



National Health Service Reform and Health Care Professions Act 2002

2002 CHAPTER 17

PART 1

NATIONAL HEALTH SERVICE, ETC

NHS bodies and their functions: England

^{F1}1 English Health Authorities: change of name

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Textual Amendments

F1 S. 1 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

2 Primary Care Trusts

^{F2}(1)

^{F2}(2)

^{F2}(3)

^{F2}(4)

(5) Schedule 2 (which contains amendments of the 1977 Act and of other enactments to reallocate functions of Health Authorities to Primary Care Trusts and to make certain connected amendments) is to have effect.

Status: Point in time view as at 27/09/2010. This version of this Act contains provisions that are prospective.

Changes to legislation: National Health Service Reform and Health Care Professions Act 2002 is up to date with all changes known to be in force on or before 14 July 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)

Textual Amendments

F2 S. 2(1)-(4) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), **Sch. 4** (with **Sch. 2 Pt. 1**, **Sch. 3 Pt. 1**)

Commencement Information

I1 S. 2 wholly in force at 1.10.2002; s. 2 not in force at Royal Assent, see s. 42(3); s. 2 in force for certain purposes for E. at 2.9.2002 by [S.I. 2002/2202](#), **art. 3(b)** and in force at 1.10.2002 insofar as not already in force by [S.I. 2002/2478](#), **art. 3(1)(a)**

F3 **Directions: distribution of functions**

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Textual Amendments

F3 S. 3 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), **Sch. 4** (with **Sch. 2 Pt. 1**, **Sch. 3 Pt. 1**)

4 **Personal medical services, personal dental services and local pharmaceutical services**

F4(1)

F5(2)

(3) Schedule 3 (which contains amendments of the National Health Service (Primary Care) Act 1997 and of other enactments related to the provisions of this section and sections 1 to 3) is to have effect.

Textual Amendments

F4 S. 4(1) repealed (1.4.2006 for E., 1.4.2006 for W. for specified purposes, 1.3.2007 in so far as not already in force, immediately before the National Health Service Act 2006 comes into force) by [Health and Social Care \(Community Health and Standards\) Act 2003](#) (c. 43), s. 199(1)(4), **Sch. 14 Pt. 4**; [S.I. 2005/2925](#), art. 11; [S.I. 2006/345](#), art. 7(2)(m); [S.I. 2006/1407](#), art. 1(1), **Sch. 1 Pt. 2 para. 13** (with art. 4)

F5 S. 4(2) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), **Sch. 4** (with **Sch. 2 Pt. 1**, **Sch. 3 Pt. 1**)

F6 **Local Representative Committees**

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Textual Amendments

F6 S. 5 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), **Sch. 4** (with **Sch. 2 Pt. 1**, **Sch. 3 Pt. 1**)

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NHS bodies and their functions: Wales

F76 Local Health Boards

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Textual Amendments

- F7** Ss. 6-10 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

Financial arrangements: England and Wales

F77 Funding of Strategic Health Authorities and Health Authorities

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Textual Amendments

- F7** Ss. 6-10 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

F78 Funding of Primary Care Trusts

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Textual Amendments

- F7** Ss. 6-10 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

F79 Funding of Local Health Boards

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Textual Amendments

- F7** Ss. 6-10 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

F710 Expenditure of NHS bodies

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Textual Amendments

F7 Ss. 6-10 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

Quality

PROSPECTIVE

F8 11 Duty of quality

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Textual Amendments

F8 Ss. 11-14 repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), [Sch. 14 Pt. 2](#); S.I. 2004/759, art. 13

F8 12 Further functions of the Commission for Health Improvement

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Textual Amendments

F8 Ss. 11-14 repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), [Sch. 14 Pt. 2](#); S.I. 2004/759, art. 13

F8 13 Commission for Health Improvement: inspections and investigations

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Textual Amendments

F8 Ss. 11-14 repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), [Sch. 14 Pt. 2](#); S.I. 2004/759, art. 13

F8 14 Commission for Health Improvement: constitution

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Textual Amendments

F8 Ss. 11-14 repealed (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), s. 199(1)(4), [Sch. 14 Pt. 2](#); S.I. 2004/759, art. 13

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Patient and public involvement

F⁹15 Establishment of Patients' Forums

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Textual Amendments

F9 Ss. 15-18 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

F⁹16 Additional functions of PCT Patients' Forums

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Textual Amendments

F9 Ss. 15-18 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

F⁹17 Entry and inspection of premises

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Textual Amendments

F9 Ss. 15-18 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

F⁹18 Annual reports

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Textual Amendments

F9 Ss. 15-18 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

19 Supplementary

F¹⁰(1)

F¹⁰(2)

F¹⁰(3)

F¹⁰(4)

F¹⁰(5)

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- F11(6)
- F12(7)

Textual Amendments

F10 S. 19(1)-(5) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

F11 S. 19(6) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), s. 245(5), **Sch. 18 Pt. 18**; S.I. 2008/461, art. 2(3), Sch.

F12 S. 19(7) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), s. 245(5), **Sch. 18 Pt. 18**; S.I. 2008/461, art. 2(3), Sch.

Commencement Information

I2 S. 19 partly in force; s. 19 in force for certain purposes at Royal Assent, see s. 42(3)

I3 S. 19 in force at 1.9.2003 in so far as not already in force by S.I. 2003/2246, **art. 2(a)**

F13 20 The Commission for Patient and Public Involvement in Health

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Textual Amendments

F13 S. 20 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

F14 21 Overview and scrutiny committees

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Textual Amendments

F14 S. 21 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)

22 Abolition of Community Health Councils in England

- F15(1)
- F15(2)
- F15(3)

(4) The National Assembly for Wales has as respects Wales the same power under that paragraph as it would have if no such body had been established.

(5) The Secretary of State may by order make provision—

- (a) as to the transfer to a person falling within subsection (6), on or after the abolition of a Community Health Council by subsection (1), of any of the rights or liabilities of a person as a member or former member of the Council,

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- (b) as to the transfer to a person falling within subsection (6) or to the National Assembly for Wales, on or after the abolition of ACHCEW, of any of the property held, rights enjoyed or liabilities incurred in respect of the functions of ACHCEW by a person as a member or former member of a Community Health Council which was a member of ACHCEW.
- (6) The following fall within this subsection—
- (a) the Secretary of State,
 - (b) [^{F16}a Strategic Health Authority] ,
 - (c) a Special Health Authority,
 - (d) an NHS trust,
 - (e) a Primary Care Trust.
- (7) Before exercising the power conferred by subsection (5)(b) the Secretary of State must consult the National Assembly for Wales.

^{F17}(8)

^{F18}(9)

Textual Amendments

- F15** S. 22(1)-(3) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))
- F16** Words in s. 22(6)(b) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 226](#) (with [Sch. 3 Pt. 1](#))
- F17** S. 22(8) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))
- F18** S. 22(9) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

Commencement Information

- I4** S. 22 partly in force; s. 22 in force for certain purposes at Royal Assent, see s. 42(3)
- I5** S. 22 in force at 1.12.2003 in so far as not already in force by [S.I. 2003/3083](#), [art. 2](#)

Joint working

^{F19}**23 Joint working with the prison service**

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Textual Amendments

- F19** S. 23 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

^{F20}**24 Health and well-being strategies in Wales**

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Textual Amendments

- F20** S. 24 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))

PART 2

HEALTH CARE PROFESSIONS

[^{F21}The Council for Healthcare Regulatory Excellence]

Textual Amendments

- F21** S. 25 crossheading substituted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), s. 170(3)(4), [Sch. 10 para. 16](#); S.I. 2008/3244, art. 2(i)(xi)

25 *[^{F22}The Council for Healthcare Regulatory Excellence]*

- (1) There shall be a body corporate known as *[^{F23}the Council for Healthcare Regulatory Excellence]* (in this group of sections referred to as “the Council”).
- (2) The general functions of the Council are—
 - (a) to promote the interests of patients and other members of the public in relation to the performance of their functions by the bodies mentioned in subsection (3) (in this group of sections referred to as “regulatory bodies”), and by their committees and officers,
 - (b) to promote best practice in the performance of those functions,
 - (c) to formulate principles relating to good professional self-regulation, and to encourage regulatory bodies to conform to them, and
 - (d) to promote co-operation between regulatory bodies; and between them, or any of them, and other bodies performing corresponding functions.

[^{F24}(2A) The main objective of the Council in exercising its functions under subsection (2)(b) to (d) is to promote the health, safety and well-being of patients and other members of the public.]

- (3) The bodies referred to in subsection (2)(a) are—
 - (a) the General Medical Council,
 - (b) the General Dental Council,
 - (c) the General Optical Council,
 - (d) the General Osteopathic Council,
 - (e) the General Chiropractic Council,
 - [^{F25}(f) the General Pharmaceutical Council,]*
 - (g) subject to section 26(6), the Pharmaceutical Society of Northern Ireland,
 - [^{F26}(ga) the Nursing and Midwifery Council,*
 - (gb) the Health Professions Council, and]*
 - [^{F27}(j) any other regulatory body (within the meaning of Schedule 3 to the 1999 Act) established by an Order in Council under section 60 of that Act.]*

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- (4) Schedule 7 (which makes further provision about the Council) is to have effect.
- (5) “This group of sections” means this section and sections 26 to 29, and includes Schedule 7.
- (6) In this group of sections, references to regulation, in relation to a profession, are to be construed in accordance with paragraph 11(2)^{F28} ... of Schedule 3 to the 1999 Act.

Textual Amendments

- F22** S. 25 title substituted (1.1.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 10 para. 16**; S.I. 2008/3244, art. 2(i)(xi)
- F23** Words in s. 25(1) substituted (1.1.2009) by Health and Social Care Act 2008 (c. 14), **ss. 113(2)**, 170(3)(4); S.I. 2008/3244, art. 2(a)
- F24** S. 25(2A) inserted (1.1.2009) by Health and Social Care Act 2008 (c. 14), **ss. 113(3)**, 170(3)(4); S.I. 2008/3244, art. 2(a)
- F25** S. 25(3)(f) substituted (27.9.2010) by The Pharmacy Order 2010 (S.I. 2010/231), art. 1(5), **Sch. 4 para. 10(2)**; S.I. 2010/1621, art. 2(1), Sch.
- F26** S. 25(3)(ga)(gb) substituted (1.1.2009) for s. 25(3)(h)(i) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 10 para. 17(2)**; S.I. 2008/3244, art. 2(i)(xii)
- F27** S. 25(3)(j) substituted (1.1.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 10 para. 17(3)**; S.I. 2008/3244, art. 2(i)(xii)
- F28** Words in s. 25(6) repealed (1.1.2009) by virtue of Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 10 para. 17(4)**, Sch. 15 Pt. 2; S.I. 2008/3244, art. 2(j)(i)(xii)

Commencement Information

- I6** S. 25 wholly in force at 1.4.2003; s. 25 not in force at Royal Assent, see s. 42(3); s. 25 in force for certain purposes at 27.8.2002 and for certain further purposes at 1.12.2002 and in force at 1.4.2003 insofar as not already in force by S.I. 2002/2202, **art. 2**

26 Powers and duties of the Council: general

- (1) Except as mentioned in subsections (3) to (6), the Council may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the performance of its functions.
- (2) The Council may, for example, do any of the following—
 - (a) investigate, and report on, the performance by each regulatory body of its functions,
 - (b) where a regulatory body performs functions corresponding to those of another body (including another regulatory body), investigate and report on how the performance of such functions by the bodies in question compares,
 - (c) recommend to a regulatory body changes to the way in which it performs any of its functions.
- (3) The Council may not do anything in relation to the case of any individual in relation to whom—
 - (a) there are, are to be, or have been proceedings before a committee of a regulatory body, or the regulatory body itself or any officer of the body, or
 - (b) an allegation has been made to the regulatory body, or one of its committees or officers, which could result in such proceedings.

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[^{F29}(4) Subsection (3) does not prevent the Council from—

- (a) taking action under section 28,
- (b) where section 29 applies, taking action under that section after the regulatory body's proceedings have ended, or
- (c) investigating particular cases with a view to making general reports on the performance by the regulatory body of its functions or making general recommendations to the regulatory body affecting future cases.]

^{F30}(5)

(6) The Council may not do anything in relation to the functions of the Pharmaceutical Society of Northern Ireland (or its Council, or an officer or committee of the Society) unless those functions are—

- (a) conferred on the Society (or its Council, or an officer or committee of the Society) by or by virtue of any provision of the Pharmacy (Northern Ireland) Order 1976 (S.I. 1976/1213 (N.I. 22)), other than Article 3(3)(e) (the benevolent functions),
- (b) conferred as mentioned in paragraph (a) by, or by virtue of, an Order in Council under section 60 of the 1999 Act or an order under section 56 of the Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3) (which makes provision corresponding to section 60 of the 1999 Act), or
- (c) otherwise conferred as mentioned in paragraph (a) and relate to the regulation of the profession regulated by the Pharmacy (Northern Ireland) Order 1976.

^{F31}(7)

^{F32}(8)

(9) In section 60(1) of the 1999 Act (regulation of health care and associated professions), after paragraph (b) there is inserted—

- “(c) modifying the functions, powers or duties of the Council for the Regulation of Health Care Professionals,
- (d) modifying the list of regulatory bodies (in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002) in relation to which that Council performs its functions,
- (e) modifying, as respects any such regulatory body, the range of functions of that body in relation to which the Council performs its functions.”

(10) In Schedule 3 to the 1999 Act (which makes further provision about orders under section 60 of that Act), in paragraph 7, after sub-paragraph (3) there is inserted—

“(4) An Order may not confer any additional powers of direction over the Council for the Regulation of Health Care Professionals.”

(11) In subsections (3) and (4), “proceedings”, in relation to a regulatory body, or one of its committees or officers, includes a process of decision-making by which a decision could be made affecting the registration of the individual in question.

(12) In this section, “health care profession” means a profession (whether or not regulated by or by virtue of any enactment) which is concerned (wholly or partly) with the physical or mental health of individuals.

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Textual Amendments

- F29** S. 26(4) substituted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), **ss. 115**, 170(3)(4); S.I. 2008/3244, art. 2(c)
- F30** S. 26(5) omitted (27.9.2010) by virtue of [The Pharmacy Order 2010 \(S.I. 2010/231\)](#), art. 1(5), **Sch. 4 para. 10(3)**; S.I. 2010/1621, art. 2(1), Sch.
- F31** S. 26(7) repealed (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 116(2), 170(3)(4), **Sch. 15 Pt. 2**; S.I. 2008/3244, art. 2(c)(j)
- F32** S. 26(8) repealed (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 116(2), 170(3)(4), **Sch. 15 Pt. 2**; S.I. 2008/3244, art. 2(c)(j)

[^{F33}26A Powers of Secretary of State and devolved administrations

- (1) The Secretary of State, the Welsh Ministers, the Scottish Ministers or the relevant Northern Ireland department may request the Council for advice on any matter connected with a profession appearing to the person making the request to be a health care profession; and the Council must comply with such a request.
- (2) The Secretary of State, the Welsh Ministers, the Scottish Ministers or the relevant Northern Ireland department may require the Council to investigate and report on a particular matter in respect of which the Council's functions are exercisable.
- (3) In this section “the relevant Northern Ireland department” means the Department of Health, Social Services and Public Safety in Northern Ireland.]

Textual Amendments

- F33** S. 26A inserted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), **ss. 116(1)**, 170(3)(4); S.I. 2008/3244, art. 2(c)

[^{F34}26B Duty to inform and consult the public

- (1) For the purpose of ensuring that members of the public are informed about the Council and the exercise by it of its functions, the Council must publish or provide in such manner as it thinks fit information about the Council and the exercise of its functions.
- (2) Nothing in subsection (1) authorises or requires the publication or provision of information if the publication or provision of that information—
 - (a) is prohibited by any enactment, or
 - (b) would constitute or be punishable as a contempt of court.
- (3) In subsection (2) “enactment” has the same meaning as in Part 2 of the Health and Social Care Act 2008.
- (4) The Council must from time to time seek the views of—
 - (a) members of the public, and
 - (b) bodies which appear to the Council to represent the interests of patients, on matters relevant to the exercise by it of its functions.]

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Textual Amendments

F34 S. 26B inserted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), **ss. 117**, 170(3)(4); [S.I. 2008/3244](#), art. 2(c)

27 Regulatory bodies and the Council

- (1) Each regulatory body must in the exercise of its functions co-operate with the Council.
- (2) If the Council considers that it would be desirable to do so for the protection of members of the public, it may give directions requiring a regulatory body to make rules (under any power the body has to do so) to achieve an effect which must be specified in the directions.
- (3) The Council may give such directions only in relation to rules which must be approved by the Privy Council (whether by order or not) or by the Department of Health, Social Services and Public Safety in Northern Ireland before coming into force.
- (4) The Council must send a copy of any such directions to the relevant authority.
- (5) The relevant authority is the Secretary of State or, if the regulatory body in question is the Pharmaceutical Society of Northern Ireland, the Department of Health, Social Services and Public Safety there.
- (6) The directions do not come into force until the date specified in an order made by the relevant authority.
- (7) The Secretary of State must lay before both Houses of Parliament, or (as the case may be) the Department of Health, Social Services and Public Safety must lay before the Northern Ireland Assembly, a draft of an order—
 - (a) setting out any directions he or it receives pursuant to subsection (4), and
 - (b) specifying the date on which the directions are to come into force.
- (8) Subsections (4) to (7) apply also to—
 - (a) directions varying earlier directions, and
 - (b) directions revoking earlier directions, and given after—
 - (i) both Houses of Parliament have resolved to approve the draft order specifying the date on which the earlier directions are to come into force, or (as the case may be)
 - (ii) the Northern Ireland Assembly has done so.
- (9) Subsections (4) and (5) apply also to directions—
 - (a) revoking earlier directions, but
 - (b) which do not fall within subsection (8)(b),
 but subsections (6) and (7) do not apply to such directions.
- (10) If the Council gives directions which fall within subsection (9), the earlier directions which those directions revoke shall be treated as if subsections (6) and (7) had never applied to them, and as never in force.
- (11) A regulatory body must comply with directions given under subsection (2) which have come into force and have not been revoked.

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- (12) A regulatory body is not to be taken to have failed to comply with such directions merely because a court determines that the rules made pursuant to the directions are to be construed in such a way that the effect referred to in subsection (2) is not achieved.
- (13) The Secretary of State shall make provision in regulations as to the procedure to be followed in relation to the giving of directions under subsection (2).
- (14) The regulations must, in particular, make provision requiring the Council to consult a regulatory body before giving directions relating to it under subsection (2).
- (15) In this section—
 - (a) “making” rules includes amending or revoking rules, and
 - (b) “rules” includes regulations, byelaws and schemes.

Commencement Information

- 17** S. 27 wholly in force at 1.4.2003; s. 27 in force for certain purposes at Royal Assent, see s. 42(3); s. 27 in force at 1.4.2003 by [S.I. 2002/2202](#), [art. 2\(3\)\(c\)](#)

28 Complaints about regulatory bodies

- (1) The Secretary of State may make provision in regulations about the investigation by the Council of complaints made to it about the way in which a regulatory body has exercised any of its functions.
- (2) The regulations may, in particular, make provision as to—
 - (a) who (or what description of person) is entitled to complain,
 - (b) the nature of complaints which the Council must (or need not) investigate,
 - (c) matters which are excluded from investigation,
 - (d) requirements to be complied with by a person who makes a complaint,
 - (e) the procedure to be followed by the Council in investigating complaints,
 - (f) the making of recommendations or reports by the Council following investigations,
 - (g) the confidentiality, or disclosure, of any information supplied to the Council or acquired by it in connection with an investigation,
 - (h) the use which the Council may make of any such information,
 - (i) the making of payments to any persons in connection with investigations,
 - (j) privilege in relation to any matter published by the Council in the exercise of its functions under the regulations.
- (3) The regulations may also make provision—
 - (a) empowering the Council to require persons to attend before it,
 - (b) empowering the Council to require persons to give evidence or produce documents to it,
 - (c) about the admissibility of evidence,
 - (d) enabling the Council to administer oaths.
- (4) No person shall be required by or by virtue of regulations under this section to give any evidence or produce any document or other material to the Council which he could

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not be compelled to give or produce in civil proceedings before the High Court or, in Scotland, the Court of Session.

Commencement Information

I8 S. 28 partly in force; s. 28 in force for certain purposes at Royal Assent, see s. 42(3)

29 Reference of disciplinary cases by Council to court

(1) This section applies to—

- [^{F35}(a) a direction of the Fitness to Practise Committee of the General Pharmaceutical Council under article 54 of the Pharmacy Order 2010 (consideration by the Fitness to Practise Committee) or under section 80 of the Medicines Act 1968 (power to disqualify and direct removal from register),]
- (b) a direction of the Statutory Committee of the Pharmaceutical Society of Northern Ireland under Article 20 of the Pharmacy (Northern Ireland) Order 1976 (S.I. 1976/1213 (N.I. 22)) (control of registrations by Statutory Committee) or section 80 of the Medicines Act 1968,
- [^{F36}(c) a direction by a Fitness to Practise Panel of the General Medical Council under section 35D of the Medical Act 1983 (c. 54) that the fitness to practise of a medical practitioner was impaired otherwise than by reason of his physical or mental health,]
- [^{F37}(e) a direction by the Professional Conduct Committee, the Professional Performance Committee or the Health Committee of the General Dental Council under any of sections 27B, 27C, 36P or 36Q of the Dentists Act 1984 following a determination that a person's fitness to practise as a dentist or as a member of a profession complementary to dentistry, or class of members of such a profession, is impaired ^{F38}....]
- [^{F39}(f) a direction by the Fitness to Practise Committee of the General Optical Council under section 13F(2) of the Opticians Act 1989 (powers of Fitness to Practise Committee), other than a direction that a registrant's fitness to practise is impaired solely by virtue of a matter falling within section 13D(2) (f) of that Act;]
- [^{F40}(g) any step taken—
 - (i) by the Professional Conduct Committee of the General Osteopathic Council under section 22 of the Osteopaths Act 1993 (which relates to action to be taken in cases of allegations referred to the Professional Conduct Committee), or
 - (ii) by the Health Committee of the General Osteopathic Council under section 23 of that Act (which relates to action to be taken in cases of allegations referred to the Health Committee).]
- [^{F41}(h) any step taken—
 - (i) by the Professional Conduct Committee of the General Chiropractic Council under section 22 of the Chiropractors Act 1994 (which relates to action to be taken in cases of allegations referred to the Professional Conduct Committee), or
 - (ii) by the Health Committee of the General Chiropractic Council under section 23 of that Act (which relates to action to be taken in cases of allegations referred to the Health Committee).]

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- (i) any corresponding measure taken in relation to a nurse [^{F42}or midwife under the Nursing and Midwifery Order 2001] ,
 - [^{F43}(j) any corresponding measure taken in relation to a member of a profession regulated by the Health Professions Order 2001, under that Order.]
- (2) This section also applies to—
- (a) a final decision of the relevant committee not to take any disciplinary measure under the provision referred to in whichever of paragraphs (a) to (h) of subsection (1) applies,
 - (b) any corresponding decision taken in relation to a nurse [^{F44}or midwife under the Nursing and Midwifery Order 2001] , or to any such person as is mentioned in subsection (1)(j) and
 - (c) a decision of the relevant regulatory body, or one of its committees or officers, to restore a person to the register following his removal from it in accordance with any of the measures referred to in paragraphs (a) to (j) of subsection (1).
- (3) The things to which this section applies are referred to below as “relevant decisions”.
- (4) If the Council considers that—
- (a) a relevant decision falling within subsection (1) has been unduly lenient, whether as to any finding of professional misconduct or fitness to practise on the part of the practitioner concerned (or lack of such a finding), or as to any penalty imposed, or both, or
 - (b) a relevant decision falling within subsection (2) should not have been made, and that it would be desirable for the protection of members of the public for the Council to take action under this section, the Council may refer the case to the relevant court.
- [^{F45}(5) In subsection (4), the “relevant court” —
- (a) in the case of a person who (in accordance with the rules applying to the body making the relevant decision) was, or was required to be, notified of the relevant decision at an address in Scotland, means the Court of Session,
 - (b) in the case of a person who (in accordance with the rules applying to the body making the relevant decision) was, or was required to be, notified of the relevant decision at an address in Northern Ireland, means the High Court of Justice in Northern Ireland, and
 - (c) in the case of any other person, means the High Court of Justice in England and Wales.]
- (6) The Council may not so refer a case after the end of the period of [^{F46}40 days beginning with the day which is the last day on which the practitioner concerned can appeal against the relevant decision] .
- (7) If the Council does so refer a case—
- (a) the case is to be treated by the court to which it has been referred as an appeal by the Council against the relevant decision (even though the Council was not a party to the proceedings resulting in the relevant decision), and
 - (b) the body which made the relevant decision is to be a respondent.
- (8) The court may—
- (a) dismiss the appeal,
 - (b) allow the appeal and quash the relevant decision,

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- (c) substitute for the relevant decision any other decision which could have been made by the committee or other person concerned, or
 - (d) remit the case to the committee or other person concerned to dispose of the case in accordance with the directions of the court,
- and may make such order as to costs (or, in Scotland, expenses) as it thinks fit.

Textual Amendments

- F35** S. 29(1)(a) substituted (27.9.2010) by [The Pharmacy Order 2010 \(S.I. 2010/231\)](#), art. 1(5), **Sch. 4 para. 10(4)**; [S.I. 2010/1621](#), art. 2(1), Sch.
- F36** S. 29(1)(c) substituted for s. 29(1)(c)(d) (1.11.2004 as notified in the London Gazette dated 8.10.2004) by [The Medical Act 1983 \(Amendment\) Order 2002 \(S.I. 2002/3135\)](#), art. 1(2)(3), **Sch. 1 para. 13** (with Sch. 2)
- F37** S. 29(1)(e) substituted (coming into force in accordance with art. 1(4)-(7) (see the London Gazette, issue nos. 57734, 57975, 58050 and 58769, dated respectively 19.8.2005, 5.6.2006, 21.7.2006 and 18.7.2008) of the amending S.I.) by [The Dentists Act 1984 \(Amendment\) Order 2005 \(S.I. 2005/2011\)](#), **Sch. 6 para. 4** (with Sch. 7) (with transitional provisions in S.I. 2006/1671)
- F38** Words in s. 29(1)(e) repealed (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 118(2)(c), 170(3)(4), **Sch. 15 Pt. 2**; [S.I. 2008/3244](#), art. 2(e)(j)
- F39** S. 29(1)(f) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), **Sch. 1 para. 13** (with Sch. 2)
- F40** S. 29(1)(g) substituted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 118(2)(e), 170(3)(4); [S.I. 2008/3244](#), art. 2(e)
- F41** S. 29(1)(h) substituted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 118(2)(f), 170(3)(4); [S.I. 2008/3244](#), art. 2(e)
- F42** Words in s. 29(1)(i) substituted (1.8.2004) by [The Health Act 1999 \(Consequential Amendments\) \(Nursing and Midwifery\) Order 2004 \(S.I. 2004/1771\)](#), art. 1(1), **Sch. para. 1(a)**
- F43** S. 29(1)(j) substituted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 118(2)(g), 170(3)(4); [S.I. 2008/3244](#), art. 2(e)
- F44** Words in s. 29(2)(b) substituted (1.8.2004) by [The Health Act 1999 \(Consequential Amendments\) \(Nursing and Midwifery\) Order 2004 \(S.I. 2004/1771\)](#), art. 1(1), **Sch. para. 1(b)**
- F45** S. 29(5) substituted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 118(3), 170(3)(4); [S.I. 2008/3244](#), art. 2(f)
- F46** Words in s. 29(6) substituted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 118(4), 170(3)(4); [S.I. 2008/3244](#), art. 2(f)

Modifications etc. (not altering text)

- C1** S. 29(1)(c) modified (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 118(5), 170(3)(4); [S.I. 2008/3244](#), art. 2(f)
- C2** S. 29(1)(f) modified (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 118(6), 170(3)(4); [S.I. 2008/3244](#), art. 2(f)

Appeals

30 Medical practitioners

- (1) The Medical Act 1983 (c. 54) is amended as follows.
- (2) In section 40 (appeals)—
 - (a) in subsection (1), paragraph (c) is omitted,
 - (b) after subsection (1), there is inserted—

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- “(1A) A decision of the General Council under section 39 above giving a direction for erasure is also an appealable decision for the purposes of this section.”,
- (c) for subsection (3) there is substituted—
- “(3) A person in respect of whom an appealable decision falling within subsection (1) has been taken may, before the end of the period of 28 days beginning with the date on which notification of the decision was served under section 36(6), 36A(7), or 37(6) above, or section 41(7) or 45(7) below, appeal against the decision to the relevant court.
- (3A) In subsection (3), “the relevant court”—
- (a) in the case of a person whose address in the register is (or if he were registered would be) in Scotland, means the Court of Session,
- (b) in the case of a person whose address in the register is (or if he were registered would be) in Northern Ireland, means the High Court of Justice in Northern Ireland, and
- (c) in the case of any other person (including one appealing against a decision falling within subsection (1)(e)), means the High Court of Justice in England and Wales.
- (3B) A person in respect of whom an appealable decision falling within subsection (1A) above has been taken may, before the end of the period of 28 days beginning with the date on which notification of the decision was served under section 39(2), appeal against the decision to a county court or, in Scotland, the sheriff in whose sheriffdom the address in the register is situated.”,
- (d) subsections (4) to (6), (9) and (10) are omitted, and
- (e) for subsections (7) and (8) there is substituted—
- “(7) On an appeal under this section from the Professional Conduct Committee, the Committee on Professional Performance or the Health Committee, the court may—
- (a) dismiss the appeal,
- (b) allow the appeal and quash the direction or variation appealed against,
- (c) substitute for the direction or variation appealed against any other direction or variation which could have been given or made by the committee concerned, or
- (d) remit the case to the committee concerned to dispose of the case in accordance with the directions of the court,
- and may make such order as to costs (or, in Scotland, expenses) as it thinks fit.
- (8) On an appeal under this section from the General Council, the court (or the sheriff) may—
- (a) dismiss the appeal,
- (b) allow the appeal and quash the direction appealed against, or
- (c) remit the case to the General Council to dispose of the case in accordance with the directions of the court (or the sheriff),

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and may make such order as to costs (or in Scotland, expenses) as it (or he) thinks fit.”

- (3) In Schedule 4 (proceedings before Professional Conduct, Health and Preliminary Proceedings Committees)—
- (a) in paragraph 3(b), the words “to Her Majesty in Council” are omitted and for “the Judicial Committee” there is substituted “ the court (or the sheriff) ”,
 - (b) in paragraph 10(1)—
 - (i) for “section 37 of this Act and” there is substituted “ section 37 of this Act ”,
 - (ii) after “or 37 of this Act”, there is inserted “ and a direction for erasure given by the General Council under section 39 of this Act ”, and
 - (iii) in paragraph (a), for the words “mentioned in subsection (3) of that section” there is substituted “ specified in that section ”,
 - (c) paragraph 10(2) is omitted, and
 - (d) in paragraph 10(3)—
 - (i) “or (2)” is omitted,
 - (ii) “or that sub-paragraph as applied by sub-paragraph (2) above” is omitted,
 - (iii) for “mentioned in section 40(3)” there is substituted “ specified in section 40 ”, and
 - (iv) for “mentioned in the said section 40(3)” there is substituted “ specified in section 40 of this Act ”.

31 Dentists

- (1) The Dentists Act 1984 (c. 24) is amended as follows.
- (2) In section 29 (appeals)—
- (a) in subsection (1), for the words from “to Her” to the end there is substituted “ against that determination or direction to the relevant court. ”,
 - (b) after subsection (1) there is inserted—
 - “(1A) In subsection (1), “the relevant court”—
 - (a) in the case of a person whose address in the register is (or if he were registered would be) in Scotland, means the Court of Session,
 - (b) in the case of a person whose address in the register is (or if he were registered would be) in Northern Ireland, means the High Court of Justice in Northern Ireland, and
 - (c) in the case of any other person, means the High Court of Justice in England and Wales.”,
 - (c) subsection (2) is omitted, and
 - (d) for subsection (3) there is substituted—
 - “(3) On an appeal under this section, the court may—
 - (a) dismiss the appeal,
 - (b) allow the appeal and quash the determination or direction appealed against,

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- (c) (in the case of an appeal against a determination under section 27 above or a direction under section 28 above) substitute for the determination or direction appealed against any other determination or direction which could have been made or given by the Professional Conduct Committee or (as the case may be) the Health Committee, or
 - (d) remit the case to the Professional Conduct Committee, the Health Committee or the Continuing Professional Development Committee to dispose of the case under section 27 or 28 above or Schedule 3A to this Act in accordance with the directions of the court,
 - and may make such order as to costs (or, in Scotland, expenses) as it thinks fit.”
- (3) In section 44 (withdrawal of privilege from body corporate)—
- (a) in subsection (4)—
 - (i) after “days” there is inserted “ from service ”, and
 - (ii) for the words from “in accordance” to “Majesty in Council” there is substituted “ appeal to the relevant court ”, and
 - (b) after subsection (4) there is inserted—
 - “(4A) In subsection (4), “the relevant court”—
 - (a) where the registered office of the body corporate is in Northern Ireland, means the High Court of Justice in Northern Ireland,
 - (b) where the registered office of the body corporate is in Scotland, means the Court of Session,
 - (c) where the registered office of the body corporate is in any other place, means the High Court of Justice in England and Wales.”
- (4) In section 51, the words from “(other” to “appeals)” are omitted.
- (5) In section 34A (professional training and development requirements), in subsection (7)(b), for “to Her Majesty in Council” there is substituted “ under section 29 above to the relevant court ”.
- (6) Subsection (5) has effect—
- (a) upon the coming into force of this section, if that happens after the coming into force of article 8 of the Dentists Act 1984 (Amendment) Order 2001 (S.I. 2001/3926) (“the Dentists Order”) so far as that article effects the insertion into the Dentists Act 1984 (c. 24) of the new section 34A(7)(b),
 - (b) otherwise, immediately after the coming into force to that extent of that article.
- (7) If this section comes into force before article 10(3) of the Dentists Order—
- (a) paragraphs (b), (c) and (d) of article 10(3) of that Order are revoked upon the coming into force of this section, and
 - (b) until the coming into force of the remainder of article 10(3) of that Order, section 29 of the Dentists Act 1984 (c. 24) (as amended by this section) is to be read with the modifications set out in subsection (8).
- (8) The modifications are that section 29 is to be read as if—

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- (a) in each of paragraphs (a) and (b) of subsection (1A), the words “(or if he were registered would be)” were omitted,
- (b) in paragraph (c) of subsection (3), the words “(in the case of an appeal against a determination under section 27 above or a direction under section 28 above)” were omitted, and
- (c) in paragraph (d) of subsection (3)—
 - (i) for the words “, the Health Committee or the Continuing Professional Development Committee” there were substituted “ or the Health Committee ”, and
 - (ii) the words “or Schedule 3A to this Act” were omitted.

32 Opticians

(1) Section 23 of the Opticians Act 1989 (c. 44) (appeals in disciplinary and other cases) is amended as follows.

(2) For subsection (1) there is substituted—

“(1) An individual or body corporate who is notified under subsection (11) of section 17—

- (a) that a disciplinary order has been made against him under that section; or
- (b) that a direction has been given in respect of him under subsection (9) of that section,

may, before the end of the period of 28 days beginning with the date on which notification was served, appeal against that order or direction to the relevant court.

(1A) In subsection (1), “the relevant court”—

- (a) in the case of an individual whose address in the register is in Scotland, or a body corporate whose registered office is in Scotland, means the Court of Session,
- (b) in the case of an individual whose address in the register is in Northern Ireland, or a body corporate whose registered office is in Northern Ireland, means the High Court of Justice in Northern Ireland, and
- (c) in the case of any other individual or body corporate, means the High Court of Justice in England and Wales.

(1B) An individual or body corporate who is notified under subsection (3) of section 19 above that a direction has been given in respect of him under that section may, before the end of the period of 28 days beginning with the date on which notification was served, appeal against that direction to a county court or, in Scotland, the sheriff in whose sheriffdom the address in the register or (as the case may be) the registered office is situated.

(1C) On an appeal under this section, the court (or the sheriff) may—

- (a) dismiss the appeal,
- (b) allow the appeal and quash the order or direction appealed against,
- (c) substitute for the order or direction appealed against any other order or direction which could have been made by the Disciplinary Committee, or

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(d) remit the case to the Disciplinary Committee to dispose of the case in accordance with the directions of the court (or the sheriff), and may make such order as to costs (or, in Scotland, expenses) as it (or he) thinks fit.”

(3) In subsection (2), for “any such appeal”, where it first appears, there is substituted “any appeal under this section”.

33 Osteopaths

(1) The Osteopaths Act 1993 (c. 21) is amended as follows.

(2) In section 10 (fraud or error in relation to registration)—

(a) in subsection (7), for “Her Majesty in Council” there is substituted “a county court or, in the case of a person whose address in the register is in Scotland, the sheriff in whose sheriffdom the address is situated”,

(b) for subsection (8) there is substituted—

“(8) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notification of the order was served under subsection (6).”

(c) subsection (10) is omitted, and

(d) for subsection (11) there is substituted—

“(11) On an appeal under this section, the court (or the sheriff) may—

(a) dismiss the appeal,

(b) allow the appeal and quash the order appealed against, or

(c) remit the case to the General Council to dispose of the case in accordance with the directions of the court (or the sheriff),

and may make such order as to costs (or, in Scotland, expenses) as it (or he) thinks fit.”

(3) In section 22 (consideration of allegations by the Professional Conduct Committee), in each of subsections (6) and (8), for “recommendation under section 31(8)(c)” there is substituted “decision of a court on an appeal under section 31”.

(4) In section 23 (consideration of allegations by the Health Committee), in each of subsections (4), (5) and (6), for “recommendation under section 31(8)(c)” there is substituted “decision of a court on an appeal under section 31”.

(5) In section 29 (appeals against decisions of the Registrar), for subsections (4) to (6) there is substituted—

“(4) A person aggrieved by the decision of the General Council on an appeal under this section may appeal to a county court or, in the case of a person whose address in the register is (or if he were registered would be) in Scotland, the sheriff in whose sheriffdom the address is situated.

(4A) On an appeal under subsection (4) above, the court (or the sheriff) may—

(a) dismiss the appeal,

(b) allow the appeal and quash the decision appealed against,

(c) substitute for the decision appealed against any other decision which could have been made by the Registrar, or

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(d) remit the case to the General Council to dispose of the case in accordance with the directions of the court (or the sheriff), and may make such order as to costs (or, in Scotland, expenses) as it (or he) thinks fit.”

(6) In section 31 (appeals against decisions of the Professional Conduct Committee and appeal tribunals)—

(a) in subsection (1), for the words from “sent to him” to the end there is substituted “ served on him, appeal against it to the relevant court. ”,

(b) after subsection (1) there is inserted—

“(1A) In subsection (1), “the relevant court”—

(a) in the case of a person whose address in the register is (or if he were registered would be) in Scotland, means the Court of Session,

(b) in the case of a person whose address in the register is (or if he were registered would be) in Northern Ireland, means the High Court of Justice in Northern Ireland, and

(c) in the case of any other person, means the High Court of Justice in England and Wales.”,

(c) subsections (3) to (5) and (7) are omitted, and

(d) for subsection (8) there is substituted—

“(8) On an appeal under this section, the court may—

(a) dismiss the appeal,

(b) allow the appeal and quash the decision appealed against,

(c) substitute for the decision appealed against any other decision which could have been made by the Professional Conduct Committee or (as the case may be) Health Committee, or

(d) remit the case to the Committee or appeal tribunal concerned to dispose of the case in accordance with the directions of the court,

and may make such order as to costs (or, in Scotland, expenses) as it thinks fit.”

(7) In section 35 (rules), subsection (3) is omitted.

34 Chiropractors

(1) The Chiropractors Act 1994 (c. 17) is amended as follows.

(2) In section 10 (fraud or error in relation to registration)—

(a) in subsection (7), for “Her Majesty in Council” there is substituted “ a county court or, in the case of a person whose address in the register is in Scotland, the sheriff in whose sherriffdom the address is situated ”,

(b) for subsection (8) there is substituted—

“(8) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notification of the order was served under subsection (6).”,

(c) subsection (10) is omitted, and

(d) for subsection (11) there is substituted—

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- “(11) On an appeal under this section, the court (or the sheriff) may—
- (a) dismiss the appeal,
 - (b) allow the appeal and quash the order appealed against, or
 - (c) remit the case to the General Council to dispose of the case in accordance with the directions of the court (or the sheriff),
- and may make such order as to costs (or, in Scotland, expenses) as it (or he) thinks fit.”
- (3) In section 22 (consideration of allegations by the Professional Conduct Committee), in each of subsections (7) and (9), for “recommendation under section 31(8)(c)” there is substituted “ decision of a court on an appeal under section 31 ”.
- (4) In section 23 (consideration of allegations by the Health Committee), in each of subsections (4), (5) and (6), for “recommendation under section 31(8)(c)” there is substituted “ decision of a court on an appeal under section 31 ”.
- (5) In section 29 (appeals against decisions of the Registrar), for subsections (4) to (6) there is substituted—
- “(4) A person aggrieved by the decision of the General Council on an appeal under this section may appeal to a county court or, in the case of a person whose address in the register is (or if he were registered would be) in Scotland, the sheriff in whose sheriffdom the address is situated.
- (4A) On an appeal under subsection (4) above, the court (or the sheriff) may—
- (a) dismiss the appeal,
 - (b) allow the appeal and quash the decision appealed against,
 - (c) substitute for the decision appealed against any other decision which could have been made by the Registrar, or
 - (d) remit the case to the General Council to dispose of the case in accordance with the directions of the court (or the sheriff),
- and may make such order as to costs (or, in Scotland, expenses) as it (or he) thinks fit.”
- (6) In section 31 (appeals against decisions of the Professional Conduct Committee and appeal tribunals)—
- (a) in subsection (1), for the words from “sent to him” to the end there is substituted “ served on him, appeal against it to the relevant court. ”,
 - (b) after subsection (1) there is inserted—
- “(1A) In subsection (1), “the relevant court”—
- (a) in the case of a person whose address in the register is (or if he were registered would be) in Scotland, means the Court of Session,
 - (b) in the case of a person whose address in the register is (or if he were registered would be) in Northern Ireland, means the High Court of Justice in Northern Ireland, and
 - (c) in the case of any other person, means the High Court of Justice in England and Wales.”,
- (c) subsections (3) to (5) and (7) are omitted, and
 - (d) for subsection (8) there is substituted—

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“(8) On an appeal under this section, the court may—

- (a) dismiss the appeal,
- (b) allow the appeal and quash the decision appealed against,
- (c) substitute for the decision appealed against any other decision which could have been made by the Professional Conduct Committee or (as the case may be) Health Committee, or
- (d) remit the case to the Committee or appeal tribunal concerned to dispose of the case in accordance with the directions of the court,

and may make such order as to costs (or, in Scotland, expenses) as it thinks fit.”

(7) In section 35 (rules), subsection (3) is omitted.

The pharmacy profession

35 Regulation of the profession of pharmacy

In Schedule 3 to the 1999 Act (which makes provision in relation to orders under section 60 of that Act regulating health care and associated professions), in paragraph 2, for sub-paragraphs (2) and (3) there is substituted—

“(2) But (subject to paragraph 12) an order may not amend the Medicines Act 1968 except in connection with the regulation of the profession regulated by the Pharmacy Act 1954.”

PART 3

MISCELLANEOUS

^{F47}36 Amendments of health service legislation in connection with consolidation

.....

Textual Amendments

F47 S. 36 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#) [Sch. 3 Pt. 1](#))

37 Minor and consequential amendments and repeals

- (1) The minor and consequential amendments specified in Schedule 8 are to have effect.
- (2) The enactments specified in Schedule 9 are repealed to the extent specified.

Commencement Information

I9 [S. 37](#) partly in force; [s. 37](#) not in force at Royal Assent, see [s. 42\(3\)](#); [s. 37\(1\)](#) in force for specified purposes for E.W. at 1.10.2002 by [S.I. 2002/2478](#), [art. 3\(1\)\(e\)](#) and in force for specified purposes

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for E. at 1.10.2002 by S.I. 2002/2478, **art. 3(2)(b)**; s. 37 in force for specified purposes for W. at 10.10.2002 by S.I. 2002/2532, **art. 2, Sch.**; s. 37(1) in force for specified purposes for E. at 1.1.2003 by S.I. 2002/3190, **art. 2(2)(c)**; s. 37(2) in force for specified purposes for E.W. at 1.1.2003 by S.I. 2002/3190, **art. 2(2)(d)**; s. 37 in force for specified purposes at 1.4.2003 by S.I. 2003/833, **art. 3(b)(c)** (with art. 4)

I10 S. 37(1) in force at 11.7.2003 for specified purposes for E.W. by S.I. 2003/1580, **art. 2(2)(b)**

I11 S. 37(1) in force at 1.9.2003 for specified purposes by S.I. 2003/2246, **art. 2(b)**

I12 S. 37(2) in force at 11.7.2003 for specified purposes for E.W. by S.I. 2003/1580, **art. 2(2)(c)**

38 Regulations and orders

- (1) Any power under this Act to make any order or regulations is (except in the case of orders under section 22(5)) exercisable by statutory instrument or, in the case of an order made by the Department of Health, Social Services and Public Safety in Northern Ireland under section 27, by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (2) A statutory instrument containing any order or regulations made by the Secretary of State under this Act, other than regulations under section 28 or an order under section 27^{F48} ... 42(3), shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A statutory instrument containing regulations under section 28^{F49} ... or an order of the Secretary of State under section 27, shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (4) No order shall be made by the Department of Health, Social Services and Public Safety in Northern Ireland under section 27 unless a draft of the order has been laid before, and approved by resolution of, the Northern Ireland Assembly.
- (5) Any power under this Act to make any order or regulations may be exercised—
 - (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case,
 - (b) 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.
- (6) Where any such power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes.
- (7) 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 authority making the order or regulations considers to be expedient, and
 - (b) to provide for a person to exercise a discretion in dealing with any matter.

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- (8) Subsections (5) to (7) do not apply to orders under section 27.
- (9) Subject to subsection (8), nothing in this Act shall be read as affecting the generality of subsection (7).
- (10) Directions given in pursuance of any provision of this Act are, except where otherwise stated, to be given by instrument in writing.
- (11) Any power conferred by this Act to give directions [^{F50}by instrument in writing] includes power to vary or revoke them by subsequent directions.

Textual Amendments

- F48** Words in s. 38(2) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 4** (with [Sch. 2 Pt. 1](#) [Sch. 3 Pt. 1](#))
- F49** Words in s. 38(3) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 4** (with [Sch. 2 Pt. 1](#) [Sch. 3 Pt. 1](#))
- F50** Words in s. 38(11) omitted (E.W.) (1.3.2007 immediately before the National Health Service Act 2006 comes into force) by virtue of [The National Health Service \(Pre-consolidation Amendments\) Order 2006 \(S.I. 2006/1407\)](#), [art. 1\(1\)](#), **Sch. 1 para. 9** (with [art. 4](#))

39 Supplementary and consequential provision etc

- (1) The Secretary of State may by regulations 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, or 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, including an enactment contained in an Act passed in the same session as this Act.
- (3) The power to make regulations under this section is also exercisable by the National Assembly for Wales, in relation to provision dealing with matters with respect to which functions are exercisable by the Assembly.
- (4) Nothing in this Act shall be read as affecting the generality of subsection (1).

Modifications etc. (not altering text)

- C3** [S. 39](#) modified (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 2 para. 1(6)(d)** (with [Sch. 3 Pt. 1](#))

40 Wales

- (1) In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), any reference to an Act which is amended by this Act is (as from the time when the Act is so amended) to be treated as referring to the Act as so amended.
- (2) Subsection (1) does not affect the power to make further Orders varying or omitting any such reference.

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41 Financial provisions

There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Secretary of State in consequence of this Act, and
- (b) any increase attributable to this Act in the sums payable out of money so provided by virtue of any other Act.

42 Short title, interpretation, commencement and extent

(1) This Act may be cited as the National Health Service Reform and Health Care Professions Act 2002.

(2) In this Act—

^{F51} ...

“the 1999 Act” means the Health Act 1999 (c. 8),

^{F51} ...

(3) This Act, apart from—

- (a) this section and sections 38 to 41, and
- (b) any other provision of this Act so far as it confers any power to make an order or regulations under this Act,

shall come into force on such day as the appropriate authority may by order appoint, and different days may be appointed for different provisions and for different purposes.

(4) In subsection (3), the “appropriate authority” is—

- (a) in relation to sections 1 to 5, 7, 8, 15 to 22, Part 2, and section 36, the Secretary of State,
- (b) in relation to sections 11 to 14, the Secretary of State after consulting the National Assembly for Wales,
- (c) in relation to sections 6, 9 and 24, the National Assembly for Wales,
- (d) in relation to sections 10 and 23—
 - (i) the Secretary of State, in relation to England, and
 - (ii) the National Assembly for Wales, in relation to Wales,
- (e) in relation to section 37—
 - (i) the Secretary of State, as respects any amendment or repeal consequential on provisions falling within paragraph (a),
 - (ii) the Secretary of State, after consulting the National Assembly for Wales, as respects any amendment or repeal consequential on provisions falling within paragraph (b),
 - (iii) the National Assembly for Wales, as respects any amendment or repeal consequential on provisions falling within paragraph (c),
 - (iv) otherwise, the Secretary of State, in relation to England, and the National Assembly for Wales, in relation to Wales.

(5) Subject to subsection (6), this Act extends to the whole of the United Kingdom, except for Part 1, which extends to England and Wales only.

(6) The extent of any amendment or repeal made by this Act is the same as that of the enactment amended or repealed.

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- (7) [^{F52}Subsection (6) does not apply to the amendment of the Police Act 1997 (c. 50) made by paragraph 64 of Schedule 2, which extends to England and Wales only.]
- (8) 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.

Subordinate Legislation Made

- P1** S. 42(3) power partly exercised: different dates appointed for specified provisions and purposes by [S.I. 2002/2202](#), [arts. 2, 3](#); 1.10.2002 appointed for specified provisions and purposes by [S.I. 2002/2478](#), [arts. 3, 5](#) (with [arts. 2\(2\), 3\(3\), 4](#))
- S. 42(3)(4)(c)(d)(e)(iii)(iv) power partly exercised: 10.10.2002 appointed for specified provisions and purposes by [S.I. 2002/2532](#), [art. 2](#), [Sch.](#)
- S. 42(3) power partly exercised: 1.1.2003 appointed for specified provisions and purposes by [S.I. 2002/3190](#), [art. 2](#); 1.4.2003 appointed for specified provisions and purposes by [S.I. 2003/833](#), [arts. 2, 3](#) (with [art. 4](#))

Textual Amendments

- F51** Words in s. 42(2) repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006](#) (c. 43), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#), [Sch. 3 Pt. 1](#))
- F52** S. 42(7) repealed (E.W.) (6.4.2006) by [Criminal Justice Act 2003](#) (c. 44), s. 336(3)(4), [Sch. 37 Pt. 11](#); [S.I. 2006/751](#), [art. 2\(d\)\(iv\)](#)

Status:

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