



# National Health Service and Community Care Act 1990

## 1990 CHAPTER 19

### PART V **U.K.**

#### MISCELLANEOUS AND GENERAL

#### 60 **Removal of Crown immunities.** **E+W+S**

- (1) Subject to the following provisions of this section, on and after the day appointed for the coming into force of this subsection, no health service body shall be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and so far as concerns land in which the Secretary of State has an interest, at any time when—
- (a) by virtue of directions under any provision of the [<sup>F1</sup>National Health Service Act 2006, the National Health Service (Wales) Act 2006,]<sup>F2</sup>... or the <sup>M1</sup>Health and Medicines Act 1988 or by virtue of orders under section 2 or section 10 of the <sup>M2</sup>National Health Service (Scotland) Act 1978, powers of disposal or management with respect to the land are conferred on a health service body, or
  - (b) the land is otherwise held, used or occupied by a health service body,
- the interest of the Secretary of State shall be treated for the purposes of any enactment or rule of law relating to Crown land or interests as if it were an interest held otherwise than by the Secretary of State (or any other emanation of the Crown).
- (2) In Schedule 8 to this Act—
- (a) Part I has effect to continue certain exemptions for health service bodies and property held, used or occupied by such bodies;
  - (b) the amendments in Part II have effect, being amendments consequential on subsection (1) above; and
  - (c) the transitional provisions in Part III have effect in connection with the operation of subsection (1) above.

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- (3) Where, as a result of the provisions of subsection (1) above, by virtue of his employment during any period after the day appointed for the coming into force of that subsection—
  - (a) an employee has contractual rights against a health service body to benefits in the event of his redundancy, and
  - (b) he also has statutory rights against the health service body under [<sup>F3</sup>Part XI of the Employment Rights Act 1996] (redundancy payments),
 any benefits provided to him by virtue of the contractual rights referred to in paragraph (a) above shall be taken as satisfying his entitlement to benefits under [<sup>F3</sup>that Part of that Act].
- (4) Nothing in subsection (1) above affects the extent of the expression “the services of the Crown” where it appears in—
  - (a) Schedule 1 to the <sup>M3</sup>Registered Designs Act 1949 (provisions as to the use of registered designs for the services of the Crown etc.); and
  - (b) sections 55 to 59 of the <sup>M4</sup>Patents Act 1977 (use of patented inventions for the services of the Crown);
 and, accordingly, services provided in pursuance of any power or duty of the Secretary of State under [<sup>F4</sup>the National Health Service Act 2006] or Part I or Part III of the <sup>M5</sup>National Health Service (Scotland) Act 1978 shall continue to be regarded as included in that expression, whether the services are in fact provided by a health service body, a National Health Service trust or any other person.
- (5) The Secretary of State may by order made by statutory instrument provide that, in relation to any enactment contained in a local Act and specified in the order, the operation of subsection (1) above shall be excluded or modified to the extent specified in the order.
- (6) No order shall be made under subsection (5) above unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (7) In this section “health service body” means—
  - [<sup>F5</sup>(a) <sup>F6</sup>... <sup>F6</sup>... <sup>F6</sup>... a Health Authority <sup>F7</sup>... ;
  - (aa) a Special Health Authority established under [<sup>F8</sup>section 28 of [<sup>F9</sup>the National Health Service Act 2006] or section 22 of the National Health Service (Wales) Act 2006];]
  - (b) a Health Board or Special Health Board constituted under section 2 of the <sup>M6</sup>National Health Service (Scotland) Act 1978;
  - [<sup>F10</sup>(ba) Healthcare Improvement Scotland established under section 10A of that Act;]
  - [<sup>F11</sup>(c) .....
  - [<sup>F12</sup>(d) .....
  - (e) the Common Services Agency for the Scottish Health Service;
  - (f) [<sup>F13</sup>.....
  - (g) the Scottish Dental Practice Board; <sup>F14</sup>... .
  - (h) [<sup>F14</sup>.....

**Textual Amendments**

**F1** Words in s. 60(1)(a) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 131\(a\)](#) (with [Sch. 3 Pt. 1](#))

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- F2** Words in s. 60(1)(a) repealed (S.) (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 3, **Sch. 2**
- F3** Words in s. 60(3) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 45(4)**
- F4** Words in s. 60(4) substituted (1.3.2007) by virtue of [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), **Sch. 1 para. 131(b)** (with Sch. 3 Pt. 1)
- F5** S. 60(7)(a)(aa) substituted (1.4.1996 subject to s. 8 of the amending Act) for s. 60(7)(a) by 1995 c. 17, s. 2(1)(3), **Sch. 1 Pt. II para. 83(a)** (with Sch. 2 paras. 6, 16)
- F6** Words in s. 60(7)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 61(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F7** Words in s. 60(7)(a) omitted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), **Sch. 1 para. 131(c)(ii)** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)
- F8** Words in s. 60(7)(aa) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), **Sch. 1 para. 131(d)** (with Sch. 3 Pt. 1)
- F9** Words in s. 60(7)(aa) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 5 para. 61(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F10** S. 60(7)(ba) inserted (S.) (1.10.2010 for specified purposes, otherwise 1.4.2011) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), ss. 110(2), 134(7), **sch. 17 para. 23**; S.S.I. 2010/321, **art. 3(1)(2)**, Sch.; S.S.I. 2011/122, **art. 2(1)**, Sch.
- F11** S. 60(7)(c) repealed (S.) (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 3, **Sch. 2**
- F12** S. 60(7)(d) repealed (1.4.1996 subject to s. 8 of the amending Act) by 1995 c. 17, ss. 2(1)(3), 5, Sch. 1 Pt. II para. 83(b), **Sch. 3** (with Sch. 2 paras. 6, 16)
- F13** S. 60(7)(f) repealed (1.4.2006 for E.W.) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 196, 199(1), **Sch. 14 Pt. 4**; S.I. 2005/2925, **art. 11(1)(2)(l)**
- F14** S. 60(7)(h) and preceding word repealed (1.4.2005 for E.W.) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 190(2), 196, 199(1), Sch. 13 para. 6(c), **Sch. 14 Pt. 7**; S.I. 2005/457, **art. 2(1)(a)(b)**

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### Commencement Information

- I1** S. 60 wholly in force at 1.4.1991 see s. 67(2) and S.I. 1990/1329, art. 2(8), **Sch. 3**.
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### Marginal Citations

- M1** 1988 c. 49.  
**M2** 1978 c. 29.  
**M3** 1949 c. 88.  
**M4** 1977 c. 37.  
**M5** 1978 c. 29.  
**M6** 1978 c. 29.

**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. 4A(1)(c) and word added by [S.I. 2006/1056 Sch. para. 5\(a\)\(ii\)](#) (This amendment comes into force on the day on which 2005 asp 13, s. 20 comes into force, see art. 1(2)(b))