



# Health Act 1999

## 1999 CHAPTER 8

### PART III

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Supplementary*

#### **62 Regulations and orders.**

- (1) Any power to make regulations or an order under this Act is exercisable by statutory instrument <sup>F1</sup>[<sup>F2</sup>. . . ].
- <sup>F3</sup>(2) Directions under section 20 or 28 or Schedule 2, or by virtue of section 38(1)(b), are to be given by an instrument in writing.]
- (3) <sup>F4</sup> . . . . .
- <sup>F5</sup>(4) Any power under this Act to make Orders in Council or orders—
  - (a) may be exercised either in relation to all cases to which the power extends, or in relation to all 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, be exercised so as to make different provision for different areas.

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- (4A) Any such power includes power—
- (a) to make such incidental, supplementary, consequential, saving or transitional provision (including provision amending, repealing or revoking enactments) as the person exercising the power considers to be expedient, and
  - (b) to provide for a person to exercise a discretion in dealing with any matter.]
- (5) <sup>F6</sup>.....
- (6) Subject to the following subsections, a statutory instrument containing subordinate legislation under this Act is to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Subsection (6) does not apply to—
- (a) an order under section 63 which contains only provision for or in connection with the transfer of any property, rights or liabilities, or
  - (b) an order under section 67.
- [<sup>F7</sup>(8) No order is to be made under section 37(10) unless a draft has been laid before, and approved by resolution of, each House of Parliament.]
- (9) No recommendation is to be made to Her Majesty to make an Order in Council under section 60 unless a draft has been laid before, and approved by resolution of, each House of Parliament.
- (10) But if any provision made by an Order in Council under that section would, if it were included in an Act of the Scottish Parliament, be within the legislative competence of that Parliament [<sup>F8</sup>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 a draft—
- (a) has been laid before, and approved by resolution of, each House of Parliament, and
  - (b) has been laid before, and approved by resolution of, the Scottish Parliament.
- [<sup>F9</sup>(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.]
- (11) No recommendation is to be made to Her Majesty to make an Order in Council under section 61 unless a draft—
- (a) has been laid before, and approved by resolution of, each House of Parliament, and
  - (b) has been laid before, and approved by resolution of, the Scottish Parliament.

#### **Textual Amendments**

- F1** Words in s. 62(1) 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](#))
- F2** Words in s. 62(1) inserted (1.8.2001 for E. and 1.11.2004 for W.) by [2001 c. 15](#), ss. 48(3), 70(2) (with ss. 64(a), 65(4)); [S.I. 2001/2804](#), art. 2(1)(a); [S.I. 2004/1754](#), [art. 2\(2\)\(a\)](#)

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- F3** S. 62(2) repealed by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 6, **Sch. 4** (with **Sch. 2 Pt. 1**), the repeal coming into force for certain purposes at 1.3.2007 and otherwise in accordance with s. 8(2)(7) of the repealing Act
- F4** S. 62(3) 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**)
- F5** S. 62(4)(4A) substituted (1.1.2009) for s. 62(4) by Health and Social Care Act 2008 (c. 14), ss. 127, 170(3), **Sch. 10 para. 11**; S.I. 2008/3244, **art. 3(b)(d)**
- F6** S. 62(5) 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**)
- F7** S. 62(8) repealed by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 6, **Sch. 4** (with **Sch. 2 Pt. 1**), the repeal coming into force in accordance with s. 8(2)(8) of the repealing Act
- F8** Words in s. 62(10) inserted (1.1.2009) by Health and Social Care Act 2008 (c. 14), ss. 111, 170(3), **Sch. 8 para. 2**; S.I. 2008/3244, **art. 3(a)(c)(i)**
- F9** S. 62(10A) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), **ss. 168(3)**, 186(6); S.I. 2022/734, reg. 2(a), **Sch.** (with regs. 13, 29, 30)

### 63 Supplementary and consequential provision etc.

- (1) The Secretary of State may by order make—
  - (a) such supplementary, incidental or consequential provision, or
  - (b) such transitory, transitional or saving provision,as he considers necessary or expedient for the purposes of, in consequence of or for giving full effect to any provision of this Act.
- (2) The provision which may be made under subsection (1) includes provision amending or repealing any enactment, instrument or document.

#### Modifications etc. (not altering text)

- C1** S. 63: transfer of certain functions (1.7.1999) by S.I. 1999/672, **art. 2, Sch. 1** (as inserted (30.6.1999) by 1999 c. 8, **ss. 66(4)(5)(c)**, 67(4))
- C2** S. 63 modified (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 4, 8(2), **Sch. 2 para. 1(6)(b)** (with **Sch. 3 Pt. 1**)

### 64 Interpretation.

In this Act—

**F10**

“the 1978 Act” means the <sup>M1</sup>National Health Service (Scotland) Act 1978,

**F11**

**F12**

“enactment” includes an enactment whenever passed or made,

“NHS trust” has the same meaning—

(a) **F13**

(b) in Part II of this Act as in the 1978 Act.

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#### Textual Amendments

- F10** S. 64: definition of "the 1977 Act" 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](#))
- F11** S. 64: definition of "the 1990 Act" 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](#))
- F12** S. 64: definition of "Commission" repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 196, 199, [Sch. 14 Pt. 2](#); S.I. 2004/759, [art. 13\(2\)\(g\)](#)
- F13** S. 64: para. (a) in definition of "NHS Trust" 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](#))

#### Marginal Citations

- M1** 1978 c.29.

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