

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

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – NHS foundation trusts and NHS trusts

Functions

Section 165 - Private health care

1041. This section repeals the restriction on the amount of income a foundation trust can derive from private charges, otherwise known as the “private patient income cap”.
1042. The cap, which was introduced in 2003, had the effect that a foundation trust cannot earn in any financial year a higher proportion of its total income from private charges than it derived from private charges in the financial year 2002-03 (the year before the first foundation trusts were authorised). For example, as no mental health foundation trust derived income from private charges in 2002-03, their cap was 0%. The cap on mental health foundation trusts’ income derived from private charges was increased to 1.5% by section 33 of the Health Act 2009. This Act does not repeal the provisions of section 44 of the NHS Act which allow foundation trusts to charge NHS patients for the provision of accommodation, such as a private room, and additional services, such as an ancillary service like the provision of a television.