

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

HEALTH AND SOCIAL CARE ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: National Health Service

Health Service Funding

Section 5: Income Generation

44. The purpose of this section is to enable the Secretary of State and the National Assembly for Wales and other NHS bodies exercising “income generation” powers under section 7 of the Health and Medicines Act 1988 to form, invest in and otherwise make financial provision in relation to companies. Section 7 of the 1988 Act confers powers under which the Secretary of State and the National Assembly for Wales may carry out a wide range of commercial activities, such as the supply of goods and services and the exploitation of intellectual property, in order to increase the funds available for improving the health service . This is subject to the proviso that such activities do not interfere with the performance of any duties under the 1977 Act or operate to the disadvantage of patients. The Secretary of State may authorise bodies established under the 1977 Act to exercise these powers subject to any directions he might give. NHS trusts are given the same income generation powers by virtue of paragraph 15 of Schedule 2 to the NHS and Community Care Act 1990.
45. Subsection (7A) would be inserted into section 7 of the 1988 Act so as to provide for the formation of, investment in and making of financial provision in relation to companies where that was calculated to facilitate, or be conducive, or incidental to, the exercise of income generation powers.
46. Subsection (7B) defines “companies” and makes clear that the inclusion of the new subsection would be without prejudice to any other powers of the Secretary of State.