

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

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

144. The Command Paper *Delivering the NHS Plan: Next steps on investment, next steps on reform*¹ set out the Government’s intention to create a new Commission for Healthcare Audit and Inspection (“the CHAI”) which would have responsibility for the review and inspection of providers of NHS health care and also for the registration under the CSA 2000 of independent providers of health care in England, and a new Commission for Social Care Inspection (“the CSCI”) which would have responsibility for inspecting local authority social services in England and also for the registration under the CSA 2000 of providers of social care services in England.
145. *Schedule 6* deals with the constitution of the CHAI. In particular it provides that the appointment of the chairman and members of the CHAI will be carried out by a Special Health Authority, which is directed to do so by the Secretary of State. It is envisaged that the Special Health Authority in question will be the NHS Appointments Commission or any similar successor body. *Schedule 7* makes the same provision for the CSCI as *Schedule 6* does for the CHAI with the following notable exceptions.
- *Paragraph 3* provides for the membership of the CSCI but gives no role to the Assembly in the appointment and removal from office of members. This is because the CSCI will be an England only body.
 - *Paragraph 5* provides for the staffing of the CSCI. *Subparagraph (2)* provides that the CSCI must appoint a member of staff as a Children’s Rights Director, whose role will be prescribed in regulations. The intention is that the Children’s Rights Director should ensure that the CSCI’s work takes full account of children’s rights and welfare.
 - *Paragraph 9* allows the Secretary of State to make payments to the CSCI and to make the payments subject to conditions. Again, because the CSCI is an England only body there is no role for the Assembly in this process.

Reviews of NHS health care in England and Wales – overview

146. In relation to NHS health care in England and Wales, responsibility is divided between the CHAI and the Assembly. The Assembly remains primarily responsible for

¹ For copies – website address: www.doh.gov.uk/deliveringthenhsplan/index.htm

These notes refer to the Health and Social Care (Community Health and Standards) Act 2003 (c.43) which received Royal Assent on 20 November 2003

reviewing the provision of health care by and for NHS bodies in Wales (Chapter 4). CHAI has responsibility for reviewing the provision of health care by and for NHS bodies in England and cross-border Special Health Authorities (Chapter 3). However, CHAI also has some functions relating to the review of the overall provision of health care across England and Wales (see [sections 49](#) and [51](#)); and could in the future be given further functions relating to England and Wales ([section 58](#)).