



# Health Act 1999

## 1999 CHAPTER 8

### PART III

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Miscellaneous*

#### 60 [F<sup>1</sup>Regulation of health professions, social workers, other care workers etc.]

- (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.
- [F<sup>2</sup>(ba) regulating the social work profession in England,
- (bb) modifying the regulation of the social work profession in England, 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 it provides or to which it contributes,]
- [F<sup>3</sup>(bc) regulating social care workers in England who appear to Her to require regulation in pursuance of this section,
- (bd) modifying the regulation of social care workers in England, so far as appears to Her to be necessary or expedient for the purpose of securing or improving their regulation or the services which they provide or to which they contribute,]
- [F<sup>4</sup>(c) modifying the functions, powers or duties of [F<sup>5</sup>the Professional Standards Authority for Health and Social Care],
- (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 [F<sup>6</sup>Authority] performs its functions,

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- (e) modifying, as respects any such regulatory body, the range of functions of that body in relation to which the [<sup>F6</sup>Authority] performs its functions.]
- [<sup>F7</sup>(ea) modifying the functions, powers or duties of the Health and Care Professions Council that relate to the education and training of persons who are or wish to become approved mental health professionals,]
- <sup>F8</sup>(f) .....
- (2) The professions referred to in subsection (1)(a) are—
- (a) the professions regulated by <sup>F9</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>F10</sup>(aa) the professions regulated by [<sup>F11</sup>the Pharmacy Order 2010] and the Pharmacy (Northern Ireland) Order 1976,]
- (b) the professions regulated by [<sup>F12</sup>the Nursing and Midwifery Order 2001],
- (c) the professions regulated by [<sup>F13</sup>the Health and Social Work Professions Order 2001][<sup>F14</sup>(other than the social work profession in England)],
- [<sup>F15</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>F14</sup>(other than the social work profession in England)] .
- [<sup>F16</sup>(2ZA) In subsections (1) and (2), “the social work profession in England” means the profession engaged in social work in England; and for the purposes of this section, “social work in England” means social work which is required in connection with any health, education or social services provided in England.]
- [<sup>F17</sup>(2ZB) In subsection (1)(bc) and (bd), “social care workers in England” means persons who are engaged in social care work in England.
- (2ZC) For that purpose, “social care work in England” means work (other than social work in England) that is of any of the following descriptions—
- (a) employment at a children's home, care home or residential family centre in England,
- (b) management of a home or centre of a kind mentioned in paragraph (a),
- (c) employment for the purposes of a domiciliary care agency, fostering agency, voluntary adoption agency or adoption support agency, in so far as the agency provides services to persons in England,
- (d) management of an agency of a kind mentioned in paragraph (c),
- (e) work for the purposes of the social services functions of a local authority whose area is in England,
- (f) the provision in England of services similar to services which may or must be provided by a local authority in the exercise of its social services functions,
- (g) the provision of personal care for persons in England,
- (h) employment (in an undertaking other than an establishment or agency) which consists of or includes supplying, or providing services for the purpose of supplying, persons to provide personal care for persons in England,
- (i) management of an undertaking of the kind mentioned in paragraph (h),
- (j) employment in connection with the discharge of functions of the Secretary of State under section 80 of the Children Act 1989 (inspection of children's homes),

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- (k) employment as a member of staff of the Office for Standards in Education, Children's Services and Skills who inspects premises under—
  - (i) section 87 of the Children Act 1989 (welfare of children accommodated in independent schools and colleges),
  - (ii) section 31 of the Care Standards Act 2000 (inspections by persons authorised by registration authority), or
  - (iii) section 139 of the Education and Inspections Act 2006 (inspection by Chief Inspector),
- (l) employment as a member of staff of the Care Quality Commission who, under Part 1 of the Health and Social Care Act 2008, inspects premises used for or in connection with the provision of social care (within the meaning of that Part),
- (m) management of staff mentioned in paragraph (k) or (l),
- (n) employment at a day centre in England,
- (o) participation in a course approved by the Health and Care Professions Council under article 15 of the Health and Social Work Professions Order 2001 for persons wishing to engage in the social work profession in England.]

[<sup>F18</sup>(2ZD) An expression used in subsection (2ZC) and in section 55 of the Care Standards Act 2000 has the same meaning in that subsection as it has in that section.]

[<sup>F19</sup>(2ZE) The exercise of functions of an approved mental health professional by a member of a profession to which subsection (2) applies is not to be regarded as social work of the kind engaged in by the social work profession in England.]

[<sup>F20</sup>(2ZF) In this section, “approved mental health professional” has the meaning given in section 114 of the Mental Health Act 1983.]

[<sup>F21</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 [<sup>F22</sup>or the Human Medicines Regulations 2012],
- (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.

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### Textual Amendments

- F1** S. 60 title substituted (1.8.2012) by Health and Social Care Act 2012 (c. 7), **ss. 209(10)**, 306(4) (with s. 230(6)); S.I. 2012/1319, art. 2(4)
- F2** S. 60(1)(ba)(bb) inserted (1.8.2012) by Health and Social Care Act 2012 (c. 7), **ss. 209(2)**, 306(4) (with s. 230(6)); S.I. 2012/1319, art. 2(4)
- F3** S. 60(1)(bc)(bd) inserted (1.8.2012) by Health and Social Care Act 2012 (c. 7), **ss. 209(3)**, 306(4) (with s. 230(6)); S.I. 2012/1319, art. 2(4)
- F4** 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)**
- F5** Words in s. 60(1)(c) substituted (1.12.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 60(a)**; S.I. 2012/2657, art. 2(3)
- F6** Words in s. 60(1)(d)(e) substituted (1.12.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 60(b)**; S.I. 2012/2657, art. 2(3)
- F7** S. 60(1)(ea) inserted (1.8.2012) by Health and Social Care Act 2012 (c. 7), **ss. 210**, 306(4) (with s. 230(6)); S.I. 2012/1319, art. 2(4)
- F8** 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)
- F9** 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)**
- F10** 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)**
- F11** 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.
- F12** 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.)
- F13** Words in s. 60(2)(c) substituted (1.8.2012) by Health and Social Care Act 2012 (c. 7), **ss. 213(7)(i)**, 306(4) (with s. 230(6)); S.I. 2012/1319, art. 2(4)
- F14** Words in s. 60(2)(c)(d) inserted (1.8.2012) by Health and Social Care Act 2012 (c. 7), **ss. 209(4)**, 306(4) (with s. 230(6)); S.I. 2012/1319, art. 2(4)
- F15** 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)**
- F16** S. 60(2ZA) inserted (1.8.2012) by Health and Social Care Act 2012 (c. 7), **ss. 209(5)**, 306(4) (with s. 230(6)); S.I. 2012/1319, art. 2(4)
- F17** S. 60(2ZB)(2ZC) inserted (1.8.2012) by Health and Social Care Act 2012 (c. 7), **ss. 209(6)**, 306(4) (with s. 230(6)); S.I. 2012/1319, art. 2(4)
- F18** S. 60(2ZD) inserted (1.8.2012) by Health and Social Care Act 2012 (c. 7), **ss. 209(7)**, 306(4) (with s. 230(6)); S.I. 2012/1319, art. 2(4)
- F19** S. 60(2ZE) inserted (1.8.2012) by Health and Social Care Act 2012 (c. 7), **ss. 209(8)**, 306(4) (with s. 230(6)); S.I. 2012/1319, art. 2(4)
- F20** S. 60(2ZF) inserted (1.8.2012) by Health and Social Care Act 2012 (c. 7), **ss. 209(9)**, 306(4) (with s. 230(6)); S.I. 2012/1319, art. 2(4)
- F21** 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)**
- F22** Words in s. 60(2A)(c) inserted (14.8.2012) by The Human Medicines Regulations 2012 (S.I. 2012/1916), **reg. 1(2)**, **Sch. 34 para. 43** (with Sch. 32)

### Commencement Information

- I1** 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,

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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>F23</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>F24</sup>(a) .....

(b) a committee of a regulatory body, a regulatory body itself or any officer of a regulatory body,

which relate to [<sup>F25</sup>a matter specified in subsection (2A)].

[ The matters are—

<sup>F26</sup>(2A) (a) a person's fitness to practise a profession to which section 60(2) applies;

(b) a person's fitness to practise the social work profession in England (within the meaning given by section 60);

(c) a person's suitability to remain registered as a social care worker in England (within the meaning given by that section).]

(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 [<sup>F27</sup>or the social work profession in England (within the meaning given in section 60(2ZA))].

(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

**F23** 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

**F24** 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)

**F25** Words in s. 60A(2) substituted (1.8.2012) by Health and Social Care Act 2012 (c. 7), ss. 209(11), 306(4) (with s. 230(6)); S.I. 2012/1319, art. 2(4)

**F26** S. 60A(2A) inserted (1.8.2012) by Health and Social Care Act 2012 (c. 7), ss. 209(12), 306(4) (with s. 230(6)); S.I. 2012/1319, art. 2(4)

**F27** Words in s. 60A(3) inserted (1.8.2012) by Health and Social Care Act 2012 (c. 7), ss. 209(13), 306(4) (with s. 230(6)); S.I. 2012/1319, art. 2(4)

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## 61 English and Scottish border provisions.

- (1) Her Majesty may by Order in Council provide for any functions to which subsection (2) applies which are specified in the Order, so far as exercisable in respect of the provision of services to persons in English border areas, to be exercisable (instead of any corresponding function to which subsection (4) applies) in respect of the provision of the services in question to persons in Scottish border areas who are specified in the Order.
- (2) This subsection applies to any functions under [<sup>F28</sup>the National Health Service Act 2006, or the National Health Service (Wales) Act 2006]<sup>F29</sup> . . . which are exercisable by the Secretary of State or any [<sup>F30</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>F31</sup>Primary Care Trust] adjacent to Scotland,
  - “Scottish border area” means the area of any Health Board adjacent to England.

### Textual Amendments

- F28** 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)
- F29** 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)**
- F30** 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)
- F31** 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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