

# 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 17 - Other services etc. provided as part of the health service*

155. This section transfers responsibility for a number of public health activities from the Secretary of State, and confers a new duty on the Secretary of State to make arrangements for the supply of blood and human tissues. The section amends section 5 of, and Schedule 1 to, the NHS Act, which provides for the Secretary of State to provide various health services and carry out other activity in relation to the health service.
156. *Subsections (3) to (8)* amend the provisions of [Schedule 1](#) relating to children. The provisions transfer the Secretary of State's existing responsibilities for the medical inspection and treatment and the weighing and measuring of school children. Responsibility is transferred to the local authorities which have a duty to improve public health under new section 2B. This would include school nursing services.
157. *Subsection (8)* amends paragraph 7B(1) of Schedule 1 to the NHS Act to extend the power of the Secretary of State to make regulations relating to the processing of information resulting from any weighing or measuring of children under regulations under paragraph 7A of that Schedule to include any other prescribed information relating to the children concerned. It also extends paragraph 7B(2) to allow the Secretary of State to require any person exercising functions in relation to weighing and measuring to have regard to guidance relating to information prescribed under subparagraph (1).
158. *Subsection (9)* inserts a new paragraph 7C into Schedule 1 and confers on the Secretary of State the duty to make arrangements for the collection, screening and supply of blood (and related services) and for the facilitation of organ or tissue transplantation services. The Secretary of State has responsibility for this under his existing functions under sections 2 and 3 of the NHS Act, but the new paragraph 7C ensures that the Secretary of State continues to have responsibilities for those arrangements despite the changes to those sections made by this Act. As now, the functions would be performed by NHS Blood and Transplant, a Special Health Authority, rather than by the Department of Health.
159. *Subsections (10) and (11)* amend paragraphs 9 and 10 of Schedule 1 so as to transfer to CCGs the Secretary of State's existing responsibility for the supply of wheelchairs and other vehicles to people with a physical disability. In practice PCTs arrange these services now, and the Department's view is that the responsibility for those services is more consistent with CCGs' other duties than with local authorities' health improvement duties.

*These notes refer to the Health and Social Care Act 2012  
(c.7) which received Royal Assent on 27 March 2012*

160. *Subsection (12)* makes a consequential amendment to paragraph 12 of Schedule 1, which confers a power on the Secretary of State to provide a microbiological service (to help control the spread of infectious diseases). The power to provide such a service now falls under the Secretary of State's health protection duty under new section 2A; paragraph 12 will however continue to provide that he can carry on related activities and charge for such activity.
161. Finally, *subsection (13)* substitutes a new paragraph 13 of Schedule 1, which relates to the conduct of research into health-related matters by, or with the assistance of, the Secretary of State. The new paragraph 13 enables the NHS Commissioning Board, CCGs and local authorities, as well as the Secretary of State, to conduct, commission or fund such research or assist others to do so. For example, this would enable the NHS Commissioning Board and CCGs to assist valuable research designed to improve health care, by providing the NHS costs associated with research in the NHS, which are currently provided by PCTs through the normal commissioning process. Local authorities would only be able to use the power in relation to their public health activities.
162. While new paragraph 13 enables the Secretary of State, the NHS Commissioning Board, a CCG or a local authority to obtain and analyse data or other information, it does not require the bodies holding the information to supply it and does not set aside any obligation of confidentiality that might apply to those bodies.