

EXPLANATORY NOTES

HEALTH ACT 2009

INTRODUCTION

OVERVIEW OF THE STRUCTURE

BACKGROUND AND SUMMARY

Part 1 Quality and Delivery of NHS Services in England

General Background: NHS Next Stage Review

Chapter 1 - NHS Constitution

Chapter 2 - Quality Accounts

Chapter 3 - Direct payments

Chapter 4 - Innovation

Part 2 Powers in Relation to Health Bodies

Chapter 1 – Powers in Relation to Failing NHS Bodies in England

De-authorisation of NHS foundation trusts

Trust special administrators

Chapter 2 –Suspension

Part 3 Miscellaneous

Tobacco

Pharmaceutical services

Private patient income

Optical appliances

Adult social care

Disclosure of Information

TERRITORIAL EXTENT: FURTHER INFORMATION

Part 1: NHS Constitution, Quality Accounts, Direct payments and Innovation

Part 2: De-authorisation of NHS foundation trusts and trust special administrators

Suspension

Part 3: Miscellaneous

Tobacco

Pharmaceutical services

Private patient income

Optical appliances

Adult social care

Disclosure of information

Territorial application: Wales

Territorial application: Scotland

Northern Ireland

COMMENTARY ON SECTIONS

PART 1 – QUALITY AND DELIVERY OF NHS SERVICES

Chapter 1 - NHS Constitution

Section 1: NHS Constitution

Section 2: Duty to have regard to NHS Constitution

Section 3: Availability and review of NHS Constitution

Section 4: Other revisions of NHS Constitution

Section 5: Availability, review and revision of Handbook

Section 6: Report on effect of NHS Constitution

Section 7: Regulations under section 3 or 4

Chapter 2 – Quality Accounts

Section 8: Duty of providers to publish information

Section 9: Supplementary provision about the duty

Section 10: Regulations under section 8

Chapter 3 – Direct payments

Overview of provisions

Direct payments for health care

Regulations about direct payments

Direct payments pilot schemes

Arrangements with other bodies relating to direct payments

Jurisdiction of Health Service Commissioner

Detailed explanation of provisions

Section 11: Direct payments for health care

Section 12: Jurisdiction of Health Service Commissioner

Section 13: Direct payments: minor and consequential amendments

Chapter 4: Innovation

Section 14: Innovation prizes

PART 2 – POWERS IN RELATION TO HEALTH BODIES

Chapter 1 – Powers in Relation to Failing NHS Bodies in England

Section 15 and Schedule 2: De-authorisation of NHS foundation trusts

Section 16 and Schedule 2: Trust special administrators: NHS trusts and NHS foundation trusts

Application

Appointment

De-authorisation of NHS foundation trusts

Consultation and report

Action by the Secretary of State

Supplementary

Section 17: Trust Special Administrators: Primary Care Trusts

Appointment

Consultation and report

Action by the Secretary of State

Supplementary

Section 18 Trust special administrators: consequential amendments

Chapter 2 – Suspension

Section 19: NHS and other health appointments: suspension

Schedule 3: NHS and other health appointments: suspension

PART 3 – MISCELLANEOUS

Tobacco

Section 20: Prohibition of advertising: exclusion for specialist tobacconists

Section 21: Prohibition of tobacco displays etc.

Section 22: Power to prohibit sales from vending machines

Section 23: Power to prohibit sales from vending machines: Northern Ireland

Section 24 and Schedule 4: Tobacco: minor and consequential amendments

Pharmaceutical Services in England

Section 25: Pharmaceutical needs assessments

Section 26: New arrangements for entry to pharmaceutical list

Section 27: Pharmaceutical lists: minor amendment

Section 28: Breach of terms of arrangements: notices and penalties

Section 29: LPS schemes: powers of Primary Care Trusts and Strategic Health Authorities

Pharmaceutical services in Wales

Section 30: Pharmaceutical lists - minor amendment

Section 31: Breach of terms of arrangements: notices and penalties

Section 32: LPS schemes: powers of Local Health Boards

Private patient income

Section 33: Private patient income of mental health foundation trusts

Optical appliances

Section 34: Payments in respect of costs of optical appliances

Adult social care

Section 35: Investigation of complaints about privately arranged or funded adult social care

Schedule 5: Investigation of complaints about privately arranged or funded adult social care

These notes refer to the Health Act 2009 (c.21)

Section 34A: Interpretation: “adult social care provider” and “adult social care”

Section 34B: Power to investigate and Schedule 5A: Matters not subject to investigation

Section 34C: Who can complain and section 34D: Procedure for making complaints

Section 34E: Matters coming to attention of Local Commissioner

Section 34F: Procedure in respect of investigations

Section 34G: Investigations: further provisions

Section 34H: Statements about investigations

Section 34I: Adverse findings notices

Section 34J: Publication of statements etc. by Local Commissioner

Section 34K: Disclosure of information

Section 34L: Law of defamation

Section 34M: Consultation with other Commissioners

Section 34N: Collaborative working with other Commissioners

Section 34O: Disclosure of information by Local Commissioner to Information Commissioner and Section 34P: Disclosure of information by Local Commissioner to Care Quality Commission

Section 34R: Review, recommendations, advice and guidance and Section 34S: Annual reports

Section 34T: Interpretation of Part 3A

Part 2 of Schedule 5

Disclosure of Information

Section 36: Disclosure of information by Her Majesty’s Revenue and Customs

PART 4 – GENERAL

Section 37: Power to make transitional and consequential provision etc

Section 38: Repeals and revocations

Section 39: Extent

Section 40: Commencement

Section 41: Short title

HANSARD REFERENCES

These notes refer to the Health Act 2009 (c.21)

GLOSSARY OF TERMS AND ABBREVIATIONS