



**Law  
Commission**  
Reforming the law

# **The Changing Landscape of Regulation, Health and Social Care Professionals: the Law Commission Review**

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# What I will cover today

- ❖ Overview of the project
- ❖ Structure of the proposed legal framework
- ❖ Fitness to practice
- ❖ Other proposals

# The Law Commission

- ❖ Independent body created by statute
- ❖ Responsible for systematic development and reform of law in England and Wales
- ❖ Two thirds of reports have been implemented
- ❖ Law Commission Act 2009 and Protocol
- ❖ Currently on our 11<sup>th</sup> programme of law reform

# Professional regulation project (1)

Review the UK law relating to the regulation of health care professionals

In England only, review the law relating to the regulation of social workers

# Professional regulation project (2)

- ❖ Sponsored by Department of Health
- ❖ Supported by the devolved administrations
- ❖ First ever tripartite review with the Northern Ireland and Scottish Law Commissions

# Outline of project

## Stage 1: Pre consultation

## Stage 2: Public Consultation

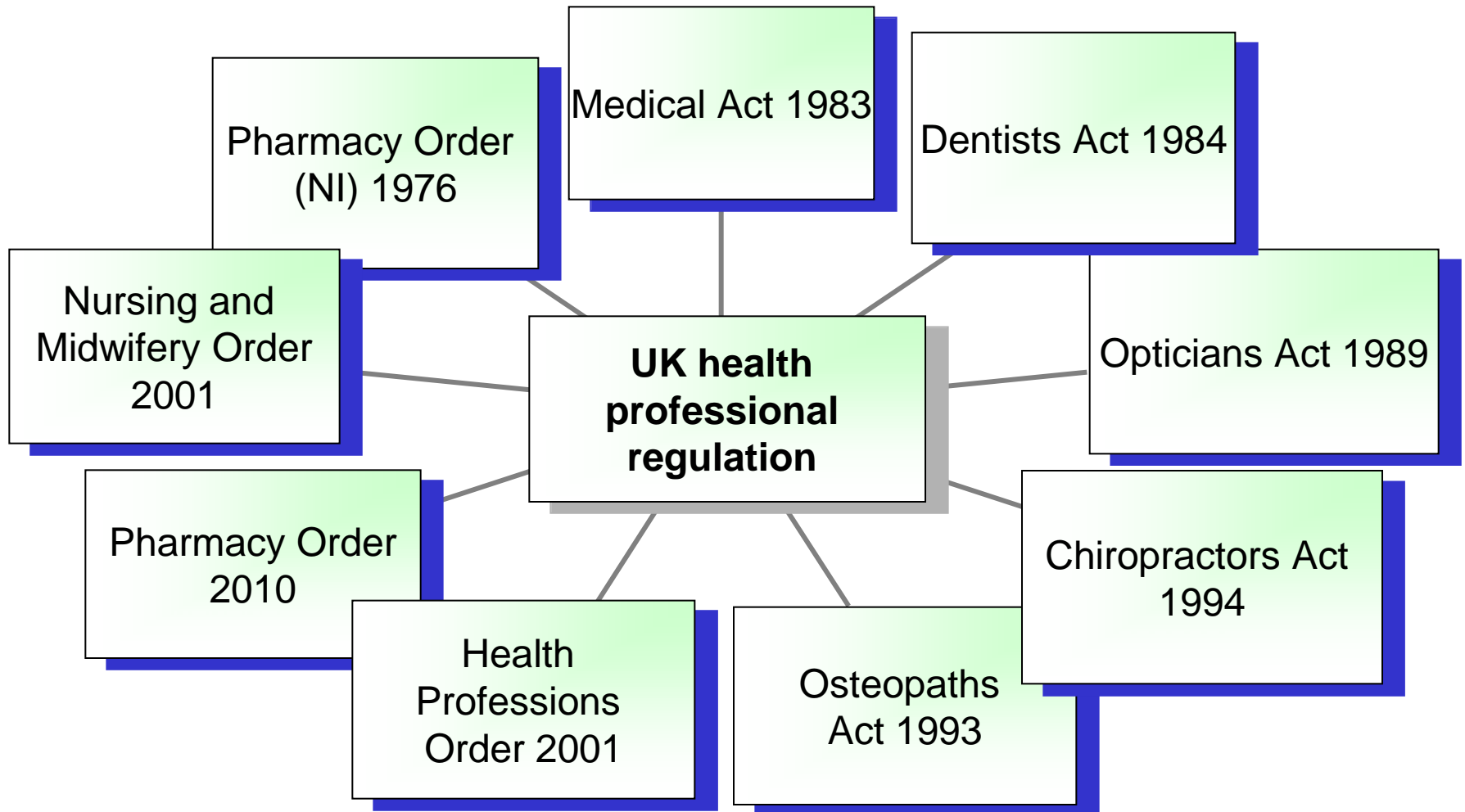
|                  |                                   |
|------------------|-----------------------------------|
| 1 March 2012     | Publication of consultation paper |
| March – May 2012 | 3 month public consultation       |

## Stage 3: Draft Bill and report

Publication early 2014

Legislation before the end of the current Parliament

# The legal framework



# Structure of reform

- ❖ A single UK statute
- ❖ Broad powers for the regulators
- ❖ Removal of Privy Council role
- ❖ Government default and regulation powers
- ❖ Parliamentary accountability



# The paramount duty

To protect, promote and maintain the health, safety and well-being of the public by ensuring proper standards for safe and effective practice

What about maintaining confidence in the profession?

# Fitness to practise: Impairment

1. Consolidate main statutory grounds (misconduct, deficient performance, convictions, health)
2. Shipman Inquiry recommendations
3. Remove the statutory grounds and provide test of impairment based on whether registrant is a risk to the public

# Fitness to practise: Investigation

- ❖ Regulators can consider any information which comes to their attention
- ❖ Powers to introduce screeners and mediation
- ❖ No requirement for an Investigation Committee
- ❖ Powers to dispose of cases via warnings, interim orders, undertakings, voluntary erasure, advice.
- ❖ Ability to review certain decisions not to refer cases to a FTP Panel

# Fitness to practise: Adjudication

- ❖ Article 6 ECHR compliance
- ❖ Extended powers of case management
- ❖ Broad powers for the regulators to determine procedural rules in most areas
- ❖ Consistent range of sanctions (erasure, suspension, conditions, warnings)
- ❖ Government power to introduce financial penalties / cost awards

# Governance

- ❖ Board-like Councils
- ❖ Size and composition of Councils
- ❖ Appointments
- ❖ Committee structure
- ❖ Delegation and collaboration

# Registers

- ❖ Duty to establish main register
- ❖ Specialist lists in statute
- ❖ High level registration requirements
- ❖ Student and voluntary registers
- ❖ Duties to establish appeals systems for registration decisions
- ❖ All current sanctions must appear in the public register

# Education and conduct

- ❖ Wide powers to approve and monitor education
- ❖ Statutory inspection systems
- ❖ Duty to share information
- ❖ Two tier system of guidance
- ❖ Duty to ensure continued professional competence
- ❖ Powers to establish revalidation

# Other key areas

|                        |                      |                     |                             |
|------------------------|----------------------|---------------------|-----------------------------|
| Role of CHRE           |                      | Business regulation |                             |
|                        | Duties to co-operate |                     | Partnership arrangements    |
| Duty to consult widely |                      | Protected titles    |                             |
|                        | Protected functions  |                     | Criminal prosecution powers |





# Law Commission

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