

HEALTH ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part I - the National Health Service

Section 41: High security psychiatric services

277. This section enables hospitals providing high security psychiatric services to be run by NHS trusts. The aim is to address the problems of isolation of the special hospitals by allowing greater integration of secure provision.
278. High security psychiatric services for patients detained under the Mental Health Act 1983 are currently provided by three special hospitals (Ashworth, Broadmoor and Rampton) which are established as Special Health Authorities to perform functions under section 4 of the 1977 Act. Hospitals managed by NHS trusts cannot provide section 4 services because the functions of the managers of the hospital under the Mental Health Act 1983, which in the case of a special hospital means the Secretary of State, cannot be delegated to an NHS trust.
279. Subsection (1) of section 41 replaces the duty of the Secretary of State to provide and maintain special hospitals with a general duty to provide high security psychiatric services for the persons referred to in this subsection. This will enable such services to be provided by other hospitals as well as by the existing special hospitals. High security psychiatric services are to be provided in hospitals, or buildings within a hospital site, which are separate from other hospital facilities and which are not used for the provision of other hospital services.
280. The Secretary of State intends only to commission high security psychiatric services from the existing special hospitals and NHS trusts that are approved by him. Should the function of commissioning high security psychiatric services be delegated to Health Authorities in the future, such delegation would be by regulations.
281. Subsection (3) of section 41 provides for the Secretary of State to approve NHS trusts for the purpose of providing high security psychiatric services, and prevents them from entering into contracts for provision of high security psychiatric services unless they have been approved for this purpose.