

Status: Point in time view as at 01/10/2008.

Changes to legislation: There are currently no known outstanding effects for the Health Act 1999, SCHEDULE 3. (See end of Document for details)

SCHEDULES

SCHEDULE 3

Section 60.

REGULATION OF HEALTH CARE AND ASSOCIATED PROFESSIONS

Matters generally within the scope of the Orders

- 1 An Order may make provision, in relation to any profession, for any of the following matters (among others)—
- (a) the establishment and continuance of a regulatory body,
 - (b) keeping a register of members admitted to practice,
 - (c) education and training before and after admission to practice,
 - (d) privileges of members admitted to practice,
 - (e) standards of conduct and performance,
 - (f) discipline and fitness to practise,
 - (g) investigation and enforcement by or on behalf of the regulatory body,
 - (h) appeals,
 - (j) default powers exercisable by a person other than the regulatory body.

Manner of exercise of power

- 2 (1) The power to make an Order may be exercised by amending or repealing any enactment (whether or not mentioned in section 60) or prerogative instrument and any other instrument or document.
- (2) ^{F1}

Textual Amendments

F1 Sch. 3 para. 2(2) omitted (1.10.2006) and repealed (prosp.) by virtue of [Health Act 2006 \(c. 28\)](#), [ss. 33](#), [80\(2\)](#), [83\(7\)](#), [Sch. 9](#); [S.I. 2006/2603](#), [art. 3](#)

- 3 The power may be exercised so as to make provision for the delegation of functions, including provision conferring power to make, confirm or approve subordinate legislation.
- 4 The power may be exercised so as to make provision for the charging of fees.
- 5 The power may be exercised so as to—
- (a) confer functions (including power to pay grants) on Ministers of the Crown, the Scottish Ministers or the National Assembly for Wales, or
 - (b) modify their functions.

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- 6 The power may not be exercised so as to create any criminal offence, except an offence punishable on summary conviction with a fine not exceeding the amount specified as level 5 on the standard scale.

Matters outside the scope of the Orders

- 7 (1) An Order may not abolish the regulatory body of any profession to which section 60(2)(a) applies, any regulatory body established by an Order as the successor to the Council for Professions Supplementary to Medicine or the United Kingdom Central Council for Nursing, Midwifery and Health Visiting or any other regulatory body established by an Order.
- (2) An Order may not impose any requirement which would have the effect that a majority of the members of the regulatory body of any profession would be persons not included in the register of members admitted to practice.
- (3) ^{F2}
- [^{F3}(4) An Order may not confer any additional powers of direction over the Council for the Regulation of Health Care Professionals.]

Textual Amendments

- F2** Sch. 3 para. 7(3) repealed (1.10.2008) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 111, 166, 170(3), [Sch. 8 para. 5\(4\)](#), [Sch. 15 Pt. 2](#); S.I. 2008/2497, [art. 3\(b\)\(ii\)](#)
- F3** Sch. 3 para. 7(4) inserted (1.4.2003) by [National Health Service Reform and Health Care Professions Act 2002 \(c. 17\)](#), [s. 26\(10\)](#); S.I. 2002/2202, [art. 2\(3\)\(b\)](#)

- 8 (1) Where an enactment provides, in relation to any profession, for any function mentioned in sub-paragraph (2) to be exercised by the regulatory body or any of its committees or officers, an Order may not provide for any person other than that regulatory body or any of its committees or officers to exercise that function.
- (2) The functions are—
- (a) keeping the register of members admitted to practice,
 - (b) determining standards of education and training for admission to practice,
 - (c) giving advice about standards of conduct and performance,
 - (d) administering procedures (including making rules) relating to misconduct, unfitness to practise and similar matters.
- (3) ^{F4}

Textual Amendments

- F4** Words in [Sch. 3 para. 8\(3\)](#) omitted by virtue of [The Nursing and Midwifery Order 2001 \(S.I. 2002/253\)](#), [art. 54\(3\)](#), [Sch. 5 para. 16\(b\)](#) (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.); [Sch. 3 para. 8\(3\)](#) omitted by virtue of [The Health Professions Order 2001 \(S.I. 2002/254\)](#), [art. 48\(3\)](#), [Sch. 4 para.](#)

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8(b) (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.)

Preliminary procedure for making Orders

- 9 (1) If it is proposed to lay a draft of an Order before Parliament, the Secretary of State must first—
- (a) publish a draft of an Order, and
 - (b) invite representations to be made to him about the draft by persons appearing to him appropriate to represent the profession to be regulated, persons appearing to him appropriate to represent those provided with services by the profession and any other persons appearing to him appropriate to consult about the draft.
- (2) After the end of the period of three months beginning with the publication of the draft, he may lay the draft as published, or that draft with any modifications he considers appropriate, together with a report about the consultation before Parliament.
- (3) If any provision of a draft would, if it were included in an Act of the Scottish Parliament, be within the legislative competence of that Parliament—
- (a) the Secretary of State’s duty under sub-paragraph (1) must be performed also by the Scottish Ministers, and
 - (b) sub-paragraph (4) shall apply instead of sub-paragraph (2).
- (4) After the end of the period of three months beginning with the publication of the draft, the draft as published, or that draft with any modifications which the Secretary of State and the Scottish Ministers consider appropriate, may be laid before Parliament and the Scottish Parliament together with a report made by the Secretary of State and the Scottish Ministers about the consultation.

Interpretation and application

- 10 In this Schedule—
- [^{F5}“dental practitioner” means a person registered in the dentists register under the Dentists Act 1984,
 - “enactment” means an enactment contained in, or in an instrument made under—
 - (a) an Act of Parliament,
 - (b) an Act of the Scottish Parliament,
 - (c) a Measure or Act of the National Assembly for Wales, or
 - (d) Northern Ireland legislation,
 - “functions” includes powers and duties,
 - “medical practitioner” means a registered medical practitioner as defined by Schedule 1 to the Interpretation Act 1978,]
 - “Order” means an Order in Council under section 60,
 - “regulatory body”, in relation to any profession, means the body (or main body) responsible for the regulation of the profession,

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and other expressions used in this Schedule and in the 1977 Act have the same meaning in this Schedule as in that Act.

Textual Amendments

F5 Sch. 3 para. 10: definitions inserted (1.10.2008) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 111, 170(3), [Sch. 8 para. 8\(a\)](#); S.I. 2008/2497, [art. 3\(b\)\(iii\)](#)

- 11 (1) The powers conferred by section 60 may be exercised so as to regulate a profession which is not regulated by any enactment (whether established before or after the passing of this Act).
- (2) References to regulation, in relation to a profession, in that section and this Schedule include—
- (a) the regulation of persons seeking admission to practice or who were, but are no longer, allowed to practise as members of the profession,
 - (b) the regulation of activities carried on by persons who are not members of the profession but which are carried on in connection with the practice of the profession,
 - (c) in the case of the profession of medical practitioner, the regulation of the qualifications or experience required for a medical practitioner to [^{F6}perform primary medical services under Part 1 of] the 1977 Act,
 - (d) in the case of the profession of dental practitioner, the regulation of the qualifications or experience required for a dental practitioner to [^{F7}perform primary dental services under Part 1 of] the 1977 Act.

(3) ^{F8}

Textual Amendments

F6 Words in Sch. 3 para. 11(2)(c) substituted (1.4.2004 for E.W.) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 184, 199, [Sch. 11 para. 67\(a\)](#); S.I. 2004/288, [art. 5\(2\)\(x\)](#) (as amended by S.I. 2004/866, [art. 2](#)); S.I. 2004/480, [art. 4\(2\)\(bb\)](#)

F7 Words in Sch. 3 para. 11(2)(d) substituted (1.4.2006) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 184, 199, [Sch. 11 para. 67\(b\)](#); S.I. 2005/2925, arts. 1(3), [10\(2\)\(l\)](#)

F8 Sch. 3 para. 11(3) 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\(2\)\(p\)](#);

Modifications etc. (not altering text)

C1 [Sch. 3 para. 11\(3\)](#) restricted (14.3.2000) by S.I. 2000/779, [art. 2\(2\)](#)

Commencement Information

I1 Sch. 3 para. 11 wholly in force, see s. 67(1) and S.I. 2000/779, [art. 2\(1\)](#)

- 12 (1) The powers conferred by section 60 extend to the regulation of—
- (a) the profession regulated by the ^{M1}Pharmacy (Northern Ireland) Order 1976, and
 - (b) activities carried on by persons who are not members of that profession but which are carried on in connection with the practice of that profession,

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only in relation to the matters dealt with in sections 80 to 83 of the ^{M2}Medicines Act 1968.

- (2) But an Order may not provide for any function conferred by any of those sections on the Statutory Committee to be exercised, in relation to Northern Ireland, otherwise than by the committee appointed under Article 19 of the Pharmacy (Northern Ireland) Order 1976.

Marginal Citations

M1 S.I. 1976/1213 (N.I.22).

M2 1968 c.67.

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