



Health Act 2009

2009 CHAPTER 21

PART 4

GENERAL

37 Power to make transitional and consequential provision etc

- (1) The Secretary of State may by order make—
 - (a) such transitional or transitory provisions or savings as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act;
 - (b) such supplementary, incidental or consequential provision as the Secretary of State considers appropriate for the purposes of, in consequence of, or for giving full effect to, any provision of this Act.
- (2) Subsection (1)(a) does not apply to—
 - (a) section 19 and Schedule 3, so far as they relate to amendments of the National Health Service (Wales) Act 2006 (c. 42);
 - (b) sections 20 to 24 and Schedule 4, so far as they relate to Wales or Northern Ireland;
 - (c) sections 30 to 32.
- (3) The Welsh Ministers may by order make such transitional or transitory provisions or savings as the Welsh Ministers consider appropriate in connection with the coming into force of—
 - (a) section 19 and Schedule 3, so far as they relate to amendments of the National Health Service (Wales) Act 2006;
 - (b) sections 20 to 24 and Schedule 4, so far as they relate to Wales;
 - (c) sections 30 to 32.
- (4) The Department of Health, Social Services and Public Safety in Northern Ireland may by order make such transitional or transitory provisions or savings as the Department considers appropriate in connection with the coming into force of sections 20 to 24 and Schedule 4, so far as they relate to Northern Ireland.

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- (5) An order under this section may amend, repeal, revoke or otherwise modify any enactment.
- (6) An order under this section may, in particular, provide for any provision of this Act which comes into force before another such provision has come into force to have effect, until that other provision has come into force, with such modifications as are specified in the order.
- (7) The power to make an order under subsection (1) or (3) is exercisable by statutory instrument.
- (8) The power to make an order under subsection (4) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (9) A statutory instrument containing an order under subsection (1)—
 - (a) if it amends or repeals an enactment contained in an Act of Parliament, may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament;
 - (b) in any other case, is subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) A statutory instrument containing an order under subsection (3) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (11) A statutory rule containing an order under subsection (4) is subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)).
- (12) In this section “enactment” means an enactment contained in, or in an instrument made under—
 - (a) an Act of Parliament,
 - (b) a Measure or Act of the National Assembly for Wales, or
 - (c) Northern Ireland legislation.

38 Repeals and revocations

Schedule 6 (repeals and revocations) has effect.

Commencement Information

- I1** S. 38 partly in force; s. 38 in force for specified purposes at Royal Assent see s. 40(5)(b)(8)
- I2** S. 38 in force at 1.10.2011 for specified purposes by S.I. 2010/1068, art. 2(1)(b)
- I3** S. 38 in force at 6.4.2012 for specified purposes by S.I. 2010/1068, art. 2(1A)(c)
- I4** S. 38 in force at 1.9.2012 for specified purposes by S.I. 2012/1902, art. 2(e)
- I5** S. 38 in force at 31.10.2012 for specified purposes by S.I. 2012/2647, art. 2(a)

39 Extent

- (1) Subject to the following provisions, this Act extends to England and Wales only.
- (2) Any amendment, repeal or revocation made by this Act has the same extent as the enactment amended, repealed or revoked.

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- (3) The following extend to England and Wales, Scotland and Northern Ireland—
- (a) section 36;
 - (b) this section and sections 37, 40 and 41;
 - (c) paragraph 19 of Schedule 3 (and section 19 so far as it relates to that paragraph);
 - (d) paragraphs 4(6) and 9(4) of Schedule 4 (and section 24 so far as it relates to those provisions).

40 Commencement

- (1) Subject to the following provisions, this Act comes into force on such day as the Secretary of State may by order made by statutory instrument appoint.
- (2) Subject to subsections (5) to (7), the following come into force on such day as the Welsh Ministers may by order made by statutory instrument appoint—
 - (a) section 19 and Schedule 3, so far as they relate to amendments of the National Health Service (Wales) Act 2006 (c. 42);
 - (b) sections 20 to 24 and Schedule 4, so far as they relate to Wales;
 - (c) sections 30 to 32.
- (3) Subject to subsections (5) to (7), sections 20 to 24 and Schedule 4, so far as they relate to Northern Ireland, come into force on such day as the Department of Health, Social Services and Public Safety in Northern Ireland may appoint by order made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (4) Different days may be appointed under subsections (1) to (3) for different purposes or different areas.
- (5) The following come into force on the day on which this Act is passed—
 - (a) paragraph 9(2) and (4) of Schedule 4;
 - (b) a repeal or revocation made by Schedule 6 connected to the repeal made by paragraph 9(2) of Schedule 4;
 - (c) this section and sections 37, 39 and 41.
- (6) The following come into force, for the purposes of making regulations, on the day on which this Act is passed—
 - (a) sections 8, 9(5) and 10;
 - (b) sections 20 to 23;
 - (c) paragraphs 11 and 12 of Schedule 4.
- (7) The following come into force at the end of the period of 2 months beginning with the day on which this Act is passed—
 - (a) section 34;
 - (b) paragraphs 1, 4(3), (4) and (6), 5, 6(3), 7(2) and 9(3) of Schedule 4;
 - (c) paragraph 13 of that Schedule for the purposes of sections 8, 9 and 11 of the Tobacco Advertising and Promotion Act 2002 (c. 36).
- (8) Where any particular provision or provisions of a Schedule come into force in accordance with subsection (5), (6) or (7), the section introducing the Schedule also comes into force in accordance with that subsection so far as relating to the particular provision or provisions.

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- (9) The Secretary of State must not make an order under subsection (1) which relates to amendments to the Medicines Act 1968 (c. 67) made by Schedule 3 unless the Secretary of State first consults the Department of Health, Social Services and Public Safety in Northern Ireland.
- (10) The Secretary of State must not make an order under subsection (1) which relates to amendments to the Health Protection Agency Act 2004 (c. 17) made by Schedule 3 unless the Secretary of State first consults—
- (a) the Welsh Ministers,
 - (b) the Scottish Ministers, and
 - (c) the Department of Health, Social Services and Public Safety in Northern Ireland.
- (11) The Secretary of State must not make an order under subsection (1) which relates to amendments made to Human Tissue Act 2004 (c. 30) by Schedule 3 unless the Secretary of State first consults—
- (a) the Welsh Ministers, and
 - (b) the Department of Health, Social Services and Public Safety in Northern Ireland.
- (12) The Secretary of State must not make an order under subsection (1) which relates to amendments made by Schedule 3 to Schedule 6 or 19 to the National Health Service Act 2006 (c. 41) unless the Secretary of State first consults the Welsh Ministers.
- (13) The Welsh Ministers must not make an order under subsection (2)(a) unless they first consult the Secretary of State.

41 Short title

This Act may be cited as the Health Act 2009.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 2(6)(ca) inserted by [2022 c. 31 Sch. 3 para. 57\(b\)](#)
- s. 2(6)(ea) inserted by [2022 c. 31 Sch. 3 para. 57\(c\)](#)

Commencement Orders yet to be applied to the Health Act 2009

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2011/1255 art. 2](#) amendment to earlier commencing SI 2010/1068 art. 2