



# Health Act 2006

## 2006 CHAPTER 28

### PART 7

#### FINAL PROVISIONS

##### *Offences*

#### **76 Offences by bodies corporate etc.**

- (1) If an offence committed by a body corporate is proved—
  - (a) to have been committed with the consent or connivance of an officer, or
  - (b) to be attributable to any neglect on his part,the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.
- (2) In subsection (1) “officer”, in relation to the body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity.
- (3) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (4) If an offence committed by a partnership is proved—
  - (a) to have been committed with the consent or connivance of a partner, or
  - (b) to be attributable to any neglect on his part,the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.
- (5) In subsection (4) “partner” includes a person purporting to act as a partner.
- (6) If an offence committed by an unincorporated association (other than a partnership) is proved—

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- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or
  - (b) to be attributable to any neglect on the part of such an officer or member, the officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.
- (7) In this section and section 77 “offence” means an offence under any provision of this Act.

#### Commencement Information

- I1** S. 76 in force at 1.2.2007 for specified purposes for W. by [S.I. 2007/204, art. 3\(c\)](#)
- I2** S. 76 in force at 2.4.2007 for specified purposes for W. by [S.I. 2007/204, art. 2\(c\)](#)
- I3** S. 76 in force at 1.7.2007 for specified purposes for E. by [S.I. 2007/1375, art. 2\(b\)](#)
- I4** S. 76 in force at 22.4.2008 for specified purposes by [S.I. 2008/1147, art. 3\(b\)](#)
- I5** S. 76 in force at 22.4.2008 for specified purposes for E.S. by [S.I. 2008/1147, art. 3\(c\)](#)
- I6** [S. 76](#) in force at 13.12.2008 for specified purposes for W. by [S.I. 2008/3171, art. 2\(b\)](#)
- I7** [S. 76](#) in force at 1.8.2012 for specified purposes for N.I. by [S.R. 2012/307, art. 2\(b\)](#)

## 77 Offences committed by partnerships and other unincorporated associations

- (1) Proceedings for an offence alleged to have been committed by a partnership shall be brought in the name of the partnership (and not in that of any of the partners).
- (2) Proceedings for an offence alleged to have been committed by an unincorporated association (other than a partnership) shall be brought in the name of the association (and not in that of any of its members).
- (3) Rules of court relating to the service of documents shall have effect as if the partnership or unincorporated association were a body corporate.
- (4) In proceedings for an offence brought against a partnership or an unincorporated association, the following provisions apply as they apply in relation to a body corporate—
  - (a) section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43);
  - (b) sections 70 and 143 of the Criminal Procedure (Scotland) Act 1995 (c. 46);
  - (c) section 18 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.)) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).
- (5) A fine imposed on a partnership on its conviction for an offence is to be paid out of the partnership assets.
- (6) A fine imposed on an unincorporated association on its conviction for an offence is to be paid out of the funds of the association.
- (7) Subsections (1) and (2) are not to be read as prejudicing any liability of a partner, officer or member under section 76(4) or (6).

#### Commencement Information

- I8** S. 77 in force at 1.2.2007 for specified purposes for W. by [S.I. 2007/204, art. 3\(c\)](#)

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- I9** S. 77 in force at 2.4.2007 for specified purposes for W. by [S.I. 2007/204, art. 2\(c\)](#)
- I10** S. 77 in force at 1.7.2007 for specified purposes for E. by [S.I. 2007/1375, art. 2\(b\)](#)
- I11** S. 77 in force at 22.4.2008 for specified purposes for E.S. by [S.I. 2008/1147, art. 3\(c\)](#)
- I12** S. 77 in force at 22.4.2008 for specified purposes by [S.I. 2008/1147, art. 3\(b\)](#)
- I13** [S. 77](#) in force at 13.12.2008 for specified purposes for W. by [S.I. 2008/3171, art. 2\(b\)](#)
- I14** [S. 77](#) in force at 1.8.2012 for specified purposes for N.I. by [S.R. 2012/307, art. 2\(b\)](#)

## **78 Penalties for offences: transitional modification for England and Wales**

- (1) This section contains transitional modifications in respect of penalties for certain offences committed in England and Wales.
- (2) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' courts power to impose imprisonment), the references in [<sup>F1</sup>section 21(2)(b)] of this Act to periods of imprisonment of 12 months are to be read as references to periods of imprisonment of 6 months.

<sup>F2</sup>(3) .....

### **Textual Amendments**

- F1** Words in s. 78(2) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 289](#) (with Sch. 3 Pt. 1)
- F2** S. 78(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)

### **Commencement Information**

- I15** S. 78 in force at 1.2.2007 for specified purposes for W. by [S.I. 2007/204, art. 3\(c\)](#)
- I16** S. 78 in force at 2.4.2007 for specified purposes for W. by [S.I. 2007/204, art. 2\(c\)](#)
- I17** S. 78 in force at 22.4.2008 for specified purposes by [S.I. 2008/1147, art. 3\(b\)](#)
- I18** S. 78 in force at 22.4.2008 for specified purposes for E. by [S.I. 2008/1147, art. 3\(c\)](#)
- I19** [S. 78](#) in force at 13.12.2008 for specified purposes for W. by [S.I. 2008/3171, art. 2\(b\)](#)

## *General*

## **79 Orders and regulations**

- (1) Subject to subsection (2), any power to make an order or regulations under this Act is exercisable by statutory instrument.
- (2) Any power of the Department of Health, Social Services and Public Safety to make an order or regulations under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (3) Any power to make an order or regulations under this Act—
  - (a) may be exercised so as to make different provision for different cases or descriptions of case or different purposes or areas, and
  - (b) includes power to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the authority making the order or regulations considers appropriate.

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- (4) No statutory instrument containing—
- (a) regulations under section 3, 4, 5, 6(8), 7(6)<sup>[F3]</sup>, 8(7) or 9(1A)],
  - (b) an order under section 13,
  - (c) regulations under section 17 which amend or repeal any provision of an Act or an Act of the Scottish Parliament,
  - (d) an order under section 45(7),
  - (e) an order under section 75 or 80(3) which amends or repeals any provision of an Act or an Act of the Scottish Parliament, or
  - (f) regulations under paragraph 5<sup>[F4]</sup>, 8 or 17] of Schedule 1,
- may be made by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

<sup>[F5]</sup>(4A) No statutory instrument containing

- <sup>[F6]</sup>(a) regulations under section 9(1A),
- (b) an order under section 13, or
- (c) regulations under paragraph 17 of Schedule 1,]

may be made by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.]

- (5) Otherwise, a statutory instrument containing any order or regulations made by the Secretary of State under this Act (other than an order under section 83) is to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) No statutory instrument containing an order under section 80(4) which amends or repeals any provision of an Act or an Act of the Scottish Parliament may be made by the Scottish Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the Scottish Parliament.
- (7) Otherwise, a statutory instrument containing an order under section 80(4) is to be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (8) A statutory rule containing regulations made by the Department of Health, Social Services and Public Safety under section 17 which amend or repeal any provision of an Act is to be subject to affirmative resolution within the meaning of section 41(4) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)).
- (9) Otherwise, a statutory rule containing regulations made by the Department of Health, Social Services and Public Safety under Chapter 1 of Part 3 is to be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.

#### Textual Amendments

- F3** Words in s. 79(4) substituted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 95(5)(a)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F4** Words in s. 79(4)(f) substituted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 95(5)(b)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3
- F5** S. 79(4A) inserted (1.10.2014 for specified purposes, 1.10.2015 in so far as not already in force) by [Children and Families Act 2014 \(c. 6\)](#), **ss. 95(5)(c)**, 139(6); S.I. 2014/2609, art. 2; S.I. 2015/375, art. 3

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**F6** S. 79(4A)(a)-(c) substituted for words (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **42(3)**

## **80 Amendments, repeals and revocations**

- (1) Schedule 8 contains minor and consequential amendments.
- (2) Schedule 9 makes provision for the repeal and revocation of enactments (including enactments which are spent).
- (3) 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 appropriate for the general purposes, or any particular purposes, of this Act or in consequence of, or for giving full effect to, any provision made by this Act.
- (4) The Scottish Ministers may by order make—
  - (a) such supplementary, incidental or consequential provision, or
  - (b) such transitory, transitional or saving provision,as they consider appropriate for the general purposes, or any particular purposes, of the provisions specified in subsection (5) or in consequence of, or for giving full effect to, any of those provisions.
- (5) Those provisions are—
  - (a) section 36(2),
  - (b) so far as extending to Scotland, section 73 and paragraph 55 of Schedule 8.
- (6) An order under subsection (4) may not include any provision which would be outside the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament.
- (7) An order under subsection (3) may not include any provision which it would be competent for the Scottish Ministers to make in an order under subsection (4).
- (8) An order under subsection (3) or (4) may amend, repeal, revoke or otherwise modify any enactment.

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

**C1** S. 80 modified (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 2 para. 1(6)(f)** (with [Sch. 3 Pt. 1](#))

### **Commencement Information**

- I20** S. 80(1) in force at Royal Assent for specified purposes and s. 80(3)-(8) in force at Royal Assent, see s. 83
- I21** S. 80(1) in force at 1.10.2006 for specified purposes except so far as relating to Welsh NHS bodies by [S.I. 2006/2603](#), **art. 5(b)**
- I22** S. 80(1) in force at 1.10.2006 for specified purposes by [S.I. 2006/2603](#), **art. 4(5)(d)**
- I23** S. 80(1) in force at 29.1.2007 for specified purposes for S. by [S.I. 2007/9](#), **art. 2(c)**
- I24** S. 80(1) in force at 1.2.2007 for specified purposes for W. by [S.I. 2007/204](#), **art. 4(b)**
- I25** S. 80(1) in force at 1.8.2008 for specified purposes by [S.I. 2008/1972](#), **art. 2(b)**
- I26** S. 80(2) in force at 1.10.2006 for specified purposes by [S.I. 2006/2603](#), **art. 4(5)(e)**, **Sch.**

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- I27** S. 80(2) in force at 1.10.2006 for specified purposes except so far as relating to Welsh NHS bodies by [S.I. 2006/2603, art. 5\(d\)](#)
- I28** S. 80(2) in force at 1.2.2007 for specified purposes for W. by [S.I. 2007/204, art. 4\(d\)](#)
- I29** S. 80(2) in force at 1.8.2008 for specified purposes by [S.I. 2008/1972, art. 2\(c\)](#)

## 81 Expenses

There shall be paid out of money provided by Parliament—

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

## 82 Interpretation

(1) In this Act—

<sup>F7</sup>  
...

“the 2003 Act” means the Health and Social Care (Community Health and Standards) Act 2003 (c. 43);

[<sup>F8</sup>“the 2006 Act” means the National Health Service Act 2006]

“the appropriate national authority” means—

- (a) in relation to England, the Secretary of State, and
- (b) in relation to Wales, the National Assembly for Wales;

“the health service”—

- (a) in relation to England and Wales, has the same meaning as in [<sup>F9</sup>the 2006 Act],
- (b) in relation to Scotland, has the same meaning as in the National Health Service (Scotland) Act 1978 (c. 29), and
- (c) in relation to Northern Ireland, means health services within the meaning given by Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)).

(2) In this Act “enactment” includes—

- (a) any provision of subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)), and
- (b) (in sections 17(5)(f) and 80(8)) any provision made by or under an Act of the Scottish Parliament or Northern Ireland legislation,

and references to enactments include enactments passed or made after the passing of this Act.

(3) Subsection (2) applies except where the context otherwise requires.

### Textual Amendments

- F7** Words in s. 82(1) omitted (1.3.2007) by virtue of [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 290\(a\)](#) (with Sch. 3 Pt. 1)
- F8** Words in s. 82(1) inserted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 290\(b\)](#) (with Sch. 3 Pt. 1)
- F9** Words in s. 82(1) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), s. 8\(2\), Sch. 1 para. 290\(c\)](#) (with Sch. 3 Pt. 1)

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### **83 Commencement**

- (1) The following provisions come into force on the day on which this Act is passed—
  - (a) sections 74 and 75,
  - (b) sections 79, 80(3) to (8), 81 and 82, this section and section 84,
  - (c) paragraphs 36, 53 and 54 of Schedule 8,
  - (d) section 80(1) so far as relating to those paragraphs, and
  - (e) (except for section 36(2)) any other provision of this Act so far as it—
    - (i) confers power to make an order or regulations, or
    - (ii) defines any expression relevant to the exercise of any such power.

Subsections (2)(b) and (3) to (6) have effect subject to paragraph (e).
- (2) The following provisions come into force on such day as the Scottish Ministers may by order appoint—
  - (a) section 36(2), and
  - (b) so far as extending to Scotland—
    - (i) section 73,
    - (ii) paragraph 55 of Schedule 8, and
    - (iii) section 80(1) so far as relating to that paragraph.
- (3) Part 5 comes into force on such day as the Secretary of State, after consulting the National Assembly for Wales, may by order appoint.
- (4) The following provisions come into force in relation to Wales on such day as the National Assembly for Wales may by order appoint—
  - (a) Chapter 1 of Part 1 and sections 76 and 77 so far as relating to offences under that Chapter, and
  - (b) paragraph 24(a) of Schedule 8 and section 80(1) so far as relating to that paragraph.
- (5) The following provisions come into force on such day as the National Assembly for Wales may by order appoint—
  - (a) Chapter 1 of Part 3 and sections 76 to 78 so far as relating to the Assembly's functions under that Chapter (see section 24) or to offences committed in relation to those functions,
  - (b) Chapter 1 of Part 4 so far as relating to the Assembly's functions under sections 42 and 42B of the 1977 Act,
  - (c) Chapter 3 of Part 4 and sections 76 to 78 so far as relating to the Assembly's counter fraud functions in relation to the health service in Wales (see section 44) or to offences committed in relation to those functions,
  - (d) section 56, Schedule 3 and paragraph 44 of Schedule 8 so far as relating to Welsh NHS bodies,
  - (e) paragraphs 43 and 62 of Schedule 8,
  - (f) so far as relating to Welsh NHS bodies, any provision of Schedule 9 which repeals or revokes an enactment amending or repealing section 98 of the 1977 Act, and
  - (g) section 80(1) and (2) so far as relating to the provisions in paragraphs (d), (e) and (f).

In this subsection “Welsh NHS body” has the meaning given by paragraph 2 of the Schedule 12B inserted by Schedule 3.

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- (6) The following provisions come into force on such day as the Department of Health, Social Services and Public Safety may by order appoint—
- (a) Chapter 1 of Part 3 so far as relating to the functions of the Department of Health, Social Services and Public Safety under that Chapter (see section 24), and
  - (b) sections 76 and 77 so far as relating to offences committed in relation to those functions.
- (7) Otherwise, this Act comes into force on such day as the Secretary of State may by order appoint.
- (8) Different days may be appointed for different provisions, different purposes or different areas.

#### **84 Short title and extent**

- (1) This Act may be cited as the Health Act 2006.
- (2) Subject to subsections (3) and (4), this Act extends to England and Wales only.
- (3) The following provisions extend also to Scotland and Northern Ireland—
- (a) Chapter 1 of Part 3,
  - (b) Part 5, and
  - (c) sections 75, 76, 77, 79 to 83 and this section.
- (4) Any amendment, repeal or revocation made by this Act has the same extent as the enactment to which it relates.



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**Changes to legislation:**

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