

## SCHEDULES

### SCHEDULE 8

Section 111

#### EXTENSION OF POWERS UNDER S. 60 OF HEALTH ACT 1999

- 1 (1) Section 60 of the 1999 Act (regulation of health care and associated professions) is amended as follows.
  - (2) In subsection (1), after paragraph (e) insert—
    - “(f) modifying the constitution, functions, powers or duties of the Office of the Health Professions Adjudicator.”
  - (3) In subsection (2)—
    - (a) in paragraph (a), omit “the Pharmacy Act 1954,”,
    - (b) after that paragraph insert—
      - “(aa) the professions regulated by the Pharmacists and Pharmacy Technicians Order 2007 and the Pharmacy (Northern Ireland) Order 1976,” and
    - (c) after paragraph (c) insert—
      - “(ca) the profession regulated by so much of the Hearing Aid Council Act 1968 as relates to dispensers of hearing aids,”.
  - (4) After subsection (2) insert—
    - “(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,
      - (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).”
- 2 In section 62 of the 1999 Act (regulations and orders), in subsection (10), after “that Parliament” insert “and is not merely incidental to, or consequential on, provision that (if so included) would be outside that competence”.
- 3 Schedule 3 to the 1999 Act (which relates to the power in section 60 of the Act) is amended as follows.

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*Status: This is the original version (as it was originally enacted).*

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- 4 In paragraph 5 (exercise of power so as to confer and modify functions), in paragraph (a), after “the Scottish Ministers” insert “, a Northern Ireland department”.
- 5 (1) Paragraph 7 (matters outside the scope of the Orders) is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) An Order may not abolish—
- (a) the regulatory body of any profession to which section 60(2)(a) applies,
- (b) the Royal Pharmaceutical Society of Great Britain or the Pharmaceutical Society of Northern Ireland,
- (c) the Health Professions Council,
- (d) the Nursing and Midwifery Council, or
- (e) any other regulatory body established by an Order.
- (1A) Sub-paragraph (1)(b) does not prevent an Order in Council from establishing a new regulatory body for the professions mentioned in section 60(2)(aa) and transferring to it any of the functions of the Royal Pharmaceutical Society of Great Britain or the Pharmaceutical Society of Northern Ireland.”
- (3) Omit sub-paragraph (2) (which prevents an Order in Council under section 60 of the 1999 Act from imposing a requirement which would have the effect that a majority of the members of the regulatory body of a profession would be persons not included in the register of members admitted to practice).
- (4) Omit sub-paragraph (3) (which prevents an Order in Council under section 60 of the 1999 Act from providing for a function conferred on the Privy Council, in relation to any profession to which subsection (2)(a) of that section applies, to be exercised by a different person).
- 6 (1) Paragraph 8 (other matters outside the scope of the Orders) is amended as follows.
- (2) In sub-paragraph (2) omit paragraph (d).
- (3) After that sub-paragraph insert—
- “(2A) Where an enactment provides, in relation to any profession, for any function of administering procedures (including making rules) relating to misconduct, unfitness to practise and similar matters 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 or the Office of the Health Professions Adjudicator to exercise that function.
- (2B) In sub-paragraphs (1) and (2A) references to a regulatory body do not include references to any of the following—
- (a) the Royal Pharmaceutical Society of Great Britain,
- (b) the Pharmaceutical Society of Northern Ireland, and
- (c) the Hearing Aid Council.”
- 7 (1) Paragraph 9 (preliminary procedure for making Orders) is amended as follows.
- (2) In sub-paragraph (1)(b)—

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- (a) for “the profession”, where it first occurs, substitute “any profession”, and
- (b) for “by the profession” substitute “by any profession to be regulated”.

(3) After sub-paragraph (1) insert—

“(1A) In the case of a draft Order which amends or repeals—

- (a) an enactment contained in an Act of the Scottish Parliament or in an instrument made under such an Act, or
- (b) any other enactment that extends to Scotland and relates to matters falling within the legislative competence of the Scottish Parliament,

but does not contain provision of the kind mentioned in sub-paragraph (3), the persons consulted by the Secretary of State under sub-paragraph (1) (b) must include the Scottish Ministers.”

(4) In sub-paragraph (3) after “that Parliament” insert “and is not merely incidental to, or consequential on, provision that (if so included) would be outside that competence”.

8 In paragraph 10 (interpretation of the Schedule)—

(a) before the definition of “Order” insert—

““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,” and

(b) omit the words from “and other expressions” to the end.

9 In paragraph 11 (which contains further interpretative provisions), in sub-paragraph (2)—

- (a) in paragraph (c), for “Part 1 of the 1977 Act” substitute “Part 4 of the National Health Service Act 2006 or Part 4 of the National Health Service (Wales) Act 2006”, and
- (b) in paragraph (d), for “Part 1 of the 1977 Act” substitute “Part 5 of the National Health Service Act 2006 or Part 5 of the National Health Service (Wales) Act 2006”.

10 Omit paragraph 12 (which confers limited powers in relation to the profession regulated by the Pharmacy (Northern Ireland) Order 1976 ([S.I. 1976/1213 \(N.I. 22\)](#))).