



# Health Act 1999

## 1999 CHAPTER 8

### PART III

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Miscellaneous*

#### **60 Regulation of health care and associated professions**

- (1) Her Majesty may by Order in Council make provision—
  - (a) modifying the regulation of any profession to which subsection (2) applies, so far as appears to Her to be necessary or expedient for the purpose of securing or improving the regulation of the profession or the services which the profession provides or to which it contributes,
  - (b) regulating any other profession which appears to Her to be concerned (wholly or partly) with the physical or mental health of individuals and to require regulation in pursuance of this section.
- (2) The professions referred to in subsection (1)(a) are—
  - (a) the professions regulated by the Pharmacy Act 1954, the Medical Act 1983, the Dentists Act 1984, the Opticians Act 1989, the Osteopaths Act 1993 and the Chiropractors Act 1994,
  - (b) the professions regulated by the Nurses, Midwives and Health Visitors Act 1997,
  - (c) the professions regulated by the Professions Supplementary to Medicine Act 1960,
  - (d) any other profession regulated by an Order in Council under this section.
- (3) The Professions Supplementary to Medicine Act 1960 and the Nurses, Midwives and Health Visitors Act 1997 are to cease to have effect.
- (4) Schedule 3 (which makes further provision about Orders under this section) is to have effect.

## **61 English and Scottish border provisions**

- (1) Her Majesty may by Order in Council provide for any functions to which subsection (2) applies which are specified in the Order, so far as exercisable in respect of the provision of services to persons in English border areas, to be exercisable (instead of any corresponding function to which subsection (4) applies) in respect of the provision of the services in question to persons in Scottish border areas who are specified in the Order.
- (2) This subsection applies to any functions under the 1977 Act, or Part I of the National Health Service (Primary Care) Act 1997, which are exercisable by the Secretary of State or any Health Authority or Primary Care Trust.
- (3) Her Majesty may by Order in Council provide for any functions to which subsection (4) applies which are specified in the Order, so far as exercisable in respect of the provision of services to persons in Scottish border areas, to be exercisable (instead of any corresponding function to which subsection (2) applies) in respect of the provision of the services in question to persons in English border areas who are specified in the Order.
- (4) This subsection applies to any functions under the 1978 Act, or Part I of the National Health Service (Primary Care) Act 1997, which are exercisable by the Scottish Ministers or any Health Board or NHS trust established under the 1978 Act.
- (5) In this section—
  - “English border area” means the area of any Health Authority adjacent to Scotland,
  - “Scottish border area” means the area of any Health Board adjacent to England.

### *Supplementary*

## **62 Regulations and orders**

- (1) Any power to make regulations or an order under this Act is exercisable by statutory instrument.
- (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) Any such directions may be varied or revoked by subsequent directions under, or by virtue of, the same provision.
- (4) Subsections (4) and (5) of section 126 of the 1977 Act (supplementary provisions about subordinate legislation) apply in relation to any power conferred by this Act to make Orders in Council, orders or regulations, or to give directions mentioned in subsection (2), as they apply in relation to the powers which may be exercised as mentioned in subsection (4)(a) and (b) of that section.
- (5) The provision which may be made by virtue of subsection (4) of that section in regulations under section 20 or 31 or an Order in Council under section 61 includes provision amending or repealing any enactment, instrument or document.

- (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.
- (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, 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.
- (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.

### **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.

### **64 Interpretation**

In this Act—

- “the 1977 Act” means the National Health Service Act 1977,
- “the 1978 Act” means the National Health Service (Scotland) Act 1978,
- “the 1990 Act” means the National Health Service and Community Care Act 1990,
- “the Commission” means the Commission for Health Improvement,
- “enactment” includes an enactment whenever passed or made,
- “NHS trust” has the same meaning—

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

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- (a) in Part I of this Act as in the 1977 Act,
- (b) in Part II of this Act as in the 1978 Act.

*Final provisions*

**65 Amendments and repeals**

- (1) Schedule 4 (amendments of enactments) is to have effect.
- (2) The repeals set out in Schedule 5 (which include the repeal of an enactment which is spent) are to have effect.

**66 Devolution**

- (1) For the purposes of the Scotland Act 1998, any provision of this Act which extends to Scotland is to be taken to be a pre-commencement enactment within the meaning of that Act; but this subsection does not apply to section 22.
- (2) The power of a Minister of the Crown under section 67 to appoint a day for any of the following provisions to come into force in relation to Wales—
  - (a) sections 1 to 8 and 10 to 18 and Schedule 1,
  - (b) sections 26 to 32,
  - (c) section 65(1) and Schedule 4, so far as concerns the following provisions of that Schedule: paragraphs 1 to 16, 23 to 26, 27(a), 28 to 35, 37, 38 (except sub-paragraph (2)(b) and (d)), 39, 40, 71, 72, 74, 75, 76(b), 77 to 80, 81 (except sub-paragraph (2)(b)), 83, 84, 85 (except sub-paragraph (2)(a)) and 87 to 90,
 is exercisable instead by the National Assembly for Wales.
- (3) In Schedule 5 to the Government of Wales Act 1998 (bodies and offices covered by section 74), after paragraph 12 there is inserted—
 

“12A The Commission for Health Improvement.”
- (4) The National Assembly for Wales (Transfer of Functions) Order 1999 is amended as follows; and those amendments are to have effect as if made by an Order in Council under section 22 of the Government of Wales Act 1998 (transfer of Ministerial functions).
- (5) In Schedule 1—
  - (a) in the entry for the 1977 Act, after paragraph (c) there is inserted—
    - “(cc) section 43C;
    - (ccc) sections 46 to 49E”;
  - (b) at the end of the entry for the 1990 Act, there is inserted—
 

“The references above to paragraph 1 of Schedule 3 are references to that paragraph before the amendments made by section 17 of the Health Act 1999.

The Treasury consent requirement under paragraph 8 of that Schedule (inserted by Schedule 4 to the Health Act 1999), so far as relating to the matters referred to in paragraph (b) of that paragraph, shall continue in effect.”;
  - (c) after the entry for the National Minimum Wage Act 1998 there is inserted—

“In the Health Act 1999—

- (a) Part I and Schedule 4, except sections 20(1), 22 and 33 to 38 and Schedule 2 (other than paragraph 2);
- (b) section 63, so far as it relates to any of the provisions which, by virtue of section 66(2), may be brought into force by the Assembly”.

(6) In Schedule 2, after the entry for the Audit Commission Act 1998, there is inserted—

“Health Act 1999 (c. 8)

The functions of the Secretary of State under section 20(1) shall be exercisable only with the agreement of the Assembly.

The functions of the Secretary of State under paragraphs 4 to 7 of Schedule 2 shall be exercisable only after consultation with the Assembly.”

## **67 Commencement**

- (1) The preceding provisions of this Act (including the Schedules) are to come into force on such day as the Secretary of State may by order appoint.
- (2) Different days may be appointed under this section for different purposes.
- (3) Subsection (1) does not apply to the repeal of section 10 of the Professions Supplementary to Medicine Act 1960 (power to extend or restrict application of Act), which comes into force on 1st July 1999 or, if later, on the day on which this Act is passed.
- (4) Subsection (1) does not apply to section 66, of which—
  - (a) subsections (1) and (3) to (6) come into force on the day on which this Act is passed,
  - (b) subsection (2) comes into force on 1st July 1999 or, if later, the day on which this Act is passed.

## **68 Extent**

- (1) Subject to the following provisions—
  - (a) Part I extends only to England and Wales,
  - (b) Part II extends only to Scotland, and
  - (c) this Part extends to Northern Ireland (as well as to England and Wales and Scotland).
- (2) The amendment or repeal of an enactment, or a power to amend or repeal an enactment, which extends to any part of the United Kingdom extends also to that part.
- (3) Sections 22 and 25 extend to Scotland and Northern Ireland.
- (4) Sections 33 to 38 extend to Scotland and Northern Ireland.
- (5) The Secretary of State may by order provide that so much of this Act as extends to England and Wales is to apply to the Isles of Scilly with such modifications (if any) as are specified in the order; but otherwise this Act does not extend there.

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**69 Short title**

This Act may be cited as the Health Act 1999.