

*These notes refer to the Health and Social Care
(Community Health and Standards) Act 2003 (c.43)*

EXPLANATORY NOTES

HEALTH AND SOCIAL CARE (COMMUNITY HEALTH AND STANDARDS) ACT 2003

INTRODUCTION

SUMMARY

THE ACT

TERRITORIAL APPLICATION: WALES

COMMENTARY ON SECTIONS

PART 1 – NHS FOUNDATION TRUSTS

Introductory

Section 1: NHS foundation trusts

Section 2: Independent Regulator of NHS foundation trusts

Section 3: General duty of regulator

Authorisation

Section 4: Applications by NHS trusts

Section 5: Other applications

Section 6: Authorisation of NHS foundation trusts

Section 7: Effect of authorisation

Section 8: Amendments of constitution

Section 9: Variation of authorisation

Section 10: Register of NHS foundation trusts

Financial matters

Section 11: Power of Secretary of State to give financial assistance

Section 12: Prudential borrowing code

Section 13: Public dividend capital

Functions

- Section 14: Authorised services
- Section 15: Private health care
- Section 16: Protection of property
- Section 17: Financial powers
- Section 18: General powers
- Section 19: Information
- Section 20: Entry and inspection of premises
- Section 21: Fees
- Section 22: Trust funds and trustees

Failure

- Section 23: Failing NHS foundation trusts
- Section 24: Voluntary arrangements
- Section 25: Dissolution
- Section 26: Sections 24 and 25: supplementary

Mergers

- Section 27: Mergers
- Section 28: Section 27: supplementary

Co-operation

- Section 29: Co-operation between NHS bodies

Patient and public involvement

- Section 30: Public involvement and consultation
- Section 31: Patients' Forums
- Section 32: Commission for Patient and Public Involvement in Health

Miscellaneous

- Section 33: Taxation
- Section 34: Other amendments relating to NHS foundation trusts
- Section 35: Conduct of elections
- Section 36: Offence

*These notes refer to the Health and Social Care
(Community Health and Standards) Act 2003 (c.43)*

Section 37: Representative membership

Section 38: Audit

Section 39: General duty of NHS foundation trusts

Supplementary

Section 40: Interpretation of Part 1

PART 2 –STANDARDS

Chapter 1 – Regulatory Bodies

Sections 41 and 42: The Commission for Healthcare Audit and Inspection and the Commission for Social Care Inspection

Reviews of NHS health care in England and Wales – overview

Chapter 2 - Nhs Health Care: Introductory

Section 45: Quality in health care

Section 46: Standards set by Secretary of State

Section 47: Standards set by the Assembly

Chapter 3 - Nhs Health Care: Functions of Chair

Healthcare provided by and for NHS bodies

Section 48: Introductory

Section 49: National Performance Data

Section 50: Annual Reviews

Section 51: Reviews: England and Wales

Section 52: Reviews and Investigations: England

Section 53: Failings

Section 54: Functions relating to the Secretary of State and Assembly

Section 55: Reviews of data

Section 56: Co-ordination of reviews

Other functions

Section 57: Studies as to economy, efficiency

Section 58: Additional functions

Supplementary

Section 59: Criteria

*These notes refer to the Health and Social Care
(Community Health and Standards) Act 2003 (c.43)*

Section 62: Fees and section 63: Fees: Wales

Section 66: Right of entry

Section 67: Right of entry: supplementary

Section 68: Power to require documents and information

Section 69: Power to require explanation

Chapter 4 – Nhs Health Care: Functions of National Assembly for Wales

Reviews and investigations

Section 70: Reviews and investigations relating to Wales

Section 71: Reporting to Secretary of State and the Regulator

Ancillary powers

Section 72: Right of entry, section 73: Right of entry: supplementary,
section 74: Power to require documents and information and section 75:
Power to require explanation

Chapter 5 – Social Services: Functions of Csci

Provision of social services

Section 76: Introductory

Section 77: Information and advice

Section 78: Review of studies and research

Section 79: Annual Reviews

Section 80: Other reviews and investigations

Section 81: Failings

Other functions

Section 82: Studies as to economy, efficiency

Section 83: Joint working with the Audit Commission

Section 84: Additional functions

Supplementary

Section 85: Criteria

Section 86: Fees and section 87: Reports and information

Section 88: Right of entry

Section 89: Right of entry: supplementary

*These notes refer to the Health and Social Care
(Community Health and Standards) Act 2003 (c.43)*

Section 90: Power to require information

Section 91: Power to require explanation

Chapter 6 – Social Services: Functions of National Assembly for Wales

Provision of social services

Section 92: General function

Section 93: Reviews of studies and research

Section 94: Reviews and investigations

Section 95: Studies as to economy, efficiency

Section 96: Additional Functions

Section 97: General considerations

Ancillary powers

Section 98: Right of Entry, section 99: Right of entry: supplementary,
section 100: Power to require information, section 101: Power to require
explanation

Chapter 7 – Functions under the Care Standards Act 2000

Functions of CHAI and CSCI

Section 102: Transfer of functions to CHAI and CSCI

Section 105: Fees

Miscellaneous

Section 106: Meaning of “independent medical agency”

Section 107: Children’s homes providing secure accommodation

Section 108: Information and inspection

Section 109: Assembly: duties relating to children

Chapter 8 – Other Functions of Csci

Section 110: Boarding schools and colleges

Section 111: Boarding schools and colleges: reports

Section 112: Secure training centres

Chapter 9 - Complaints

Section 113: Complaints about health care

Section 114: Complaints about social services

*These notes refer to the Health and Social Care
(Community Health and Standards) Act 2003 (c.43)*

Section 115: Complaints regulations: supplementary

Section 116: Further consideration of representations under the Children Act 1989

Section 117: Representations relating to special guardianship support services

Section 118: Complaints about handling of complaints

Section 119: Complaints: data protection

Chapter 10 – Supplementary and General

Joint working

Section 120: Co-operation

Section 121: Reviews and investigations

Section 122: Joint Annual Reviews

Section 123: Power to assist

Arrangements with public authorities

Section 124: Arrangements with Ministers : CHAI

Section 125: Arrangements with Ministers : CSCI

Section 126: Arrangements with the Isle of Man and Channel Islands:
CHAI

Section 127: Arrangements with the Isle of Man and Channel Islands:
CSCI

Reports

Section 128: Reports: CHAI

Section 129: Reports: CSCI

Relationship with Government

Section 130: Duty to have regard to government policy: CHAI; and
section 131: Duty to have regard to government policy: CSCI

Section 132: Failure in discharge of functions: CHAI; and section 133:
Failure in discharge of functions: CSCI

Inquiries

Section 134: Inquiries: CHAI

Section 135: Inquiries: CSCI

*These notes refer to the Health and Social Care
(Community Health and Standards) Act 2003 (c.43)*

Information

Section 136: Disclosure of information obtained by CHAI; and
section 137: defence

Section 138: Information obtained by CHAI: supplementary

Section 139: Information obtained by CSCI: Supplementary

Section 140: Code of Practice CHAI and section 141: Code of Practice
CSCI

Wales: Supplementary

Section 142: Annual reports of Assembly

Section 143: Use by the Assembly of information

Section 144: Inquiries: Wales

Section 145: Co-operation between Assembly and CHAI

General

Section 146: Offences by bodies corporate

Section 147: Minor and consequential amendments

PART 3 - RECOVERY OF NHS CHARGES

NHS Charges

Section 150: Liability to pay NHS charges

Certificates of NHS charges

Section 151: Applications for certificates of NHS charges, section 152:
section 151: supplementary, and section 153: Information contained in
certificates

Recovery of NHS charges

Section 154: Payment of NHS charges

Section 155: Recovery of NHS charges

Review and appeal

Section 156: Review of certificates

Sections 157 to 159: Appeal against a certificate or a waiver decision; Appeal
tribunals; and Appeal to Social Security Commissioner

Information

Section 160: Provision of information

*These notes refer to the Health and Social Care
(Community Health and Standards) Act 2003 (c.43)*

Section 161: Use of information held by the Secretary of State or the Scottish Ministers

Payments to hospitals or ambulance trusts

Section 162: Payment of NHS charges to hospitals or ambulance trusts

Miscellaneous and general

Section 163: Regulations governing lump sums, periodical payments

Section 164: Liability of insurers

Section 165: Power to apply Part 3 to treatment at non-health service hospitals

Section 166: The Crown

PART 4 – DENTAL AND MEDICAL SERVICES

Primary dental services

Section 170: Provision of primary dental services

Section 171: Dental public health

Section 172: General dental services contracts

Section 173: General dental services: transitional

Primary Medical Services

Section 174: Provision of Primary Medical Services

Section 175: General Medical Services contracts

Section 176: General medical services: transitional

Primary dental and medical services: supplementary

Section 177: Arrangements under section 28C of the NHS Act 1977

Section 178: Abolition of pilot schemes

Section 179: Persons performing primary medical and dental services

Section 180: Assistance and support

Dental services: miscellaneous

Section 181: Abolition of Dental Practice Board

Section 182: Special Health Authorities

Section 183: Charges for dental services

*These notes refer to the Health and Social Care
(Community Health and Standards) Act 2003 (c.43)*

General

Section 184: Minor and consequential amendments

PART 5 - MISCELLANEOUS

Welfare Food Scheme

Section 185: Replacement of the Welfare Food Schemes

Section 186: Replacement of the Welfare Food Schemes: Northern Ireland

Appointments and employment

Section 187: Appointments to certain health and social care bodies

Section 188: Appointments to certain health and social care bodies: joint functions

Section 189: Validity of clearance for employment in certain NHS posts

Public Health Laboratory Service

Section 190: Abolition of the Public Health Laboratory Service Board

PART 6 – FINAL PROVISIONS

Section 195: Orders and regulations

COMMENCEMENT

Section 199: Commencement