

# HEALTH AND SOCIAL CARE ACT 2012

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1 – The Health Service in England**

#### **Arrangements for provision of health services**

#### ***Section 22 - Exercise of public health functions of the Secretary of State***

190. This section inserts a new section 7A into the NHS Act and allows the Secretary of State to delegate, by arrangement, the Secretary of State's public health functions to the NHS Commissioning Board or CCGs, or to local authorities which have a duty to improve public health (see new section 2B). "Public health functions" are functions under section 2A (duty to take steps to protect public health), section 2B (power to take steps to improve public health) or certain functions under Schedule 1 (such as providing contraceptive services).
191. Subsection (4) of the new section provides that where functions are delegated to the NHS Commissioning Board under such arrangements, the NHS Commissioning Board may in turn delegate those functions to CCGs.
192. Subsection (5) provides that when the NHS Commissioning Board, a CCG or local authority exercises the Secretary of State's public health functions under such arrangements, any liabilities incurred will be enforceable against that body (and no other individual or body). Similarly only the body which exercises the function in question will be able to enforce any rights acquired in their exercise.
193. Subsection (6) provides that the arrangements may include provision for the Secretary of State to provide funding to the NHS Commissioning Board or CCGs in relation to the delegated functions. The intention is to provide flexibility and efficiency in the way that public health services are delivered. The provision could be used, for example, to delegate responsibility to the NHS Commissioning Board for commissioning a national vaccination or screening programme.