

# HEALTH AND SOCIAL CARE ACT 2012

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

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

#### **Further provision about local authorities' role in the health service**

#### ***Section 30 - Appointment of directors of public health***

388. This section requires local authorities and the Secretary of State to appoint directors of public health and makes related provision. PCTs are currently required to appoint directors of public health to provide local leadership and co-ordination of public health activity, but the section would in effect transfer that requirement to local authorities. The intention is that the director of public health role will become integral to the new public health responsibilities that this Act confers on local authorities. The provision applies to local authorities which have a duty to improve public health under new section 2B of the NHS Act.
389. The section inserts a new section 73A into the NHS Act. Subsection (1) provides that each local authority must, acting jointly with the Secretary of State, appoint a director of public health. It then defines the responsibilities of directors of public health as including:
- a) the new health improvement duties that this Act would place on local authorities;
  - b) the exercise of any public health functions of the Secretary of State which the Secretary of State requires the local authority to exercise by regulations under section 6C of the NHS Act;
  - c) any public health activity undertaken by the local authority under arrangements with the Secretary of State;
  - d) local authority functions in relation to planning for, and responding to, emergencies that present a risk to public health;
  - e) the local authority role in co-operating with police, probation and prison services in relation to assessing risks of violent or sexual offenders; and
  - f) other public health functions that the Secretary of State may specify in regulations (e.g. functions in relation to making representations about the grant of a license to use premises for the supply of alcohol).
390. Directors of public health will be local authority employees. Local authorities will be able to dismiss their directors of public health, but only after consulting the Secretary of State (although the Secretary of State will not have a veto) (subsections (5) and (6)).
391. Where the Secretary of State considers a director of public health has failed or might have failed to carry out certain aspects of the director's responsibilities then the Secretary of State may require the local authority to take certain action. The

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

responsibilities in question are the director's responsibilities for the exercise of the Secretary of State's public health functions which have been conferred on the local authority by regulations or agreement. The Secretary of State would not be able to take action in relation to the public health functions conferred directly on the local authority by the NHS Act (e.g. section 2B). The action which the Secretary of State may require consists of reviewing and investigating the director of public health's performance, considering any steps that may be necessary (including any that the Secretary of State may require the local authority to consider) and then reporting back to the Secretary of State on the action it has taken. See subsections (3) and (4).