

# HEALTH AND SOCIAL CARE ACT 2001

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 4 : Social Care

#### Measures to increase availability of Part 3 accommodation

#### *Section 55: Power for local authorities to take charges on land instead of contributions*

264. The effect of this section is to make it possible for people going into care to defer selling their homes in order to pay for their care. In effect the local authority will make a loan to the resident and recover the money either from the estate when the resident dies or from the resident if he decides to make a full repayment during his lifetime.
265. *Subsection (1)* enables local authorities to enter into deferred payments agreements. *Subsection (2)* allows directions to be made setting out the circumstances in which an authority must enter into these arrangements. *Subsection (3)* sets out the nature of the deferred payment arrangement. In essence it is an agreement whereby during a certain period of time (the exempt period) a resident will not be required to make the payments, or the whole of the payments, he would otherwise have to make under the means testing regime. Instead the resident will grant the authority a charge over land in respect of such payments. *Subsection (4)* defines the exempt period. *Subsection (5)* allows the local authority to determine the provisions of the arrangement subject to any directions given by the Secretary of State or the National Assembly for Wales and provides that the arrangement must allow the resident to terminate the agreement at any time by giving notice and paying the full amount owing .
266. *Subsection (6)* provides that interest is not to be charged during the exempt period but that a local authority may charge interest after that period at a reasonable rate set out in directions given by the Secretary of State or the National Assembly for Wales or, if no such directions are given, at such a rate determined by the local authority .
267. *Subsection (7)* enables regulations to define how much of a resident's contributions in respect of his accommodation is to be subject to a deferred payment agreement. It also ensures that additional payments under section 54 (that is, payments to cover the cost of more expensive accommodation) are regarded as contributions in respect of his accommodation for the purposes of this section.
268. *Subsection (8)* provides that any directions given under the Section are to be given to local authorities generally.