

LORDS AMENDMENTS TO THE
HEALTH BILL

[The page and line references are to HL Bill 76, the bill as first printed for the Lords.]

Clause 3

- 1** Page 3, line 2, leave out “consumption of alcohol” and insert “sale by retail of alcohol for consumption”
- 2** Page 3, line 9, at end insert—
- “(4A) For the purpose of making provision for those participating as performers in a performance, or in a performance of a specified description, not to be prevented from smoking if the artistic integrity of the performance makes it appropriate for them to smoke—
- (a) the power in subsection (1) also includes power to provide for specified descriptions of premises or specified areas within such premises not to be smoke-free in relation only to such performers, and
- (b) subsection (3) does not prevent the exercise of that power as so extended.”
- 3** Page 3, line 19, at end insert—
- “() For the purposes of subsection (4A), the references to a performance—
- (a) include, for example, the performance of a play, or a performance given in connection with the making of a film or television programme, and
- (b) if the regulations so provide, include a rehearsal.”

Clause 4

- 4** Page 3, line 27, leave out from “if” to end of line 28 and insert “in the authority’s opinion there is a significant risk that, without a designation, persons present there would be exposed to significant quantities of smoke.”

Clause 6

- 5** Page 4, line 45, leave out “descriptions of person” and insert “on persons of a description,”

- 6 Page 5, line 28, at end insert “(and references to smoke-free premises include premises which by virtue of regulations under section 3(4A) are smoke-free except in relation to performers)”

Clause 7

- 7 Page 5, line 33, at end insert “(including premises which by virtue of regulations under section 3(4A) are smoke-free except in relation to performers)”

- 8 Page 5, line 36, at end insert –

“() But a person who smokes in premises which are not smoke-free in relation to performers by virtue of regulations under section 3(4A) does not commit an offence if he is such a performer.”

Clause 8

- 9 Page 6, line 6, at end insert –

“() The reference in subsection (1) to a person smoking does not include a performer in relation to whom the premises are not smoke-free by virtue of regulations under section 3(4A).”

- 10 Page 6, line 11, leave out “descriptions of person” and insert “on persons of a description,”

- 11 Page 6, line 32, at end insert “(and references to smoke-free premises include premises which by virtue of regulations under section 3(4A) are smoke-free except in relation to performers)”

Clause 13

- 12 Page 9, line 1, at end insert “or higher than 18”

Clause 14

- 13 Page 9, line 27, at end insert “or of being made susceptible, or more susceptible, to them”

- 14 Page 10, line 2, after “exposed” insert “or made susceptible (or more susceptible)”

- 15 Page 10, line 5, after “infection” insert “, or of susceptibility (or increased susceptibility) to it,”

Clause 17

- 16 Page 15, line 20, leave out from first “The” to “appearing” in line 21 and insert “descriptions of bodies, or bodies, that may be so prescribed are descriptions of bodies, or bodies,”

- 17 Page 16, line 35, leave out “a person” and insert “an individual”

Clause 18

- 18 Page 17, line 7, leave out “individuals” and insert “persons (see section (*Meaning of “relevant person” in section 18*))”

- 19 Page 17, line 15, leave out from first “The” to “which” in line 17 and insert

“descriptions of bodies, or bodies, that may be so prescribed are—

(a) descriptions of bodies, or bodies,”

20 Page 17, line 19, leave out “Bodies” and insert “Descriptions of bodies, or bodies,”

21 Page 18, line 22, leave out paragraph (d)

After Clause 18

22 Insert the following new Clause—

“Meaning of “relevant person” in section 18

- (1) In section 18 “relevant person” means—
 - (a) a person falling within any description of persons prescribed as relevant persons for the purposes of that section, or
 - (b) an individual to whom subsection (3) applies.
- (2) The descriptions of persons that may be prescribed for the purposes of section 18 are descriptions of persons appearing to the relevant authority to be carrying on, or engaged in, activities that involve, or may involve, the supply or administration of controlled drugs.
- (3) This subsection applies to an individual who, whether as—
 - (a) a health care professional, or
 - (b) an employee who is not a health care professional, or
 - (c) otherwise,
 is engaged in any activity carried on by a designated body, or by a body or person acting on behalf of, or providing services under arrangements made with, a designated body that involves, or may involve, the management or use of controlled drugs.
- (4) In this section “prescribed” means prescribed by regulations under section 18.”

Clause 19

23 Page 18, line 42, at end insert—

“() The power conferred by subsection (1)(a) may be exercised by an authorised person to enter relevant premises which are or form part of a private dwelling only if he is accompanied by a constable.
But this subsection does not apply in such circumstances as may be prescribed by regulations made by the relevant authority.”

24 Page 19, line 11, after “body” insert “specified, or”

25 Page 19, line 16, leave out “subsection (1)” and insert “this section”

26 Page 19, line 19, after “The” insert “descriptions of”

27 Page 19, line 19, after “are” insert “descriptions of”

Clause 47

28 Page 43, line 9, at end insert “made by the appropriate national authority”

Clause 48

- 29 Page 43, line 30, after “to” insert –
 “(a) ”
- 30 Page 43, line 32, at end insert –
 “(b) procedures to be followed in relation to the disclosure (in accordance with sections 49 and (*Protection of personal information disclosed for purposes of proceedings*)) of information obtained by or on behalf of a Special Health Authority in the exercise of such functions.”

Clause 49

- 31 Page 44, line 29, at end insert “or tribunal”
- 32 Page 44, line 43, leave out from “disclosed” to end of line 3 on page 45 and insert “except –
 (a) for a purpose connected with the functions, investigation or proceedings for the purposes of which it was so disclosed, or
 (b) in accordance with an enactment or order of a court or tribunal.”

Clause 50

- 33 Leave out Clause 50 and insert the following new Clause –

“Protection of personal information disclosed for purposes of proceedings

- (1) Information obtained from personal records produced in compliance with a notice under section 45 is “protected information” for the purposes of this section if –
 (a) a person (“the discloser”), in accordance with section 49(3), discloses the information for the purposes of any proceedings, and
 (b) either –
 (i) the identity of the individual in question can be ascertained from the information itself, or
 (ii) the discloser has reasonable cause to believe that it will be possible for a person who obtains the information as a direct or indirect consequence of the disclosure to ascertain the individual’s identity from that information taken with other information obtained by virtue of section 45 or 46 and disclosed by or on behalf of the appropriate national authority.
- (2) The discloser must take all reasonable steps to ensure that, once disclosed by him in accordance with section 49(3), the protected information is not further disclosed to any person who is not someone to whom it is necessary to disclose the information for any purpose connected with the proceedings mentioned in subsection (1)(a).
- (3) In subsection (2) the reference to further disclosure of the information does not include any such disclosure –
 (a) by way of evidence in any proceedings, or
 (b) in accordance with an enactment or order of a court or tribunal.

- (4) The appropriate national authority must make provision, whether in a code of practice issued under section 48 or otherwise, for requiring any person disclosing protected information in accordance with section 49(3) to ensure, by the use of a distinguishing mark or in some other way, that the information is clearly identified as protected information for the purposes of this section.
- (5) Information that appears to be protected information must not be disclosed by way of evidence in any proceedings unless –
 - (a) the whole of the proceedings are held in private, or
 - (b) in any other case, the information is disclosed in accordance with permission given by the court or tribunal on an application under subsection (6).
- (6) If, on an application by a party to –
 - (a) proceedings before a court, or
 - (b) proceedings of any description before a tribunal that sits, or may sit, in public during the whole or part of proceedings of that description,
 the court or tribunal is satisfied that it is in the interests of justice for any information that appears to be protected information to be disclosed by way of evidence in the proceedings, it may give permission for the information to be so disclosed, on such terms as it thinks fit.
- (7) When determining such an application, the court or tribunal must consider whether, in the interests of protecting the identity of the individual to whom the information relates, the whole or part of the proceedings should be held in private.
- (8) If the court or tribunal is satisfied that the whole or part of the proceedings should be held in private, it must give such directions, or take such other steps, as appear to it to be appropriate.
- (9) In this section “proceedings” means –
 - (a) criminal or civil proceedings, or
 - (b) relevant disciplinary proceedings (as defined by section 49(4)).”

Clause 52

- 34 Page 46, line 20, leave out “50(3)” and insert “(*Protection of personal information disclosed for purposes of proceedings*)(2)”

Clause 70

- 35 Page 55, leave out line 3

Clause 78

- 36 Page 60, line 41, after “4,” insert “5,”

Clause 82

- 37 Page 63, line 2, at end insert “, and
- (e) (except for section 35(2)) any other provision of this Act so far as it –
 - (i) confers power to make an order or regulations, or

- (ii) defines any expression relevant to the exercise of any such power.

Subsections (2)(b) and (3) to (6) have effect subject to paragraph (e).”

- 38 Page 63, line 16, leave out “paragraphs 24(a) and 43” and insert “paragraph 24(a)”
- 39 Page 63, line 17, leave out “those paragraphs” and insert “that paragraph”
- 40 Page 63, line 29, leave out “and Schedule 3” and insert “, Schedule 3 and paragraph 43 of Schedule 8”
- 41 Page 63, line 29, leave out from “bodies” to end of line 30
- 42 Page 63, line 32, leave out paragraph (f) and insert –
 “(f) so far as relating to Welsh NHS bodies, any provision of Schedule 9 which repeals or revokes an enactment amending or repealing section 98 of the 1977 Act, and”
- 43 Page 63, line 34, at end insert “(d),”
- 44 Page 63, line 35, at end insert –
 “In this subsection “Welsh NHS body” has the meaning given by paragraph 2 of the Schedule 12B inserted by Schedule 3.”

Schedule 3

- 45 Page 70, line 36, leave out from “to” to end of line 37 and insert “any Strategic Health Authority whose area includes any part of the Trust’s area.”

Schedule 4

- 46 Page 75, line 34, after “may” insert –
 “(a) prescribe conditions which must be satisfied in relation to persons before they are appointed as health and social care commissioners;
 (b) make provision as to the circumstances in which persons are disqualified for being health and social care commissioners;
 (c) ”
- 47 Page 75, line 36, leave out “regulations may in particular make” and insert “provision that may be made in relation to the health and social care commissioners under sub-paragraph (5)(c) includes, in particular, ”
- 48 Page 77, line 15, leave out “NHS bodies other than Special Health Authorities” and insert “Strategic Health Authorities, Primary Care Trusts or NHS trusts”

Schedule 8

- 49 Page 84, line 29, leave out paragraph (a) and insert –
 “(a) for “a Health Authority” substitute “a Local Health Board”, and”
- 50 Page 84, line 39, at end insert –

“Pharmacists (Fitness to Practise) Act 1997 (c. 19)

In the Schedule to the Pharmacists (Fitness to Practise) Act 1997 (fitness to practise of registered pharmaceutical chemists) omit paragraph 5.”

51 Page 86, line 32, leave out “second paragraph (fa)” and insert “paragraph (fa) inserted by paragraph 74(2)(a) of Schedule 11 to the 2003 Act”

52 Page 87, line 35, leave out “1” and insert “2”

Schedule 9

53 Page 88, line 11, column 2, at beginning insert –

| “In section 15, subsections (3) and (4).”

54 Page 89, line 19, at end insert –

“National Health Service Appointments Commission (Establishment and Constitution) Order 2001 (S.I. 2001/793)	The whole Order.”
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55 Page 89, line 39, column 2, leave out “1” and insert “2”

56 Page 89, line 43, column 2, leave out “In Schedule 2, paragraph 1.” and insert “The whole Order.”

57 Page 90, line 5, column 2, leave out “Article 2(2) and Schedule 2.” and insert “The whole Order.”

58 Page 90, line 13, at end insert –

“Special Health Authorities (Audit) Order 2006 (S.I. 2006/ 960)	The whole Order.”
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