

# HEALTH ACT 1999

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part I - the National Health Service

##### *Schedule 2*

178. *Paragraphs 4, 5 and 6* provide for the membership of the Commission. The Commission will consist of a chairman appointed by the Secretary of State, one member concerned with the interests of Wales and appointed by the National Assembly for Wales, and other members appointed by the Secretary of State. It is intended that the membership will include people with a lay background as well as those with relevant professional expertise. Regulations will deal with matters such as how the appointments are made, persons who are to be disqualified, and the procedures of the Commission. The remuneration of members of the Commission will be a matter for the Secretary of State.
179. *Paragraph 7* provides for the staffing arrangements of the Commission. In particular, paragraphs 7(1) to (3) provide for the appointment of the Director of Health Improvement, the chief executive of the Commission. Paragraph 7(4) concerns the appointment of staff. It is expected that the Commission will develop a number of teams to undertake its various functions. Each team would include staff with appropriate expertise who have been employed by the NHS to provide services and also those who make use of NHS services as patients and carers.
180. The Secretary of State will only be able to exercise his powers under paragraphs 4 to 7 of Schedule 2 if he has first consulted the National Assembly for Wales (see section 66(6)).
181. *Paragraph 8* enables the Commission to make arrangements for the performance of its functions by committees or sub-committees, members or employees.
182. *Paragraph 9* enables the Commission to arrange for other individuals and bodies to assist it in its work. Examples of individuals and organisations from which the Commission may seek assistance include experts in particular clinical fields, academic organisations such as universities, professional bodies such as the Royal Colleges, and voluntary organisations.
183. *Paragraph 10* allows both the Secretary of State and the National Assembly for Wales to provide funding to the Commission. The Secretary of State and the Assembly will be able to direct the Commission as to how it applies the funding it receives from them. As the Commission's role develops, it is envisaged that some of the Commission's work may be funded by charges paid by NHS bodies in respect of which it exercises its functions. Such charges may be provided for by regulations made under section 20(2) (e). Paragraph 10 also provides that the Secretary of State and the Assembly may make loans to the Commission.
184. *Paragraph 11* requires the Commission to keep accounts and submit them to the Secretary of State and the Comptroller and Auditor General. The Commission's

accounts will be audited by the National Audit Office, which is headed by the Comptroller and Auditor General.

185. *Paragraph 12(1)* requires the Commission to make an annual report to the Secretary of State, in which it is envisaged that the Commission will set out the progress it has made during the year and the issues emerging from its work. It is intended that each annual report will be published.
186. *Paragraph 15* amends the Public Records Act 1958. The effect of the amendment is that the records of the Commission will be public records for the purposes of that Act. The records will therefore be preserved, stored, and made available for public inspection in accordance with the 1958 Act.
187. *Paragraph 16* amends the Public Bodies (Admissions to Meetings) Act 1960, so that the Commission will be required to conduct its meetings in open session (unless business of a confidential nature is being discussed or for other special reasons) and to make arrangements for the public to attend.
188. *Paragraph 17* amends the Parliamentary Commissioner Act 1967, so that the Commission is subject to the jurisdiction of the Parliamentary Commissioner.
189. *Paragraph 18* amends the House of Commons Disqualification Act 1975, so that members of the Commission are disqualified from membership of the House of Commons. *Paragraph 19* makes an equivalent amendment to the Northern Ireland Assembly Disqualification Act 1975.