



# National Health Service and Community Care Act 1990

## 1990 CHAPTER 19

### PART V

#### MISCELLANEOUS AND GENERAL

#### 59 Parliamentary disqualification.

<sup>F1</sup>(1) .....

(2) In the said Part III there shall be inserted (at the appropriate place) the following entry—

“Chairman or non-executive member of a National Health Service trust established under the National Health Service and Community Care Act 1990 or the National Health Service (Scotland) Act 1978”.

(3) In the said Part III—

- (a) in the entry which begins “Paid Chairman of a Health Board”, for the words “Paid Chairman” there shall be substituted “Chairman or any member, not being also an employee,”;
- (b) in the entry which begins “Chairman of the Management Committee of the Common Services Agency” after the word “Chairman” there shall be inserted “or any member, not being also an employee,”; and
- (c) in the entry relating to the Chairman of a committee constituted under section 91 of the <sup>M1</sup>Mental Health (Scotland) Act 1984, after the word “Chairman” there shall be inserted “or any member, not being also an employee”.

#### Textual Amendments

**F1** S. 59(1) repealed (1.4.1996) by 1995 c. 17, s. 5(1)(2), **Sch. 3** (with Sch. 2 para. 6)

*Status: Point in time view as at 17/07/2012.*

*Changes to legislation: National Health Service and Community Care Act 1990, Part V is up to date with all changes known to be in force on or before 05 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**II** S. 59 wholly in force; s. 59(3) in force at 1.4.1991 by s. 67(2) and S.I. 1991/607, art. 2(c)

#### Marginal Citations

**M1** 1984 c. 36.

## 60 Removal of Crown immunities.

- (1) Subject to the following provisions of this section, on and after the day appointed for the coming into force of this subsection, no health service body shall be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and so far as concerns land in which the Secretary of State has an interest, at any time when—
- (a) by virtue of directions under any provision of the [<sup>F2</sup>National Health Service Act 2006, the National Health Service (Wales) Act 2006,]<sup>F3</sup>the Mental Health (Scotland) Act 1984] or the <sup>M2</sup>Health and Medicines Act 1988 or by virtue of orders under section 2 or section 10 of the <sup>M3</sup>National Health Service (Scotland) Act 1978, powers of disposal or management with respect to the land are conferred on a health service body, or
  - (b) the land is otherwise held, used or occupied by a health service body,
- the interest of the Secretary of State shall be treated for the purposes of any enactment or rule of law relating to Crown land or interests as if it were an interest held otherwise than by the Secretary of State (or any other emanation of the Crown).
- (2) In Schedule 8 to this Act—
- (a) Part I has effect to continue certain exemptions for health service bodies and property held, used or occupied by such bodies;
  - (b) the amendments in Part II have effect, being amendments consequential on subsection (1) above; and
  - (c) the transitional provisions in Part III have effect in connection with the operation of subsection (1) above.
- (3) Where, as a result of the provisions of subsection (1) above, by virtue of his employment during any period after the day appointed for the coming into force of that subsection—
- (a) an employee has contractual rights against a health service body to benefits in the event of his redundancy, and
  - (b) he also has statutory rights against the health service body under [<sup>F4</sup>Part XI of the Employment Rights Act 1996] (redundancy payments),
- any benefits provided to him by virtue of the contractual rights referred to in paragraph (a) above shall be taken as satisfying his entitlement to benefits under [<sup>F4</sup>that Part of that Act].
- (4) Nothing in subsection (1) above affects the extent of the expression “the services of the Crown” where it appears in—
- (a) Schedule 1 to the <sup>M4</sup>Registered Designs Act 1949 (provisions as to the use of registered designs for the services of the Crown etc.); and
  - (b) sections 55 to 59 of the <sup>M5</sup>Patents Act 1977 (use of patented inventions for the services of the Crown);

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and, accordingly, services provided in pursuance of any power or duty of the Secretary of State under [<sup>F5</sup>the National Health Service Act 2006] or Part I or Part III of the <sup>M6</sup>National Health Service (Scotland) Act 1978 shall continue to be regarded as included in that expression, whether the services are in fact provided by a health service body, a National Health Service trust or any other person.

- (5) The Secretary of State may by order made by statutory instrument provide that, in relation to any enactment contained in a local Act and specified in the order, the operation of subsection (1) above shall be excluded or modified to the extent specified in the order.
- (6) No order shall be made under subsection (5) above unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (7) In this section “health service body” means—
- [<sup>F6</sup>(a) [<sup>F7</sup>a Strategic Health Authority [<sup>F8</sup>established under section 13 of the National Health Service Act 2006] or] a Health Authority <sup>F9</sup>. . . ;
  - (aa) a Special Health Authority established under [<sup>F10</sup>section 28 of that Act or section 22 of the National Health Service (Wales) Act 2006];]
  - (b) a Health Board or Special Health Board constituted under section 2 of the <sup>M7</sup>National Health Service (Scotland) Act 1978;
  - [<sup>F11</sup>(ba) Healthcare Improvement Scotland established under section 10A of that Act;]
  - (c) [<sup>F12</sup>a State Hospital Management Committee constituted under section 91 of the <sup>M8</sup>Mental Health (Scotland) Act 1984;]
  - <sup>F13</sup>(d) . . . . .
  - (e) the Common Services Agency for the Scottish Health Service;
  - (f) <sup>F14</sup> . . . . .
  - (g) the Scottish Dental Practice Board; <sup>F15</sup> . . . . .
  - (h) <sup>F15</sup> . . . . .

#### Textual Amendments

- F2** Words in s. 60(1)(a) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 131(a)** (with Sch. 3 Pt. 1)
- F3** Words in s. 60(1)(a) repealed (S.) (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 3, **Sch. 2**
- F4** Words in s. 60(3) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 45(4)**
- F5** Words in s. 60(4) substituted (1.3.2007) by virtue of National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 131(b)** (with Sch. 3 Pt. 1)
- F6** S. 60(7)(a)(aa) substituted (1.4.1996 subject to s. 8 of the amending Act) for s. 60(7)(a) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 83(a)** (with Sch. 2 paras. 6, 16)
- F7** Words in s. 60(7)(a) inserted (E.W.) (1.10.2002) by 2002 c. 17, s. 1(3), **Sch. 1 Pt. 2 para. 45**; S.I. 2002/2478, **art. 3(1)(c)** (with art. 3(3) and transitional provision in art. 4)
- F8** Words in s. 60(7)(a) inserted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 131(c)(i)** (with Sch. 3 Pt. 1)
- F9** Words in s. 60(7)(a) omitted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 131(c)(ii)** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)
- F10** Words in s. 60(7)(aa) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 131(d)** (with Sch. 3 Pt. 1)

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- F11** S. 60(7)(ba) inserted (S.) (1.10.2010 for specified purposes, otherwise 1.4.2011) by Public Services Reform (Scotland) Act 2010 (asp 8), ss. 110(2), 134(7), **sch. 17 para. 23**; S.S.I. 2010/321, **art. 3(1)(2)**, Sch; S.S.I. 2011/122, **art. 2(1)**, Sch.
- F12** S. 60(7)(c) repealed (S.) (27.9.2005) by The Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 3, **Sch. 2**
- F13** S. 60(7)(d) repealed (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, ss. 2(1)(3), 5, Sch. 1 Pt. II para. 83(b), **Sch. 3** (with Sch. 2 paras. 6, 16)
- F14** S. 60(7)(f) repealed (1.4.2006 for E.W.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 196, 199(1), **Sch. 14 Pt. 4**; S.I. 2005/2925, **art. 11(1)(2)(l)**
- F15** S. 60(7)(h) and preceding word repealed (1.4.2005 for E.W.) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 190(2), 196, 199(1), Sch. 13 para. 6(c), **Sch. 14 Pt. 7**; S.I. 2005/457, **art. 2(1)(a)(b)**

#### Commencement Information

- I2** S. 60 wholly in force at 1.4.1991 see s. 67(2) and S.I. 1990/1329, art. 2(8), **Sch. 3**.

#### Marginal Citations

- M2** 1988 c. 49.  
**M3** 1978 c. 29.  
**M4** 1949 c. 88.  
**M5** 1977 c. 37.  
**M6** 1978 c. 29.  
**M7** 1978 c. 29.  
**M8** 1984 c. 36.

## 61 Health service bodies: taxation.

- (1) <sup>F16</sup> .....
- <sup>F17</sup>(2) .....
- <sup>F18</sup>(3) .....
- <sup>F18</sup>(3A) .....
- <sup>F18</sup>(3B) .....
- <sup>F18</sup>(3C) .....
- <sup>F19</sup>(4) .....
- (5) At the end of Schedule 3 to the Inheritance Tax Act 1984 (gifts for national purposes) there shall be added—

“A health service body, within the meaning of section 519A of the Income and Corporation Taxes Act 1988”.

#### Textual Amendments

- F16** S. 61(1) repealed (1.10.2010 with effect as mentioned in s. 1184(1) of the repealing Act) by Corporation Tax Act 2010 (c. 4), ss. 1181(1), 1184(1), **Sch. 3 Pt. 1** (with Sch. 2)
- F17** S. 61(2) repealed by Finance Act 1990 (c. 29, SIF 63:1), s. 132, **Sch. 19 Pt. IV**
- F18** S. 61(3)-(3C) repealed (with effect in accordance with s. 216(3)(4) of the amending Act) by Finance Act 2012 (c. 14), **s. 216(2)(a)**

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**F19** S. 61(4) repealed (1.9.1994) by 1994 c. 23, ss. 100(2), 101(1), **Sch. 15**

[<sup>F20</sup>**61A Health service bodies: stamp duty land tax**

<sup>F21</sup> .....

**Textual Amendments**

**F20** S. 61A inserted (1.12.2003) by **The Stamp Duty Land Tax (Consequential Amendment of Enactments) Regulations 2003 (S.I. 2003/2867)**, reg. 2, **Sch. para. 15**

**F21** S. 61A repealed (11.2.2005) by **The Stamp Duty Land Tax (Consequential Amendment of Enactments) Regulations 2005 (S.I. 2005/82)**, reg. 4

<sup>F22</sup>**62** .....

**Textual Amendments**

**F22** S. 62 repealed (1.11.1999) by 1999 c. 8, s. 65(2), **Sch. 5**; S.I. 1999/2793, **art. 2(1)(d)**

**63 Repeal of remaining provisions of Health Services Act 1976.**

- (1) Part III (control of hospital building outside National Health Service) and Part IV (supplementary and general) of the <sup>M9</sup>Health Services Act 1976 shall cease to have effect.
- (2) Notwithstanding the repeal of Part III of the Health Services Act 1976 by this Act,—
  - (a) that Part shall continue to have effect in relation to any authorisation granted by the Secretary of State under section 13(2) of that Act which is in force when that repeal takes effect; [<sup>F23</sup>and
  - (b) the amendment made by section 19(4)(b) of that Act shall continue to have effect.]

**Textual Amendments**

**F23** S. 63(2)(b) and word “and” immediately preceding it repealed (S.) (1.4.2002) by 2001 asp 8, s. 80(1), **Sch. 4**; S.S.I. 2002/162, **art. 2(i)**

**Commencement Information**

**I3** S. 63 wholly in force at 1.4.1991 see s. 67(2) and S.I. 1990/1329, art. 2(8), **Sch. 3**.

**Marginal Citations**

**M9** 1976 c. 83.

**64 Financial provisions.**

- (1) There shall be paid out of moneys provided by Parliament—
  - (a) any sums required by the Secretary of State for making loans to a National Health Service trust;

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- (b) any sums required by the Secretary of State for fulfilling a guarantee of a sum borrowed by a National Health Service trust;
  - (c) any amount paid as public dividend capital under paragraph 5 of Schedule 3 to this Act;
  - (d) any expenses of the Secretary of State under this Act; and
  - (e) any increase attributable to this Act in the sums so payable under any other enactment.
- (2) Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund.

## 65 Regulations, orders and directions.

- (1) Any power to make regulations conferred by this Act shall be exercisable by statutory instrument, and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) <sup>F24</sup> .....

### Textual Amendments

**F24** S. 65(2) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 8(2), 6, [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

## 66 Amendments and repeals.

- (1) Schedule 9 to this Act, which contains minor amendments and amendments consequential on the provisions of this Act, shall have effect.
- (2) The enactments specified in Schedule 10 to this Act, which include some that are spent, are hereby repealed to the extent specified in the third column of that Schedule.

### Commencement Information

**I4** S. 66 partly in force; s. 66 not in force at Royal Assent see s. 67(2); s. 66 partly in force at 5.7.1990, 17.9.1990, 1.1.1991 and 1.4.1991 by [S.I. 1990/1329](#); at 24.7.1990 by [S.I. 1990/1520](#); at 17.9.1990, 1.1.1991 and 1.4.1991 by [S.I. 1990/1793](#); at 1.4.1991 by [S.I. 1990/2218](#); at 1.4.1991 by [S.I. 1990/2510](#); at 6.4.1992 by [S.I. 1992/567](#), [art. 2](#); at 10.12.1992, 1.4.1993 and 12.4.1993 by [S.I. 1992/2975](#), [art. 2](#), [Sch.](#); at 1.4.1995 by [S.I. 1994/2658](#), [art. 4\(b\)](#)

## 67 Short title, commencement and extent.

- (1) This Act may be cited as the National Health Service and Community Care Act 1990.
- (2) This Act, other than this section, shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions or for different purposes and for different areas or descriptions of areas.
- (3) An order under subsection (2) above may contain such transitional provisions and savings (whether or not involving the modification of any statutory provision) as

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appear to the Secretary of State necessary or expedient in connection with the provisions brought into force.

- (4) <sup>F25</sup> . . . Part II, other than section 34, and Part IV of this Act do not extend to England and Wales; and Part III of this Act, other than subsections (3) and (4) of section 42, subsections (1) and (3) to (6) of section 44 and section 45, does not extend to Scotland.
- (5) This Act, other than sections 59 [<sup>F26</sup>, 61 and 62] , does not extend to Northern Ireland.
- (6) The Secretary of State may by order made by statutory instrument provide that so much of this Act as extends to England and Wales shall apply to the Isles of Scilly with such modifications, if any, as are specified in the order and, except as provided in pursuance of this subsection, Parts I and III of this Act do not apply to the Isles of Scilly.

#### Subordinate Legislation Made

- P1** S. 67(2) power of appointment conferred by s. 67(2) partly exercised: S.I. 1990/1329, 1520, 1793 (as amended (13.3.1992) by S.I. 1992/799, **art. 2**), 2218, 2510, 2511
- P2** S. 67(2) power partly exercised: 6.3.1991 appointed for specified provisions by S.I. 1991/388, **art. 2**  
S.67(2)(3) power partly exercised : 1.4.1991 appointed for specified provisions by S.I. 1991/607, **art. 2**  
s. 67(2) power partly exercised (9.3.1992): 6.4.1992 appointed day for specified provisions by S.I. 1992/567, **art. 2**.  
s. 67(2) power partly exercised (30.11.1992): different dates appointed for specified provisions by S.I. 1992/2975, **art. 2**, **Sch.**  
s. 67(2) power partly exercised (10.10.1994): different dates appointed for specified provisions by S.I. 1994/2658, **arts. 2-4**
- P3** S. 67(6) power exercised by S.I.1991/552.

#### Textual Amendments

- F25** Words in s. 67(4) repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 6, 8(2), **Sch. 4** (with **Sch. 2 Pt. 1**, **Sch. 3 Pt. 1**)
- F26** Words in s. 67(5) substituted (1.4.1991) by S.I. 1991/195, **art. 7(8)**

**Status:**

Point in time view as at 17/07/2012.

**Changes to legislation:**

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