



# Health and Social Care Act 2001

## 2001 CHAPTER 15

### PART 5

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Supplementary*

#### **64 Regulations and orders**

- (1) Any power under this Act to make any order or regulations shall (except in the case of regulations under section 65(3)(c)) be exercisable by statutory instrument.
- (2) A statutory instrument containing any order or regulations made by the Secretary of State under this Act other than—
  - (a) an order under section 70(2), or
  - (b) any regulations to which subsection (3) applies,shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) This subsection applies to any regulations under section 60 (except where they are made pursuant to section 60(4)(b)); and no such regulations shall be made (whether alone or with other provisions) unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (4) A statutory instrument containing any regulations made by the Scottish Ministers shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (5) Any regulations made by virtue of section 65(3)(c) shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)) and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)).
- (6) Any power under this Act to make any order or regulations may be exercised—

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- (a) either in relation to all cases to which the power extends, or in relation to those cases subject to specified exceptions, or in relation to any specified cases or classes of case;
- (b) so as to make, as respects the cases in relation to which it is exercised—
  - (i) the full provision to which the power extends or any less provision (whether by way of exception or otherwise);
  - (ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case or different provision as respects the same case or class of case for different purposes of this Act;
  - (iii) any such provision either unconditionally or subject to any specified condition.
- (7) Where any such power is expressed to be exercisable for alternative purposes it may be exercised in relation to the same case for any or all of those purposes.
- (8) Any such power includes power—
  - (a) to make such incidental, supplementary, consequential, saving or transitional provision (including provision amending, repealing or revoking enactments) as the authority making the order or regulations considers to be expedient; and
  - (b) to provide for a person to exercise a discretion in dealing with any matter.
- (9) Nothing in this Act shall be read as affecting the generality of subsection (8).

#### **Subordinate Legislation Made**

- P1** S. 64(6)(8) power partly exercised: 1.10.2001 and 1.12.2001 appointed for specified provisions by [S.I. 2001/3294](#), [arts. 1\(3\), 2-4](#), [Sch.](#)
- S. 64(6)(8) power partly exercised: different dates appointed for E. for specified provisions by [S.I. 2001/3738](#), [arts. 1\(3\), 2](#), [Schs. 1, 2](#)
- P2** S. 64(6) power partly exercised: 22.10.2001 appointed for specified provisions by [S.I. 2001/3619](#), [arts. 1\(3\), 2, 3](#)
- S. 64(6) power partly exercised: different dates appointed for specified provisions by [S.I. 2001/3752](#), [arts. 1, 2, 3](#)
- S. 64(6) power partly exercised: 3.12.2001 and 19.12.2001 appointed for W. for specified provisions by [S.I. 2001/3807](#), [arts. 1\(3\), 2, 3](#)
- S. 64(6) power partly exercised: 19.12.2001 appointed for E. for specified provisions by [S.I. 2001/4149](#), [arts. 1\(3\), 2](#)

## **65 Supplementary and consequential provision etc**

- (1) The Secretary of State may by regulations make—
  - (a) such supplementary, incidental or consequential provision, or
  - (b) such transitory, transitional or saving provision,
 as he considers necessary or expedient for the purposes of, in consequence of or for giving full effect to any provision of this Act.
- (2) The provision which may be made under subsection (1) includes provision amending or repealing any enactment, instrument or document.
- (3) The power to make regulations under this section is also exercisable—

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- (a) by the National Assembly for Wales, in relation to provision dealing with matters with respect to which functions are exercisable by the Assembly;
  - (b) by the Scottish Ministers, in relation to provision that would be within the legislative competence of the Scottish Parliament;
  - (c) by the First Minister and deputy First Minister acting jointly, in relation to provision dealing with transferred matters (within the meaning of section 4(1) of the Northern Ireland Act 1998 (c. 47)).
- (4) Nothing in this Act shall be read as affecting the generality of subsection (1).

## 66 Interpretation

In this Act (unless the context otherwise requires)—

“the 1977 Act” means the National Health Service Act 1977 (c. 49);

“the 1990 Act” means the National Health Service and Community Care Act 1990 (c. 19);

“NHS trust” has the same meaning as in the 1977 Act;

“regulations” means regulations made by the relevant authority;

“the relevant authority” means—

- (a) in relation to England, the Secretary of State,
- (b) in relation to Wales, the National Assembly for Wales, and
- (c) in relation to Scotland (in connection with regulations under section 50), the Scottish Ministers.

## 67 Minor and consequential amendments and repeals

- (1) The minor and consequential amendments specified in Schedule 5 shall have effect.
- (2) The enactments specified in Schedule 6 are repealed to the extent specified.

### Commencement Information

- II** S. 67 partly in force; s. 67 not in force at Royal Assent, see s. 70(2); s. 67(1) in force for E. for certain purposes at 1.10.2001 and 1.12.2001 by [S.I. 2001/3294](#), [art. 4\(1\)](#), [Sch.](#) (subject to [art. 4\(2\)](#)); s. 67(1) in force for E. for certain purposes at 22.10.2001 by [S.I. 2001/3619](#), [art. 3](#); s. 67 in force for E. for certain purposes at 22.11.2001 and 14.12.2001 by [S.I. 2001/3738](#), [art. 2\(2\)-\(4\)](#), [Sch. 1 Pts. II, III](#), [Sch. 2](#) (subject to [art. 2\(5\)\(6\)](#)); s. 67 in force for certain purposes at 1.4.2002 by [S.I. 2002/1095](#), [art. 2\(3\)](#), [Sch.](#) (with transitional provisions in [arts. 3, 4](#)) (as amended (26.3.2002) by [S.I. 2002/1170](#), [art. 3](#)); s. 67(2) in force for certain purposes at 15.4.2002 by [S.I. 2002/1312](#), [art. 3](#); s. 67 in force for W. for certain purposes at 1.7.2002 by [S.I. 2002/1475](#), [art. 2\(1\)](#), [Sch. Pt. 1](#); s. 67 in force for W. for certain purposes at 26.8.2002 by [S.I. 2002/1919](#), [art. 2\(1\)](#), [Sch. Pt. I](#) (subject to [art. 2\(2\)\(3\)](#)); s. 67(1) in force for W. for certain purposes at 26.8.2002 by [S.I. 2002/1919](#), [art. 3\(1\)](#), [Sch. Pt. II](#) (subject to [art. 3\(2\)](#), [Sch. Pt. III](#))

## 68 Powers of National Assembly for Wales under amended Acts

- (1) In Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), any reference to an Act which is amended by this Act shall (as from the time when the Act is so amended) be treated as referring to the Act as so amended.

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- (2) But for the purpose of so construing the reference in that Schedule to the 1977 Act the amendments made by this Act do not include those made by section 27 above.
- (3) The reference in that Schedule to the 1977 Act shall also be treated as referring to that Act as amended by sections 12(1) and 13(1) of the Government Resources and Accounts Act 2000 (c. 20) (but subject to the further amendments made by section 1 above).
- (4) Neither of subsections (1) and (3) affects the power to make further Orders varying or omitting any such reference as is mentioned in that subsection.

## **69 Financial provisions**

There shall be paid out of money provided by Parliament—

- (a) any expenditure incurred by the Secretary of State in consequence of this Act; and
- (b) any increase attributable to this Act in the sums payable out of money so provided by virtue of any other Act.

## **70 Short title, commencement and extent**

- (1) This Act may be cited as the Health and Social Care Act 2001.
- (2) With the exception of—
  - (a) sections 59, 60, 61, 64 to 66, 68 and 69 and this section,
  - (b) Part 3 of Schedule 5, and
  - (c) any other provision of this Act so far as it confers any power to make an order or regulations under this Act which is exercisable by the Secretary of State,
 this Act does not come into force until such day as the relevant authority may by order appoint; and different days may be so appointed for different purposes.
- (3) In subsection (2), in its application in relation to—
  - (a) sections 14 to 17 and 27,
  - (b) sections 50(1), 51 and 52,
  - (c) sections 62 (except so far as extending to Wales) and 63, and
  - (d) any repeals consequential on any provisions falling within paragraph (a) or (b),
 the reference to the relevant authority shall be read as a reference to the Secretary of State.
- (4) In subsection (2), in its application in relation to—
  - (a) section 44, and
  - (b) the provisions of section 50(2) to (10) so far as relating to Scotland (and not within subsection (2)(c)),
 the reference to the relevant authority shall be read as a reference to the Scottish Ministers.
- (5) Subject to subsections (6) to (8), this Act extends to England and Wales only.
- (6) The following provisions, namely—
  - (a) sections 50 to 52 and 59,

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- (b) sections 63 to 66, and
  - (c) this section,
- also extend to Scotland.
- (7) The following provisions, namely—
- (a) sections 63 to 65, and
  - (b) this section,
- also extend to Northern Ireland.
- (8) The extent of any amendment or repeal made by this Act is the same as that of the enactment amended or repealed.
- (9) Subsection (8) does not apply in relation to any amendment or repeal relating to section 115 of the Police Act 1997, and any such amendment or repeal extends to England and Wales only.
- (10) The Secretary of State may by order provide that so much of this Act as extends to England and Wales is to apply to the Isles of Scilly with such modifications (if any) as are specified in the order; but otherwise this Act does not extend there.

#### **Subordinate Legislation Made**

- P3** S. 70(2) power partly exercised: 1.8.2001 appointed for E. for specified provisions by [S.I. 2001/2804](#), [arts. 1\(3\), 2](#)
- S. 70(2) power partly exercised: 1.10.2001 appointed for E. for specified provisions by [S.I. 2001/3167](#), [arts. 1\(3\), 2](#), [Sch.](#)
- S. 70(2) power partly exercised: 1.10.2001 and 1.12.2001 appointed for E. for specified provisions by [S.I. 2001/3294](#), [arts. 1\(3\), 2-4](#), [Sch.](#)
- S. 70(2) power partly exercised: 22.10.2001 appointed for E. for specified provisions by [S.I. 2001/3619](#), [arts. 1\(3\), 2, 3](#)
- S. 70(2) power partly exercised: different dates appointed for E. for specified provisions by [S.I. 2001/3738](#), [arts. 1\(3\), 2](#), [Schs. 1, 2](#)
- S. 70(2) power partly exercised: different dates appointed for specified provisions by [S.I. 2001/3752](#), [arts. 1, 2, 3](#)
- S. 70(2) power partly exercised: 3.12.2001 and 19.12.2001 appointed for W. for specified provisions by [S.I. 2001/3807](#), [arts. 1\(3\), 2, 3](#)
- S. 70(2) power partly exercised: 19.12.2001 appointed for E. for specified provisions by [S.I. 2001/4149](#), [arts. 1\(3\), 2](#)
- S. 70(2) power partly exercised: 1.4.2002 appointed for S. for specified provisions by [{S.S.I. 2002/75}](#), art. 2
- S. 70(2) power partly exercised: different dates appointed for specified provisions by [{S.I. 2002/1095}](#), art. 2 (with arts. 3, 4) (as amended by [{SI 2002/1170}](#), arts. 2, 3)
- S. 70(2) power partly exercised: 15.4.2002 appointed for specified provisions by [{S.I. 2002/1312}](#), arts. 2, 3
- S. 70(2) power partly exercised: different dates appointed for W. for specified provisions by [{S.I. 2002/1475}](#), art. 2, Sch.
- S. 70(2) power partly exercised: 26.8.2002 appointed for W. for specified provisions by [{S.I. 2002/1919}](#), arts. 2, 3, Sch. Pts. I-III
- S. 70(2) power partly exercised: different dates appointed for E. for specified provisions by [{S.I. 2002/2363}](#), arts. 2, 3

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