

HEALTH ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part III – Miscellaneous and Supplementary

Section 60 and Schedule 3: Regulation of health care and associated professions

333. Parliament has intervened in the regulation of health care professions for nearly 150 years. It has established statutory frameworks for a number of health care professions within which the professions regulate themselves. The purpose of professional regulation is to establish a countrywide, professionally set, independent standard of training, conduct and competence for each profession for the protection of the public and the guidance of employers. This is underpinned by personal accountability of practitioners for maintaining safe and effective practice, wherever they are employed and to include effective measures to deal with individuals whose continuing practice presents an unacceptable risk to the public or otherwise renders them unfit to be a registered member of the profession. For the most part there are separate enactments for each health care profession (doctors; dentists; nurses, midwives and health visitors; opticians; pharmacists; osteopaths; chiropractors; and the nine professions coming within the remit of the Council for Professions Supplementary to Medicine).
334. These enactments make provisions which, with very few exceptions, may only be changed by means of primary legislation, and it has hitherto not proved possible to make amendments as promptly as the professions would like. The Act provides for a procedure that will enable such enactments to be amended and new professions to be regulated, without the need for an Act of Parliament each time.
335. [Section 60](#) provides for Her Majesty by Order in Council to modify the regulation of pharmacists, doctors, dentists, opticians, osteopaths, chiropractors, nurses, midwives and health visitors and those professions regulated by the Professions Supplementary to Medicine Act 1960; and to regulate any other health care profession. This would cover health care professions not already brought within statutory regulation. An Order may repeal or revoke any enactment, amend it, or replace it (subject to such provisions as paragraphs 7 and 8 of Schedule 3).
336. Subsection (3) makes provision for the repeal of the Professions Supplementary to Medicine Act 1960 and the Nurses, Midwives and Health Visitors Act 1997.
337. The independent review of the Professions Supplementary to Medicine Act, which reported in July 1996, concluded that completely new legislation is needed to streamline existing arrangements. The Government broadly accepted the key recommendations of the review. It is intended that (with the exception of section 10 of the 1960 Act) the repeal will be brought into force when the replacement Order comes into effect. Section 67(3) provides for the repeal of section 10 of the 1960 Act to come into force on 1 July 1999. Section 10 provides for professions to be added to or removed from regulation under the 1960 Act; for the establishment of a single board for amalgamated professions; and for changes to be made to a board's functions. Henceforth, any such changes will be made by Orders under section 60 of this Act.

338. A review of the Nurses, Midwives and Health Visitors Act 1997 was published on 9 February 1999. It recommended new legislation to establish a single UK-wide regulatory body in place of the existing statutory bodies. The Government accepted the key recommendations, except those relating to health visitors who will continue to have separate representation on the new Council. It is intended that the repeal of that Act will be brought into force when the replacement Order comes into effect.
339. The Order-making power covers the professions regulated by the Pharmacy Act 1954, the Professions Supplementary to Medicine Act 1960, the Medical Act 1983, the Dentists Act 1984, the Opticians Act 1989, the Osteopaths Act 1993, the Chiropractors Act 1994 and the Nurses, Midwives and Health Visitors Act 1997. However, the scope of the Order-making power is not limited to those Acts. In particular, it extends to the regulation under the Medicines Act 1968 of persons who are not pharmacists carrying on a retail pharmacy business by the Statutory Committees of the Royal Pharmaceutical Society of Great Britain and the Pharmaceutical Society of Northern Ireland.
340. It is intended that Orders will be made to improve the services provided to patients or to improve the regulation of the professions by enabling the legislative framework to be kept up to date and taking account of changing public expectations of the professions and the professions' own views about the development of their regulation. New responsibilities can be given to existing bodies or new professional regulatory bodies established to carry out new or existing regulatory responsibilities (subject to the provisions in paragraphs 7 and 8 of Schedule 3).