations under this section may—
 - (a) confer functions on a relevant public authority or a Scottish or Welsh health board (including discretions);
 - (b) provide for the delegation of functions to a relevant public authority or a Scottish or Welsh health board.
- (6) The Secretary of State may give directions to a person about the exercise of any functions exercisable by the person under regulations made by virtue of subsection (5) (and may vary or revoke any such directions).
- (7) In this section “relevant public authority” means a person who exercises functions of a public nature other than—
 - (a) the Scottish Ministers,
 - (b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998),
 - (c) the Welsh Ministers,
 - (d) a devolved Welsh authority as defined by section 157A of the Government of Wales Act 2006,
 - (e) a Northern Ireland department, or
 - (f) any other person whose functions—
 - (i) are exercisable only or mainly in or as regards Northern Ireland, and
 - (ii) relate only or mainly to transferred matters within the meaning of the Northern Ireland Act 1998.
- (8) In this section—

“Scottish health board” means a Health Board established under section 2(1)(a) of the National Health Service (Scotland) Act 1978;

“Welsh health board” means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

2A Healthcare agreements and payments: powers of devolved authorities

- (1) A devolved authority may by regulations make provision for the purpose of giving effect to a healthcare agreement (including provision about payments).
- (2) No provision may be made by a devolved authority under subsection (1) unless the provision is within the devolved competence of that devolved authority (and any applicable consent requirement under section 2B has been complied with).
- (3) In this section “devolved authority” means the Scottish Ministers, the Welsh Ministers or a Northern Ireland department.
- (4) For the purposes of this section—
 - (a) provision is within the devolved competence of the Scottish Ministers if it would be within the legislative competence of the Scottish Parliament if it were contained in an Act of that Parliament;
 - (b) provision is within the devolved competence of the Welsh Ministers if it would be within the legislative competence of Senedd Cymru if it were contained in an Act of Senedd Cymru (including any provision that could only be made with the consent of a Minister of the Crown);
 - (c) provision is within the devolved competence of a Northern Ireland department if it would be within the legislative competence of the Northern Ireland Assembly if it were contained in an Act of that Assembly.
- (5) Regulations under this section may include provision about administrative arrangements (including provision about evidential requirements).
- (6) Regulations under this section may—
 - (a) confer functions on a public authority (including discretions);
 - (b) provide for the delegation of functions to a public authority.
- (7) A devolved authority may give directions to a person about the exercise of any functions exercisable by the person under regulations made by that devolved authority by virtue of subsection (6) (and may vary or revoke any such directions).
- (8) In this section “public authority” means a person who exercises functions of a public nature.

2B Regulations under section 2A: consent requirements

- (1) The consent of a Minister of the Crown is required before any provision is made by the Welsh Ministers in regulations under section 2A(1) so far as that provision, if contained in an Act of Senedd Cymru, would require the consent of a Minister of the Crown.
- (2) The consent of the Secretary of State is required before any provision is made by a Northern Ireland department in regulations under section 2A(1) so far as that provision, if contained in a Bill in the Northern Ireland Assembly, would require the consent of the Secretary of State.”

- (5) In section 3 (meaning of “healthcare” and “healthcare agreement”), for the definition of “healthcare agreement” substitute—
- ““healthcare agreement” means an agreement or other commitment between the United Kingdom and either a country or territory outside the United Kingdom or an international organisation, concerning healthcare provided anywhere in the world;”.
- (6) In section 7 (regulations and directions)—
- (a) in subsection (1), after “A power” insert “of the Secretary of State or Welsh Ministers”;
- (b) after subsection (1) insert—
- “(1A) A power of a Northern Ireland department to make regulations under section 2A is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).”;
- (c) for subsection (4) substitute—
- “(4) A statutory instrument containing regulations under this Act may not be made by the Secretary of State unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”;
- (d) omit subsection (5);
- (e) after subsection (5) insert—
- “(5A) Regulations made by the Scottish Ministers under section 2A are subject to the affirmative procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).
- (5B) A statutory instrument containing regulations under section 2A may not be made by the Welsh Ministers unless a draft of the instrument has been laid before and approved by a resolution of Senedd Cymru.
- (5C) Regulations may not be made by a Northern Ireland department under section 2A unless a draft of the regulations has been laid before and approved by a resolution of the Northern Ireland Assembly.”
- (7) In section 8 (short title etc), in subsection (3), for “Healthcare (European Economic Area and Switzerland Arrangements) Act 2019” substitute “Healthcare (International Arrangements) Act 2019”.

Social care

163 Regulation of local authority functions relating to adult social care

- (1) Chapter 3 of Part 1 of the Health and Social Care Act 2008 (quality of health and social care) is amended as follows.
- (2) In section 46 (reviews and performance assessments by the Care Quality Commission), in the heading, at the end insert “: registered service providers”.
- (3) After section 46 insert—

Status: This is the original version (as it was originally enacted).

“46A Reviews and performance assessments: local authorities

- (1) The Commission must, in accordance with this section—
 - (a) conduct reviews of the exercise of regulated care functions by English local authorities,
 - (b) assess the performance of those authorities following each such review, and
 - (c) publish a report of its assessment.
- (2) In this section “regulated care functions” means such functions under Part 1 of the Care Act 2014 (functions relating to adult social care in England) as may be prescribed.
- (3) Regulations under subsection (2) may prescribe—
 - (a) all functions of English local authorities under Part 1 of the Care Act 2014 or some of their functions under that Part;
 - (b) the whole of a function or a particular aspect of it.
- (4) The Secretary of State—
 - (a) must set, and may from time to time revise, objectives and priorities for the Commission in relation to the assessment under this section of the performance of English local authorities, and
 - (b) must inform the Commission of the objectives and priorities.
- (5) The Commission—
 - (a) must determine, and may from time to time revise, indicators of quality for the purposes of the assessment under this section of the performance of English local authorities, and
 - (b) must obtain the approval of the Secretary of State in relation to the indicators.
- (6) The Secretary of State may direct the Commission to revise the indicators under subsection (5).
- (7) Different objectives and priorities may be set, and different indicators of quality may be determined, for different cases.
- (8) The Commission—
 - (a) must prepare, and may from time to time revise, a statement—
 - (i) setting out the frequency with which reviews under this section are to be conducted and the period to which they are to relate, and
 - (ii) describing the method that it proposes to use in assessing and evaluating the performance of a English local authority under this section, and
 - (b) must obtain the approval of the Secretary of State in relation to the statement.
- (9) The Secretary of State may direct the Commission to revise the statement under subsection (8).
- (10) The statement may—

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- (a) make different provision about frequency and period of reviews for different cases, and
 - (b) describe different methods for different cases.
- (11) The Commission must publish—
 - (a) the objectives and priorities under subsection (4),
 - (b) the indicators of quality under subsection (5), and
 - (c) the statement under subsection (8).
- (12) For the purposes of this section “English local authority” includes the Council of the Isles of Scilly only so far as references to a local authority in Part 1 of the Care Act 2014 include references to that Council as a result of an order under section 128(4) of that Act.”
- (4) In section 48 (special reviews and investigations)—
 - (a) in subsection (2), after “section 46” insert “, 46A”;
 - (b) in subsection (3A), after “treated as a review” insert “or investigation”.
- (5) In section 50 (failings by English local authorities), in subsection (1), after “46” insert “, 46A”.
- (6) In section 60 (inspections)—
 - (a) in subsection (1), after paragraph (c) (but before the “or” at the end) insert—

“(ca) the exercise of functions by an English local authority,”;
 - (b) after subsection (2) insert—

“(3) In this section “English local authority” has the same meaning as in section 46A (see subsection (12) of that section).”

164 Default powers of Secretary of State in relation to adult social care

- (1) In section 7D of the Local Authority Social Services Act 1970 (default powers of Secretary of State as respects social services functions of local authorities)—
 - (a) in subsection (1), for the words from “imposed” to “2002” substitute “referred to in subsection (4)”;
 - (b) after subsection (3) insert—

“(4) Subsection (1) does not apply in relation to a duty imposed by or under—

 - (a) the Children Act 1989,
 - (b) section 1 or 2(4) of the Adoption (Intercountry Aspects) Act 1999,
 - (c) the Adoption and Children Act 2002, or
 - (d) Part 1 of the Care Act 2014.”
- (2) The Care Act 2014 is amended in accordance with subsections (3) and (4).
- (3) After section 72 insert—

Status: This is the original version (as it was originally enacted).

“Default by local authority

72A Default power of Secretary of State

- (1) Where the Secretary of State is satisfied that a local authority is failing, or has failed, to discharge any of its functions under or by virtue of this Part to an acceptable standard, the Secretary of State may give to the local authority any directions that the Secretary of State considers appropriate for the purpose of addressing the failure.
- (2) The directions may include provision requiring the local authority—
 - (a) to act in accordance with advice given by the Secretary of State or a person nominated by the Secretary of State,
 - (b) to collaborate with the Secretary of State or a person nominated by the Secretary of State in taking steps specified in the directions, or
 - (c) to provide the Secretary of State or a person nominated by the Secretary of State with information of a description specified in the directions, on request or otherwise.
- (3) If the Secretary of State considers it necessary for the purpose of addressing the failure, the directions may include provision—
 - (a) for specified functions of the local authority to be exercised by the Secretary of State or a person nominated by the Secretary of State for a period specified in the direction or for so long as the Secretary of State considers appropriate, and
 - (b) requiring the local authority to comply with any instructions of the Secretary of State or the nominee in relation to the exercise of the functions.
- (4) So far as is appropriate in consequence of directions given by virtue of subsection (3), a reference (however expressed) in an enactment, instrument or other document to a local authority is to be read as a reference to the person by whom the function is exercisable.
- (5) If directions given by virtue of subsection (3) expire or are revoked without being replaced then, so far as is appropriate in consequence of the expiry or revocation, a reference (however expressed) in an instrument or other document to the person by whom the function was exercisable is to be read as a reference to the local authority to whom the directions were given.
- (6) The Secretary of State may, for the purposes of cases in which directions are given under subsection (3)(a), make regulations disapplying or modifying an enactment which confers a function on the Secretary of State in respect of a function of a local authority.
- (7) Directions under this section may require the local authority to provide financial assistance to the Secretary of State, or a person nominated by the Secretary of State, for the purpose of meeting costs incurred by the Secretary of State or the nominee as a result of the directions.

72B Default power of Secretary of State: supplementary

- (1) Before giving directions under section 72A the Secretary of State must give the local authority concerned an opportunity to make representations about the proposed directions, except so far as the Secretary of State considers that it is impractical to do so for reasons of urgency.
 - (2) The power to give directions under section 72A includes a power to vary or revoke the directions by subsequent directions.
 - (3) Subsection (1) does not apply in relation to proposed directions varying previous directions if the Secretary of State does not consider the variations to be significant.
 - (4) Directions under section 72A must be in writing.
 - (5) The Secretary of State must publish—
 - (a) any directions given under section 72A, and
 - (b) the reasons for giving them.
 - (6) Directions under section 72A are enforceable, on the Secretary of State’s application, by a mandatory order.”
- (4) In section 125(4) (regulations and orders subject to affirmative procedure), after paragraph (k) insert—
- “(ka) regulations under section 72A(6) (modification of enactments where local authority functions are exercised by the Secretary of State or a nominee);”.

165 Care Quality Commission’s powers in relation to local authority failings

- (1) The Health and Social Care Act 2008 is amended as follows.
- (2) In section 48 (special reviews and investigations), in subsection (6) omit “or (3)”.
- (3) In section 50 (failings by English local authorities)—
 - (a) in subsection (2), in the words before paragraph (a), omit “subject to subsection (3)”;
 - (b) for subsections (3) and (4) substitute—

“(3A) Nothing in subsection (2) prevents a report published under section 46(1)(c), 46A(1)(c), 46B(1)(c) or 48(4) from specifying respects in which the Commission considers a local authority to be failing and making recommendations to the local authority for addressing the failure.”

166 Cap on care costs for charging purposes

- (1) The Care Act 2014 is amended as follows.
- (2) In section 15 (cap on care costs), for subsections (2) and (3) substitute—

“(2) The reference to costs accrued in meeting the adult’s eligible needs is a reference—

Status: This is the original version (as it was originally enacted).

- (a) in relation to eligible needs met by a local authority, to any amount the local authority charged the adult under section 14(1)(a) or 48(5) for meeting those needs;
 - (b) in relation to eligible needs met by a person other than a local authority, to what the cost of meeting those eligible needs would have been to the local authority that was the responsible local authority when the needs were met.
- (3) A reference in subsection (2)(b) to eligible needs does not include any eligible needs during a period when the adult had neither a personal budget nor an independent personal budget, other than eligible needs at any time after a local authority was required to carry out a needs assessment that resulted in the preparation of a personal budget or an independent personal budget for the adult.
- (3A) For the purposes of this Part an adult’s needs are “eligible needs” if—
 - (a) the needs meet the eligibility criteria,
 - (b) the needs are not being met by a carer, and
 - (c) the adult is ordinarily resident or present in the area of a local authority.
- (3B) In this Part, “the responsible local authority” means the local authority in whose area the adult is ordinarily resident or in whose area the adult is present (where the adult is of no settled residence).”
- (3) In section 24 (the steps for the local authority to take), for subsection (3) substitute—

“(3) Where, following a determination under section 13(1), no local authority is going to meet any of an adult’s needs for care and support, the local authority that is for the time being the responsible local authority must prepare an independent personal budget for the adult (see section 28) if—

 - (a) the adult has any eligible needs, and
 - (b) the adult has at any time either—
 - (i) asked a local authority that was, at that time, the responsible local authority, to prepare an independent personal budget, or
 - (ii) had needs met by a local authority as mentioned in section 24(1).”
- (4) In section 26 (personal budget), for subsections (1) and (2) substitute—

“(1) A personal budget is a statement which specifies, in respect of the adult’s needs which a local authority is required or decides to meet as mentioned in section 24(1)—

 - (a) the current cost to the local authority of meeting those needs,
 - (b) how much of that cost the adult will be required to pay under section 14(1)(a), and
 - (c) the balance, if any, of the cost referred to in paragraph (a).

(2) If the needs referred to in section 26(1) include eligible needs, the personal budget must also specify—

 - (a) the current cost to the local authority of meeting those eligible needs,
 - (b) how much of that cost the adult will be required to pay under section 14(1)(a), and

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- (c) where the amount referred to in paragraph (a) includes daily living costs, the amount attributable to those daily living costs.
- (2A) If the adult has needs which a local authority is required or decides to meet as mentioned in section 24(1) and also has eligible needs which are not being met by any local authority, the personal budget must specify—
- (a) what the current cost would be to the responsible local authority of meeting those eligible needs, and
 - (b) where the amount referred to in paragraph (a) includes daily living costs, the amount attributable to those daily living costs.”
- (5) In section 28 (independent personal budget)—
- (a) for subsection (1) substitute—
 - “(1) An independent personal budget is a statement which specifies what the current cost would be to the responsible local authority of meeting the adult’s eligible needs (but the independent personal budget need not specify the cost of meeting those needs at any time when the local authority required to prepare it has ceased to be the responsible local authority or at any time when the adult has needs which a local authority is required or decides to meet as mentioned in section 24(1)).”;
 - (b) omit subsection (3).
- (6) In section 29 (care account), in subsection (1), in the words before paragraph (a), for the words from “the local authority” to “present” substitute “the responsible local authority”.
- (7) In section 31 (adults with capacity to request direct payments), in subsection (1), for paragraph (a) substitute—
- “(a) a personal budget for an adult specifies an amount under section 26(1) (c) in respect of any needs, and”.
- (8) In section 32 (adults without capacity to request direct payments), in subsection (1), for paragraph (a) substitute—
- “(a) a personal budget for an adult specifies an amount under section 26(1) (c) in respect of any needs, and”.
- (9) In section 37 (notification, assessment etc.), in subsection (15), omit paragraph (a).
- (10) In section 80 (Part 1: interpretation), in the table in subsection (1), at the appropriate places insert—

“Eligible needs	Section 15(3A)”
“The responsible local authority	Section 15(3B)”.

Social care: regulation and financial assistance

167 Provision of social care services: financial assistance

- (1) The Health and Social Care Act 2008 is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In section 149 (power of Secretary of State to give financial assistance in relation to provision of health or social care services)—
- (a) in subsection (1)(a) and (b), omit “or of social care services”;
 - (b) after subsection (1) insert—
 - “(1A) The Secretary of State may give financial assistance to bodies which are engaged in—
 - (a) the provision in England of social care services, or
 - (b) the provision to other persons of services that are connected with the provision in England by those other persons of social care services.
 - (1B) Assistance may be given to a body under subsection (1A) for the purposes of the provision of social care services only if those services are provided in England.”
- (3) In section 151 (forms of assistance under section 149), in subsection (2)(d), after “149(1)” insert “or (1A)”.
- (4) For section 153 substitute—

“153 Directions to certain NHS bodies

- (1) The Secretary of State may direct the following to exercise any functions of the Secretary of State in relation to financial assistance under section 149(1)—
 - (a) a National Health Service trust all or most of whose hospitals, establishments and facilities are situated in England, or
 - (b) a Special Health Authority performing functions only or mainly in respect of England.
 - (2) The Secretary of State may direct any Special Health Authority to exercise any functions of the Secretary of State in relation to financial assistance under section 149(1A).
 - (3) The Secretary of State may direct the following to exercise any functions of the Secretary of State in relation to financial assistance under section 149(2) so far as those functions relate to the establishment of bodies which are to be wholly or mainly engaged in the provision of health services or services connected to health services—
 - (a) a National Health Service trust all or most of whose hospitals, establishments and facilities are situated in England, or
 - (b) a Special Health Authority performing functions only or mainly in respect of England.
 - (4) The Secretary of State may direct any Special Health Authority to exercise any functions of the Secretary of State in relation to financial assistance under section 149(2) so far as they are not functions to which subsection (3) above applies.
 - (5) The Secretary of State may give directions to a body about the exercise of any functions that it is directed to exercise under any of subsections (1) to (4).”
- (5) In section 154 (arrangements with other third parties)—

- (a) in subsection (1)(a), after “section 149” insert “(1)”;
- (b) after subsection (1) insert—
 - “(1A) The Secretary of State may make arrangements for—
 - (a) financial assistance under section 149(1A) to be given, or
 - (b) other functions relating to such assistance to be exercised,by a person other than a Special Health Authority (as to Special Health Authorities, see section 153(2)).”;
 - (c) in subsections (2), (3), (4) and (5) after “subsection (1)” insert “or (1A)”.
- (6) In section 155 (power to form company), after “section 154(1)” insert “or (1A)”.

Professional regulation

168 Regulation of health care and associated professions

- (1) The Health Act 1999 is amended as follows.
- (2) In section 60 (regulation of health professions and social care workers etc)—
 - (a) in subsection (1), after paragraph (b) insert—
 - “(bza) deregulating a profession regulated by an enactment to which subsection (2) applies if the profession does not appear to Her to require regulation for the protection of the public.”;
 - (b) in subsection (1), after paragraph (bd) insert—
 - “(be) deregulating any social care workers in England who do not appear to Her to require regulation for the protection of the public.”;
 - (c) for subsection (2) substitute—
 - “(2) The professions referred to in subsection (1)(a) and (bza) are the professions regulated by any of the following—
 - (a) the Medical Act 1983;
 - (b) the Dentists Act 1984;
 - (c) the Opticians Act 1989;
 - (d) the Osteopaths Act 1993;
 - (e) the Chiropractors Act 1994;
 - (f) the Nursing and Midwifery Order 2001;
 - (g) the Health Professions Order 2001;
 - (h) the Pharmacy Order 2010 and the Pharmacy (Northern Ireland) Order 1976;
 - (i) an Order in Council under this section.”;
 - (d) after subsection (2) insert—
 - “(2ZZA) For the purposes of subsection (1)(b) the reference to a profession is to be treated as including any group of workers, whether or not they are generally regarded as a profession (and references in this Part to a profession are to be read accordingly).”;
 - (e) in subsection (2ZB), for “and (bd)” substitute “, (bd) and (be)”.
- (3) In section 62 (regulations and orders), after subsection (10) insert—

Status: This is the original version (as it was originally enacted).

“(10A) If any provision made by an Order in Council by virtue of section 60(2ZZA) would, if it were included in an Act of Senedd Cymru, be within the legislative competence of the Senedd and is not merely incidental to, or consequential on, provision that (if so included) would be outside that competence, no recommendation is to be made to Her Majesty to make the Order unless the Welsh Ministers have consented to that provision.”

- (4) In Schedule 3 (power to make provision about regulation of health care and associated professions: supplementary)—
- (a) after paragraph 1B insert—

“Power to abolish regulatory bodies

1C An Order may abolish a regulatory body if (and only if) the professions regulated by the body or social care workers in England regulated by it—

- (a) will continue to be regulated by one or more other regulatory bodies, or
- (b) are deregulated by provision made under section 60(1)(bza).”;
- (b) in paragraph 7 (matters outside scope of the Orders), omit sub-paragraphs (1) and (1A);
- (c) in paragraph 8 (restrictions on provision authorising regulatory body’s functions to be exercised by others)—
- (i) in sub-paragraphs (1), (2ZA) and (2A), for the words from “other than” to the end substitute “to exercise that function other than—
- (a) a regulatory body for—
- (i) a profession to which section 60(2) applies, or
- (ii) social care workers in England, or
- (b) the committees or officers of such a body.”;
- (ii) omit sub-paragraph (2B).

Medical examiners

169 Medical examiners

- (1) After section 18 of the Coroners and Justice Act 2009 insert—

“18A Medical examiners: England

- (1) An English NHS body may appoint persons as medical examiners to discharge in England the functions conferred on medical examiners by or under this Chapter.
- (2) The Secretary of State must take such steps as the Secretary of State considers appropriate for the purpose of ensuring—
- (a) that enough medical examiners are appointed under subsection (1) to enable those functions to be discharged in England,

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- (b) that the funds and other resources that are made available to such medical examiners are enough to enable those functions to be discharged in England, and
 - (c) that the performance of such medical examiners is monitored by reference to any standards or levels of performance that they are expected to attain.
- (3) For the purposes of discharging the duty in subsection (2), the Secretary of State may give a direction to an English NHS body—
- (a) requiring the body to appoint or arrange for the appointment of one or more medical examiners,
 - (b) about the funds or other resources to be made available to a medical examiner employed by an English NHS body,
 - (c) about the steps to be taken by the body to monitor the performance of such a medical examiner, or
 - (d) about the steps to be taken by the body to monitor the performance of functions by an English NHS body in relation to such a medical examiner.
- (4) In this section “English NHS body” means—
- (a) NHS England,
 - (b) an integrated care board established under section 14Z25 of the National Health Service Act 2006,
 - (c) a National Health Service trust established under section 25 of that Act,
 - (d) a Special Health Authority established under section 28 of that Act, or
 - (e) an NHS foundation trust within the meaning of section 30 of that Act.

18B Medical examiners: Wales

- (1) A Welsh NHS body may appoint persons as medical examiners to discharge in Wales the functions conferred on medical examiners by or under this Chapter.
- (2) The Welsh Ministers must take such steps as the Welsh Ministers consider appropriate for the purpose of ensuring—
- (a) that enough medical examiners are appointed under subsection (1) to enable those functions to be discharged in Wales,
 - (b) that the funds and other resources that are made available to such medical examiners are enough to enable those functions to be discharged in Wales, and
 - (c) that the performance of such medical examiners is monitored by reference to any standards or levels of performance that they are expected to attain.
- (3) In this section “Welsh NHS body” means—
- (a) a Local Health Board,
 - (b) a National Health Service trust established under section 18 of the National Health Service (Wales) Act 2006, or
 - (c) a Special Health Authority established under section 22 of that Act.”
- (2) In section 19 of that Act (medical examiners)—

Status: This is the original version (as it was originally enacted).

- (a) in the heading, after “examiners” insert “: supplementary”;
 - (b) omit subsections (1) and (2);
 - (c) in subsection (5)—
 - (i) after “Nothing in” insert “section 18A or 18B or”;
 - (ii) for “a local authority or a Local Health Board” substitute “an English NHS body (as defined by section 18A) or a Welsh NHS body (as defined by section 18B)”.
- (3) In section 20 of that Act (medical certificate of cause of death), in subsection (5), for “a local authority or Local Health Board” substitute “an English NHS body (as defined by section 18A) or a Welsh NHS body (as defined by section 18B)”.
- (4) In section 48 of that Act (interpretation: general), in subsection (1), in the definition of “medical examiner”, for “section 19” substitute “section 18A or 18B”.
- (5) In section 41 of the Births and Deaths Registration Act 1953 (interpretation), in subsection (1), in the definition of “medical examiner”, for “means a person appointed under section 19” substitute “has the meaning given by section 48(1)”.
- (6) In the Health and Social Care Act 2012 omit section 54 (which inserted references to local authorities into sections 19 and 20 of the Coroners and Justice Act 2009).

Organ trafficking

170 Commercial dealings in organs for transplantation: extra-territorial offences

- (1) After section 32 of the Human Tissue Act 2004 insert—

“32A Offences under section 32 committed outside UK

- (1) If—
- (a) a person who is habitually resident in England and Wales, or who is a UK national and not habitually resident in Northern Ireland, does an act outside the United Kingdom,
 - (b) the act, if done in England and Wales, would constitute an offence under section 32(1), and
 - (c) the controlled material to which the act relates is controlled material consisting of or including a human organ,
- the person is guilty in England and Wales of that offence.
- (2) In this section “United Kingdom national” means an individual who is—
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who under the British Nationality Act 1981 is a British subject, or
 - (c) a British protected person within the meaning of that Act.”

- (2) After section 20 of the Human Tissue (Scotland) Act 2006 insert—

“20A Offences under section 20 committed outside UK

- (1) If—

Status: This is the original version (as it was originally enacted).

- (a) a person who is habitually resident in Scotland, or who is a UK national and not habitually resident in Northern Ireland, does an act outside the United Kingdom, and
 - (b) the act, if done in Scotland, would constitute an offence under section 20(1), and
 - (c) the part of the human body to which the act relates consists of or includes a human organ,
- the person is guilty in Scotland of that offence.
- (2) In this section “United Kingdom national” means an individual who is—
 - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who under the British Nationality Act 1981 is a British subject, or
 - (c) a British protected person within the meaning of that Act.
 - (3) Where a person outside the United Kingdom commits an offence under section 20(1) the person may be prosecuted, tried and punished for the offence—
 - (a) in a sheriff court district in which the person is apprehended or in custody, or
 - (b) in a sheriff court district determined by the Lord Advocate,as if the offence had been committed in that district.
 - (4) Where subsection (3) applies, the offence is, for all purposes incidental to or consequential on the trial and punishment, deemed to have been committed in that district.
 - (5) In this section “sheriff court district” is to be construed in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995 (interpretation).”

Human fertilisation and embryology

171 Storage of gametes and embryos

Schedule 17—

- (a) contains amendments to the Human Fertilisation and Embryology Act 1990 which make provision relating to the storage of gametes and embryos, and
- (b) makes transitional provision in relation to those amendments.

Food and drink

172 Advertising of less healthy food and drink

Schedule 18 amends the Communications Act 2003 to restrict the advertising of certain food and drink products.

173 Hospital food standards

In section 20 of the Health and Social Care Act 2008 (regulation of regulated activities)

- (a) in subsection (3), after paragraph (d), insert—
 - “(da) impose requirements in connection with food or drink provided or made available to any person on hospital premises in England that are used in connection with the carrying on of a regulated activity;”;
- (b) after subsection (4A) insert—
 - “(4B) Regulations made under this section by virtue of subsection (3)(da) may in particular—
 - (a) specify nutritional standards, or other nutritional requirements, which are to be complied with;
 - (b) require that specified descriptions of food or drink are not to be provided or made available.”
- (c) after subsection (5B) insert—
 - “(5C) In subsection (3)(da) “hospital” has the meaning given by section 275 of the National Health Service Act 2006.”

174 Food information for consumers: power to amend retained EU law

- (1) In section 16 of the Food Safety Act 1990 (regulations about food labelling etc), after subsection (3) insert—

“(3A) Regulations under subsection (1)(e) may amend [Regulation \(EU\) No 1169/2011](#) of the European Parliament and of the Council on the provision of food information to consumers.

(3B) The inclusion in that Regulation of savings in respect of the power to make regulations under this Act of a particular kind is not to be taken as in any way limiting the generality of the provision that may be made by virtue of subsections (1)(e) and (3A).”

- (2) In section 48 (regulations and orders)—

- (a) in subsection (3), after “shall” insert “, unless the instrument contains regulations which include provision made by virtue of section 16(3A),”;
- (b) after subsection (3) insert—

“(3A) A statutory instrument containing regulations which include provision made by virtue of section 16(3A) may not be made by the Secretary of State unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(3B) A statutory instrument containing regulations which include provision made by virtue of section 16(3A) may not be made by the Welsh Ministers unless a draft of the instrument has been laid before and approved by a resolution of Senedd Cymru.

(3C) Regulations made by the Scottish Ministers which include provision made by virtue of section 16(3A) are subject to the affirmative

procedure (see Part 2 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10)).”

Fluoridation of water supplies

175 Fluoridation of water supplies

- (1) The Water Industry Act 1991, as amended by the Health and Social Care Act 2012, is amended in accordance with subsections (2) to (7).
- (2) In section 87 (fluoridation of water supplies at request of relevant authorities)—
 - (a) omit subsection (3A);
 - (b) in subsection (4), in paragraph (a), for the words from “as the Secretary of State” to the end of that paragraph substitute “in England as the Secretary of State may determine”;
 - (c) in subsection (6), at the beginning insert “Subject to subsection (6A)”;
 - (d) after subsection (6) insert—

“(6A) The Secretary of State may by regulations provide that, in circumstances specified in the regulations, subsection (6)(a) is not to apply in relation to arrangements entered into by the Secretary of State.

(6B) The Secretary of State may by regulations require a public body specified in the regulations to make payments to the Secretary of State to meet any costs incurred by the Secretary of State under the terms of the arrangements.”;
 - (e) omit subsections (7A) and (7B);
 - (f) after subsection (7F) insert—

“(7G) Before making regulations under subsection (6A) or (6B) the Secretary of State must consult such persons as the Secretary of State considers appropriate.”;
 - (g) in subsection (11), for “the Welsh Ministers” substitute “a relevant authority”;
 - (h) after subsection (11) insert—

“(12) A statutory instrument containing regulations under subsection (6A) is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”
- (3) In section 87A (target concentration of fluoride), omit subsection (3A).
- (4) Omit sections 88B to 88O (procedural requirements in connection with fluoridation of water supplies).
- (5) In section 89 (consultation)—
 - (a) in the heading, omit “: Wales”;
 - (b) in subsection (1)—
 - (i) in the words before paragraph (a), for “the Welsh Ministers” substitute “a relevant authority”;
 - (ii) in paragraphs (a) and (b), for “the Welsh Ministers” substitute “that authority”;

Status: This is the original version (as it was originally enacted).

- (c) in subsection (3), in paragraph (a), for “the Welsh Ministers are” substitute “the relevant authority is”;
- (d) in subsection (4)—
 - (i) for “the Welsh Ministers”, in the first place it occurs, substitute “a relevant authority”;
 - (ii) for “the Welsh Ministers so direct” substitute “that authority so directs”.
- (6) In section 90A (review of fluoridation), omit subsection (5A).
- (7) In section 213 (power to make regulations), in subsection (1), after “36A” insert “, 87(6A)”.
- (8) In consequence of the amendments made by this section, omit section 36 of the Health and Social Care Act 2012.
- (9) The reference in section 213(1A) of the Water Industry Act 1991 to the first exercise of the power to make regulations under section 89 is to be read as a reference to the first exercise of the power to make regulations under that section as amended by subsection (5).

176 Fluoridation of water supplies: transitional provision

- (1) The Water Industry Act 1991 is amended in accordance with subsections (2) and (3).
- (2) After section 90A insert—

“90B Old English fluoridation arrangements: transitional provision

- (1) With effect from the day on which section 176 of the Health and Care Act 2022 comes into force, old English fluoridation arrangements are to be treated for the purposes of this Chapter as if they were arrangements entered into by the water undertaker with the Secretary of State under section 87(1).
- (2) The Secretary of State may request such modifications to the arrangements as the Secretary of State considers necessary in order to give effect to subsection (1) (for example to insert the terms mentioned in section 87(6)).
- (3) If the Secretary of State and the water undertaker fail to agree the modifications requested by the Secretary of State—
 - (a) subsection (2) or, as the case may be, (4) of section 87B is to apply as if the parties had failed to agree the terms of the arrangements under section 87(1), and
 - (b) following determination of the modifications—
 - (i) the Secretary of State is to give notice of the determination to the water undertaker, and
 - (ii) the arrangements are deemed to have been modified as so determined with effect from the day after the date of notice.
- (4) Sections 87(11) and 89(1) (which relate to consultation) do not apply to the deemed entry into, and modification of, arrangements by virtue of this section.

Status: This is the original version (as it was originally enacted).

- (5) References in this Chapter to arrangements entered into under section 87(1) include arrangements entered into by a water undertaker by virtue of subsection (1).
- (6) In this section “old English fluoridation arrangements” means—
- (a) any arrangements entered into by a water undertaker with a Strategic Health Authority under section 87(1) of the Water Industry Act 1991 (before section 87(3) was amended by section 35(2) of the Health and Social Care Act 2012 in relation to England), and
 - (b) any arrangements which were treated as arrangements falling within paragraph (a) by virtue of section 91 (as that section had effect immediately before the commencement of section 37(4) of the Health and Social Care Act 2012).”
- (3) In section 91—
- (a) for the heading substitute “Old Welsh fluoridation arrangements: transitional provision”;
 - (b) in subsection (1)—
 - (i) for “relevant pre-1985 arrangements” substitute “old Welsh fluoridation arrangements”;
 - (ii) for “relevant authority” substitute “Welsh Ministers”;
 - (c) in subsection (2), for “relevant authority” substitute “Welsh Ministers”;
 - (d) in subsection (3)—
 - (i) for “relevant authority”, in both places it occurs, substitute “Welsh Ministers”;
 - (ii) in the words before paragraph (a), for “the authority” substitute “the Welsh Ministers”;
 - (iii) in paragraph (a), omit “(2),”;
 - (e) in subsection (6)—
 - (i) in the definition of “the appointed day”, after “force” insert “in relation to Wales”;
 - (ii) for the definition of “relevant pre-1985 arrangements” substitute—
““old Welsh fluoridation arrangements” means arrangements, other than arrangements mentioned in section 90B(6), in pursuance of which a scheme for increasing the fluoride content of water was being operated by a water undertaker by virtue of paragraph 1 of Schedule 7 to this Act immediately before the appointed day.”
- (4) In consequence of the amendments made by this section, omit section 37 of the Health and Social Care Act 2012.

Disputes about treatment of critically ill children

177 Review into disputes relating to treatment of critically ill children

- (1) The Secretary of State must arrange for the carrying out of a review into the causes of disputes between (on the one hand) persons with parental responsibility for a critically ill child and (on the other) persons responsible for the provision of care or medical treatment for the child as part of the health service in England.

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- (2) The Secretary of State must publish and lay before Parliament a report on the outcome of the review, within one year beginning with the date on which this section comes into force.
- (3) In this section—
- “child” means a person aged under 18;
 - “health service in England” means the health service continued under section 1(1) of the National Health Service Act 2006;
 - “parental responsibility” has the meaning given by section 3 of the Children Act 1989.

Termination of pregnancy

178 Early medical termination of pregnancy

- (1) Section 1 of the Abortion Act 1967 is amended as follows.
- (2) In subsection (3), for “subsection” substitute “subsections (3B) to”.
- (3) In subsection (3A)—
- (a) the words from “includes” to the end become paragraph (a);
 - (b) after that paragraph insert—
 - “(b) is not limited by subsections (3C) and (3D).”
- (4) After subsection (3A) insert—
- “(3B) Subsections (3C) and (3D) apply where—
- (a) the treatment referred to in subsection (3) consists of the prescription and administration of medicine, and
 - (b) the registered medical practitioner terminating the pregnancy is of the opinion, formed in good faith, that, if the medicine is administered in accordance with their instructions, the pregnancy will not exceed ten weeks at the time when the medicine is administered (or in the case of a course of medicine, when the first medicine in the course is administered).
- (3C) If the usual place of residence of the registered medical practitioner terminating the pregnancy is in England or Wales, the medicine may be prescribed from that place by the registered medical practitioner.
- (3D) If the pregnant woman’s usual place of residence is in England or Wales and she has had a consultation (in person, by telephone or by electronic means) with a registered medical practitioner, registered nurse or registered midwife about the termination of the pregnancy, the medicine may be self-administered by the pregnant woman at that place.”

Child safeguarding: information sharing

179 Child safeguarding etc in health and care: policy about information sharing

- (1) The Secretary of State must publish and lay before Parliament a report describing the government’s policy in relation to the sharing of information by or with public

authorities in the exercise of relevant functions of those authorities, for purposes relating to—

- (a) children’s health or social care, or
 - (b) the safeguarding or promotion of the welfare of children.
- (2) In this section, “relevant functions” means functions relating to children’s health or social care, so far as exercisable in relation to England.
- (3) The report must include an explanation of whether or to what extent it is the government’s policy that a consistent identifier should be used for each child, to facilitate the sharing of information.
- (4) The report must include a summary of the Secretary of State’s views about implementation of the policy referred to in subsection (1), including any views about steps that should be taken to overcome barriers to implementation.
- (5) The report must be published and laid before Parliament within one year beginning with the date on which this section comes into force.
- (6) In this section “child” means a person aged under 18.

Cosmetic procedures

180 Licensing of cosmetic procedures

- (1) The Secretary of State may, for the purposes of reducing the risk of harm to the health or safety of members of the public, make regulations—
- (a) prohibiting an individual in England from carrying out specified cosmetic procedures in the course of business, unless the person has a personal licence;
 - (b) prohibiting a person from using or permitting the use of premises in England for the carrying out of specified cosmetic procedures in the course of business, unless the person has a premises licence.
- (2) In this section—
- “cosmetic procedure” means a procedure, other than a surgical or dental procedure, that is or may be carried out for cosmetic purposes; and the reference to a procedure includes—
- (a) the injection of a substance;
 - (b) the application of a substance that is capable of penetrating into or through the epidermis;
 - (c) the insertion of needles into the skin;
 - (d) the placing of threads under the skin;
 - (e) the application of light, electricity, cold or heat;
- “licensed premises” means premises in respect of which a premises licence is in force;
- “local authority” means—
- (a) a county council in England;
 - (b) a district council in England;
 - (c) a London borough council;
 - (d) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;

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- (e) the Common Council of the City of London (in its capacity as a local authority), the Sub-Treasurer of the Inner Temple or the Under Treasurer of the Middle Temple;
 - (f) the Council of the Isles of Scilly;
- “personal licence” means a licence, granted by a specified local authority under the regulations, which authorises an individual to carry out a cosmetic procedure of a description specified in the licence;
- “premises licence” means a licence, granted by a specified local authority under the regulations, which authorises premises to be used for the carrying out of a cosmetic procedure of a description specified in the licence;
- “specified cosmetic procedure” means a cosmetic procedure of a description specified in the regulations;
- “specified local authority” means a local authority of a description specified in the regulations.
- (3) The provision which may be made by regulations under this section by virtue of section 183(1)(a) includes—
 - (a) provision amending Schedule 5 to the Consumer Rights Act 2015 (investigatory powers);
 - (b) provision repealing, revoking or amending provision made by or under any local Act.
 - (4) Before making regulations under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.
 - (5) Schedule 19 makes further provision about regulations under this section (including provision for the imposition of fees, the creation of criminal offences and financial penalties).

Disability and autism training

181 Mandatory training on learning disability and autism

- (1) The Health and Social Care Act 2008 is amended in accordance with subsections (2) to (6).
- (2) In section 20 (regulation of regulated activities), after subsection (5) insert—

“(5ZA) Regulations under this section must require service providers to ensure that each person working for the purpose of the regulated activities carried on by them receives training on learning disability and autism which is appropriate to the person’s role.”
- (3) After subsection (5C) (as inserted by section 173) insert—

“(5D) In subsection (5ZA)—

 - “learning disability” has the meaning given by section 1(4) of the Mental Health Act 1983;
 - “service provider” means a person registered under this Chapter as a service provider in respect of a regulated activity.”
- (4) After section 21 insert—

“21A Learning disability and autism training: code of practice

- (1) The Secretary of State must issue a code of practice about compliance with requirements imposed by virtue of section 20(5ZA) (requirements relating to training on learning disability and autism).
- (2) The code must make provision about—
 - (a) the content of training;
 - (b) training appropriate to different roles;
 - (c) circumstances in which it is appropriate for training to be delivered in person;
 - (d) the involvement of people with learning disability, autistic people, or their carers, in the provision of training;
 - (e) accreditation of training;
 - (f) procurement of training;
 - (g) monitoring and evaluation of the impact of training;
- (3) The code may make different provision for different cases or circumstances.
- (4) The Secretary of State must, at least once every five years—
 - (a) review the code, and
 - (b) lay before Parliament a report setting out the findings of the review.”
- (5) In section 22 (consultation in relation to code of practice under section 21)—
 - (a) for the heading substitute “Codes of practice: consultation and Parliamentary scrutiny”;
 - (b) in subsection (1), after “21” insert “or 21A”;
 - (c) in subsection (2), after “21” insert “or 21A”;
 - (d) in subsection (3), after “(2)” insert “in relation to a draft of a code or revised code under section 21”;
 - (e) after subsection (5) insert—
 - “(5A) Where, following consultation under subsection (1) or (2) in relation to a draft of a code or revised code under section 21A, the Secretary of State decides to proceed with the draft (in its original form or with modifications), the Secretary of State must lay a copy of the draft before Parliament.
 - (5B) The Secretary of State may not issue the code or revised code if, within the 40-day period, either House of Parliament resolves not to approve it.
 - (5C) In this section “40-day period” means—
 - (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or
 - (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.
 - (5D) For the purposes of subsection (5C), no account is to be taken of any whole days that fall within a period during which—

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- (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than four days.”
- (6) In section 25 (effect of code under section 21 and guidance under section 23)—
 - (a) in the heading, after “s. 21” insert “or [21A](#)”;
 - (b) in subsection (1), for “A code of practice under section 21” substitute “Codes of practice under sections 21 and [21A](#)”;
 - (c) in subsection (2),
 - (i) for “A code of practice under section 21 or” substitute “Codes of practice under sections 21 and [21A](#) and”;
 - (ii) for “is” substitute “are”;
 - (d) in subsection (3), after “21” insert “or [21A](#)”.
- (7) Until the first regulations made by virtue of section 20([5ZA](#)) of the Health and Social Care Act 2008 (as inserted by subsection (2)) come into force—
 - (a) the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 ([S.I. 2014/2936](#)) (“the 2014 regulations”), and
 - (b) the Health and Social Care Act 2008,are to be read as if regulation 18 of the 2014 regulations contained such requirements.