

# HEALTH AND SOCIAL CARE ACT 2001

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3: Care Trusts and Partnership Arrangements**

#### ***Sections 46 and 47: Directed partnership arrangements and further provisions about directions in connection with such arrangements and Care Trusts.***

228. *Section 46* provides a power for the Secretary of State or National Assembly for Wales to require local authorities and NHS bodies to enter into partnership arrangements and/or pooled funding arrangements.
229. *Subsection (1)* provides the power for the Secretary of State or the National Assembly for Wales to direct local authorities and NHS bodies to enter into delegation arrangements or pooled fund arrangements. The details of the arrangements are to be specified in the direction. *Subsection (1)(a)* limits the use of this power to circumstances where a local authority or NHS body is failing to deliver its functions adequately, and *subsection (1)(b)* further limits the use of the power to circumstances where the Secretary of State or the National Assembly for Wales is of the opinion that a delegation or pooled fund arrangement would be likely to improve the delivery of the failing function .
230. *Subsection (2)* provides that the directed partnership arrangements may cover not only the function which is being delivered inadequately but also other functions exercised by the same body where this would be likely to contribute to an improvement in the delivery of the failing function.
231. *Subsection (3)* sets out that the power to direct bodies to enter into delegation or pooled fund arrangements applies to NHS bodies and local authorities. In the case of local authorities, these powers can only be triggered by a failure to perform their social services functions adequately. As far as the NHS is concerned, the powers of direction relate to functions prescribed for the purposes of partnership arrangements under section 31 of the Health Act 1999 (see the [NHS Bodies and Local Authorities Partnership Arrangements Regulations 2000, SI 2000/617](#)).
232. *Subsection (4)* makes it clear that an improvement in the way in which a function is exercised includes improvement of services to individuals.
233. *Section 47* contains further provisions relating to the Secretary of State's and the National Assembly for Wales' powers to give directions given under sections 45 and 46. *Subsection (1)* enables directions under section 46 to deal with matters which are required to be dealt with by virtue of regulations made under section 31 of the Health Act 1999. The partnership arrangements authorised by the Health Act 1999 are first, pooled fund arrangements, whereby NHS bodies and local authorities contribute to a communal pot so that the money is neither health nor local authority money and is used to purchase integrated services; secondly, arrangements whereby a local authority can delegate its health-related functions to an NHS body; and thirdly, arrangements whereby an NHS body can delegate its functions to a local authority. *Subsection (3)*

*These notes refer to the Health and Social Care Act 2001  
(c.15) which received Royal Assent on 11 May 2001*

makes it possible for the Secretary of State and the National Assembly for Wales to issue directions to other NHS bodies and local authorities in connection with the principal direction.

234. *Subsection (4)* makes it possible for the Secretary of State or the National Assembly for Wales to give directions requiring bodies to take such steps as are appropriate to enable a decision to be made about whether a direction under *section 46* should be made.
235. *Subsections (5) and (6)* make it clear that directions have to be given in writing, that they can be revoked by further directions and that they must be adhered to.
236. *Subsection (7)* provides that where a direction is revoked any arrangements required by the direction may continue.