



# 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.
  - [<sup>F1</sup>(c) modifying the functions, powers or duties of [<sup>F2</sup>the Council for Healthcare Regulatory Excellence],
  - (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.]
  - <sup>F3</sup>(f) .....
- (2) The professions referred to in subsection (1)(a) are—
- (a) the professions regulated by <sup>F4</sup>. . . the <sup>M1</sup>Medical Act 1983, the <sup>M2</sup>Dentists Act 1984, the <sup>M3</sup>Opticians Act 1989, the <sup>M4</sup>Osteopaths Act 1993 and the <sup>M5</sup>Chiropractors Act 1994,
  - [<sup>F5</sup>(aa) the professions regulated by [<sup>F6</sup>the Pharmacy Order 2010] and the Pharmacy (Northern Ireland) Order 1976.]

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- (b) the professions regulated by [<sup>F7</sup>the Nursing and Midwifery Order 2001] ,
  - (c) the professions regulated by [<sup>F8</sup>the Health Professions Order 2001] ,
  - [<sup>F9</sup>(ca) the profession regulated by so much of the Hearing Aid Council Act 1968 as relates to dispensers of hearing aids,]
  - (d) any other profession regulated by an Order in Council under this section.
- [<sup>F10</sup>(2A) Her Majesty may also by Order in Council make provision relating to, or connected with, the functions of the relevant regulatory body in relation to—
- (a) the registration of premises under Part 4 of the Medicines Act 1968 (pharmacies),
  - (b) the regulation of the use of premises for the purposes of a retail pharmacy business, within the meaning of the Medicines Act 1968,
  - (c) compliance with the provisions of that Act,
  - (d) compliance with the provisions of the Poisons Act 1972 or the Poisons (Northern Ireland) Order 1976 by persons admitted to practice and persons carrying on a retail pharmacy business, and
  - (e) the grant of authorisations under section 28 of the Regulation of Investigatory Powers Act 2000 (authorisation of directed surveillance).
- (2B) In subsection (2A) “the relevant regulatory body” means the body (or main body) responsible for the regulation of the professions referred to in subsection (2)(aa).]
- (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.

#### Textual Amendments

- F1** S. 60(1)(c)-(e) inserted (1.4.2003) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), [s. 26\(9\)](#); [S.I. 2002/2202](#), [art. 2\(3\)\(b\)](#)
- F2** Words s. 60(1) substituted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 127, 170\(3\)](#), [Sch. 10 para. 10](#); [S.I. 2008/3244](#), [art. 2\(i\)\(viii\)](#)
- F3** S. 60(1)(f) omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [s. 306\(4\)](#), [Sch. 15 para. 72\(2\)](#); [S.I. 2012/1319](#), [art. 2\(3\)](#)
- F4** Words in s. 60(2)(a) omitted (1.1.2009) and repealed (prosp.) by virtue of [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 111, 166, 170\(3\)](#), [Sch. 8 para. 1\(3\)\(a\)](#), [Sch. 15 Pt. 2](#); [S.I. 2008/3244](#), [art. 3\(a\)\(c\)\(i\)](#)
- F5** S. 60(2)(aa) inserted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 111, 170\(3\)](#), [Sch. 8 para. 1\(3\)\(b\)](#); [S.I. 2008/3244](#), [art. 3\(a\)\(c\)\(i\)](#)
- F6** Words in s. 60(2)(aa) substituted (27.9.2010) by [The Pharmacy Order 2010 \(S.I. 2010/231\)](#), [arts. 1\(5\), 68](#), [Sch. 4 para. 7](#); [S.I. 2010/1621](#), [art. 2\(1\)](#), [Sch.](#)
- F7** Words in s. 60(2)(b) substituted by [The Nursing and Midwifery Order 2001 \(S.I. 2002/253\)](#), [art. 54\(3\)](#), [Sch. 5 para. 16\(a\)](#) (with savings in [art. 3\(18\)](#) and transitional provisions in [art. 54\(1\)](#), [Sch. 2](#)) (the amendment coming into force in accordance with [art. 1\(2\)\(3\)](#) of the amending S.I.)
- F8** Words in s. 60(2)(c) substituted by [The Health Professions Order 2001 \(S.I. 2002/254\)](#), [art. 48\(3\)](#), [Sch. 4 para. 8\(a\)](#) (with savings in [art. 3\(19\)](#) and transitional provisions in [art. 48\(1\)](#), [Sch. 2](#)) (the amendment coming into force in accordance with [art. 1\(2\)\(3\)](#) of the amending S.I.)
- F9** S. 60(2)(ca) inserted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 111, 170\(3\)](#), [Sch. 8 para. 1\(3\)\(c\)](#); [S.I. 2008/3244](#), [art. 3\(a\)\(c\)\(i\)](#)
- F10** S. 60(2A)(2B) inserted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 111, 170\(3\)](#), [Sch. 8 para. 1\(4\)](#); [S.I. 2008/3244](#), [art. 3\(a\)\(c\)\(i\)](#)

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#### Commencement Information

- II** S. 60 wholly in force at 1.8.2004; s. 60 not in force at Royal Assent, see s. 67(1); s. 60(3) in force for certain purposes at 1.7.1999, see s. 67(3); s. 60(1)(2)(4) in force at 15.3.2000 by [S.I. 2000/779](#), [art. 2\(1\)](#) (subject to [art. 2\(2\)](#)); s. 60(3) in force for certain further purposes at 11.5.2001 by [S.I. 2001/1985](#), [art. 2\(2\)](#); s. 60(3) in force for certain further purposes at 1.4.2002 by [S.I. 2002/1167](#), [arts. 2-5](#); s. 60(3) in force for certain further purposes at 9.7.2003 by [S.I. 2003/1689](#). {art. 2}; s. 60(3) in force so far as not already in force at 1.8.2004 by [S.I. 2004/1859](#), [art. 3](#)

#### Marginal Citations

- M1** 1983 c.54.  
**M2** 1984 c.24.  
**M3** 1989 c.44.  
**M4** 1993 c.21.  
**M5** 1994 c.17.

### [<sup>F11</sup>60A Standard of proof in fitness to practise proceedings

- (1) The standard of proof applicable to any proceedings to which this subsection applies is that applicable to civil proceedings.
- (2) Subsection (1) applies to any proceedings before—
  - <sup>F12</sup>(a) .....
  - (b) a committee of a regulatory body, a regulatory body itself or any officer of a regulatory body,which relate to a person's fitness to practise a profession to which section 60(2) applies.
- (3) In subsection (2) “regulatory body” means the body (or main body) responsible for the regulation of a profession to which section 60(2) applies.
- (4) An Order in Council under section 60 may not—
  - (a) amend this section, or
  - (b) make any provision that is inconsistent with subsection (1).]

#### Textual Amendments

- F11** S. 60A inserted (3.11.2008 for specified purposes) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 112, 170\(3\)](#); [S.I. 2008/2717](#), [art. 2](#)
- F12** S. 60A(2)(a) and following word omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [s. 306\(4\)](#), [Sch. 15 para. 72\(5\)](#); [S.I. 2012/1319](#), [art. 2\(3\)](#)

### 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.

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- (2) This subsection applies to any functions under [<sup>F13</sup>the National Health Service Act 2006, or the National Health Service (Wales) Act 2006]<sup>F14</sup>. . . which are exercisable by the Secretary of State or any [<sup>F15</sup>Strategic 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 [<sup>F16</sup>Primary Care Trust] adjacent to Scotland,  
     “Scottish border area” means the area of any Health Board adjacent to England.

#### **Textual Amendments**

- F13** Words in s. 61(2) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\), ss. 2, 8\(2\), Sch. 1 para. 196](#) (with Sch. 3 Pt. 1)
- F14** Words in s. 61(2) repealed (1.4.2006) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\), ss. 196, 199, Sch. 14 Pt. 4](#); S.I. 2005/2925, arts. 1(3), **11(2)(p)**
- F15** Words in s. 61(2) substituted (1.10.2002 for E.W.) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\), ss. 1\(3\), 42\(3\), Sch. 1 para. 54](#); S.I. 2002/2478, **art. 3(1)(c)** (subject to arts. 2(2), 3(3) and with transitional provisions in art. 4)
- F16** Words in s. 61(5) substituted (1.10.2002) by [The National Health Service Reform and Health Care Professions Act 2002 \(Supplementary, Consequential etc. Provisions\) Regulations 2002 \(S.I. 2002/2469\), reg. 4, Sch. 1 para. 26](#) (with regs. 2(4), 15, Sch. 12)

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