

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

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

EXPLANATORY NOTES

ANNEX A:: OUTLINE OF THE EXISTING LAW RELATING TO THE NHS

474. This is a statement of the law relating to the NHS before the enactment of the Health and Social Care (Community Health and Standards) Act 2003.
475. The following paragraphs provide a brief description of the current legislative framework for the NHS. The legislative framework for the NHS in England and Wales is mostly set out in the National Health Service Act 1977 (“the 1977 Act”). This has been amended quite substantially by various enactments, notably by the National Health Service and Community Care Act 1990 (“the 1990 Act”), the Health Authorities Act 1995 (“the 1995 Act”), the National Health Service (Primary Care) Act 1997 (“the Primary Care Act”), the Health Act 1999 (“the Health Act”), the Health and Social Care Act 2001 and the National Health Service Reform and Health Care Professions Act 2002 (“the NHS Reform Act”).
476. Under the 1977 Act, the NHS is essentially split into two different systems. There is first of all the system which consists primarily in the provision of health care in hospitals. It also covers those services described as "community health services", for example, the services provided by midwives or health visitors in clinics or individuals' homes, and the provision of medical services to pupils in state schools. This is the subject of Part I of the 1977 Act. The responsibility for securing the provision of these services to patients rests with the Secretary of State, although under his powers in section 16D of the 1977 Act he has delegated most of his functions to Strategic Health Authorities and Primary Care Trusts (“PCTs”) (a new type of NHS body to both commission and provide NHS care. PCTs enter into arrangements with bodies known as NHS trusts for the provision by the trusts of hospital and community health services.
477. The other main part of the NHS structure is what might be described as “the NHS in the High Street” or “family health services”. This is dealt with under Part 2 of the 1977 Act. The professionals in question are general practitioners (“GPs”) (i.e. family doctors), general dental practitioners (“GDPs”), ophthalmic opticians and ophthalmic medical practitioners, and chemists.
478. The 1990 Act, the Primary Care Act, the Health Act, the Health and Social Care Act 2001 and the NHS Reform Act introduced a number of changes to these systems of health care. Broadly speaking, the changes introduced by these Acts were as follows -
- The 1990 Act introduced what is known as the internal market; by creating a divide between the planning and purchase of Part I services, on the one hand, and the provision of those services, on the other;
 - the Primary Care Act in effect enabled medical and dental services to be delivered, not under Part 2, but under a more flexible system within Part I of the Act, known as ‘PMS’ and ‘PDS’;
 - the Health Act made a number of changes, but in particular provided for the abolition of GP fund-holding (introduced by the 1990 Act), the establishment of PCTs and new arrangements to improve the quality of NHS services and co-operation between NHS bodies and local authorities;
 - the Health and Social Care Act 2001 also made a number of different changes, but in particular provided for changes to the funding of NHS bodies, local authority scrutiny of NHS provision, changes to the system for filling vacancies for GPs, additional lists for Part II practitioners, the abolition of the NHS tribunal, the provision of “local pharmaceutical services” (similar to the Primary Care Act arrangements for PMS/PDS), and the establishment of “Care Trusts”.
 - Part 1 of the NHS Reform Act provided for HAs to be renamed, in England only, as Strategic Health Authorities; for the Secretary of State to be required to establish PCTs for the whole of England and to be able to delegate his functions directly to them; and for many of the service provision functions currently directly conferred

on Health Authorities (including those relating to family health services under Part 2 of the 1977 Act) to be conferred on PCTs. In relation to Wales, the Act provides for the establishment and funding of Local Health Boards (“LHBs”) and places a duty on each LHB and local authority in Wales to formulate and implement a health and well-being strategy for the area.

PART 1 SYSTEM: HOSPITAL AND COMMUNITY HEALTH SERVICES

479. The system provided for under Part I of the 1977 Act (and Part I of the 1990 Act - discussed below) is the system under which all of the NHS, apart from family health services, is provided, including its hospitals. The core duty is laid upon the Secretary of State (1977 Act, section 1) in extremely broad terms, supplemented by the provisions of sections 2 to 5. It is these provisions which define the Secretary of State’s overarching responsibilities to provide health services under a comprehensive health service. They are broad powers and thus frequently the legislative source for functions which have in practice, been delegated to health service bodies such as Strategic Health Authorities and PCTs.
480. **Section 3** sets out those general services which it is the Secretary of State’s duty to provide to such extent as he considers necessary to meet all reasonable requirements. Most of the services which may be described as hospital and community health services are included under this section.
481. Section 5(1) and (1A) impose duties on the Secretary of State to provide medical and dental services to state school pupils. This is the basis for what is described as the school nursing service.
482. **Section 2** confers wide ranging powers for the Secretary of State to provide such services as are appropriate to discharge any duty imposed on him by the Act (including his general duty under section 1), and to do any other thing whatsoever which is calculated to facilitate, or is conducive or incidental to, the discharge of such a duty.
483. Sections 8 to 18 of the 1977 Act provide for the administration of the NHS. These sections have been substantially amended since 1977, most recently by the NHS Reform Act. As amended, they provide for the setting up of Strategic Health Authorities (section 8), Special Health Authorities (section 11) and PCTs (section 16A). HAs (Health Authorities)/Strategic Health Authorities, Special Health Authorities and PCTs are independent statutory bodies, although their membership is determined in accordance with regulations (and in the case of Special Health Authorities, the establishment order) and some of the appointments to their membership are made by the Secretary of State. HAs/Strategic Health Authorities and PCTs are established for territorial purposes. Each HA/Strategic Health Authority is established for such area of England and Wales as set out in the establishment order made under section 8; the entire area of England and Wales is covered by Strategic Health Authorities and PCTs in England and HAs in Wales. There are no PCTs in Wales. The NHS Reform Act provides for the establishment of LHBs in Wales. Special Health Authorities are established for specific functional purposes - they are established for the purpose of performing any functions of the Secretary of State which he may direct them to perform under section 16C.
484. Legislation allows health service functions to be exercised by health service bodies in one of two ways. Functions are either directly conferred by the primary legislation or the person on whom they are directly conferred (either Secretary of State or a health service body) is permitted to delegate them to another health service body.
485. Strategic Health Authorities - may, in accordance with regulations and any relevant directions, delegate their functions (whether Part I or Part 2) to each other, or to committees or others: see section 16 of the 1977 Act. Similar provision is made for PCTs: see section 16B of the 1977 Act. Regulations have been made under both provisions.

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486. Strategic Health Authorities, HAs and Special Health Authorities are currently funded under the provisions of section 97 of the 1977 Act. Section 97(1) concerns the remuneration of persons providing Part 2 services and is not cash-limited (in other words the Secretary of State must pay whatever it has cost the HA, and he cannot impose a ceiling on the expenditure). Under section 97 an authority is paid money not exceeding the amount allotted to them by the Secretary of State. This amount is allotted towards meeting their "main expenditure" which includes all expenditure attributable to the performance of their Part I functions, and all their administrative costs. The money paid in respect of Part I services is therefore ultimately cash-limited. To enforce the cash-limits set by the Secretary of State, HAs have various financial duties imposed upon them by section 97A of the 1977 Act.
487. PCTs are funded under section 97C of the 1977 Act and LHBs under section 97F, inserted by the NHS Reform Act. There is a similar distinction between cash-limited and non-cash-limited funding. Section 97C was amended by section 3(3) of the Health and Social Care Act 2001 so that in addition to HA allotments, the Secretary of State may make supplementary payments direct to PCTs. PCTs are subject to a set of financial duties similar to those for HAs (see section 97D, as inserted by section 3 of the Health Act and amended by section 3 of the Health and Social Care Act 2001)

PART 2 SYSTEM: FAMILY HEALTH SERVICES

488. The broad structure of the Part 2 system is similar for doctors, dentists, persons providing ophthalmic services and persons providing pharmaceutical services.

General Medical Services

489. Under section 29 of the 1977 Act, it is the duty of each PCT (or HA in Wales) in accordance with regulations to arrange as respects their area with medical practitioners to provide "personal medical services" for all persons in the area who wish to take advantage of the arrangements. These services are described as "general medical services" ("GMS"). A principal feature of this system is that (apart from certain exceptional cases) it is not the PCT or HA which itself provides the GMS; instead, it enters into separate statutory arrangements with independent practitioners (often known as "GP principals") for the provision of those services. GPs are therefore not employees of the PCT or HA; they are independent professionals who undertake to provide GMS in accordance with the body of regulations governing that activity. Those Regulations are currently the [National Health Service \(General Medical Services\) Regulations 1992 \(S.I. 1992/635\)](#) as amended ("the GMS Regulations"). They incorporate (at Schedule 2) the Terms of Service of GP principals.
490. The remainder of section 29, as amended, sets out certain things which must or may appear in the Regulations. Section 29 is prospectively amended by section 23 Health and Social Care Act 2001. Section 29A prevents a PCT or HA making arrangements with a doctor unless he is on a medical list, and sets out certain restrictions on who is eligible to be on such a list. Section 29B gives a regulation-making power for the filling of vacancies for doctors which was also extended by section 20 of the Health and Social Care Act 2001. Sections 31 and 32 provide for regulations requiring that each GP must be "suitably experienced" as prescribed. Section 33 provides the Secretary of State with power to control GP numbers if necessary.
491. A new power for Regulations to enable PCTs or HAs to conditionally include doctors in the medical list is in section 43ZA, inserted into the 1977 Act by section 21 of the Health and Social Care Act 2001. Similar provision is made for all the professions. Section 43D inserted by section 24 of the Health and Social Care Act 2001 gives power in regulations for PCTs or HAs to keep lists of persons who assist in the provision of General Medical Services (in contrast to GP principals, who are included in the medical list) (see the [National Health Service \(Supplementary List\) Regulations 2001 \(SI 2001/3740\)](#) as amended). Similar provision is made for the other professions.

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492. Section 28F inserted by the Primary Care Act gives power to make Regulations conferring a right to choose one's medical practitioner (see the [Choice of Medical Practitioner Regulations 1998, SI 1998/3179](#) as amended).
493. GPs are required by the Terms of Service to provide patients with personal medical services in effect at all times, but some provision is made in respect of out of hours services (see paragraphs 12 and 18A of Schedule 2 to the General Medical Services Regulations). Section 18 of the Health and Social Care Act 2001 allows for further formalisation of out of hours arrangements.
494. The broad structure of the Part 2 system is similar for dentists, opticians, and chemists, but there are significant differences, most notably relating to chemists and opticians.

Dentists

495. The provision for dentists (section 35 of the 1977 Act) is in very similar terms to that for doctors in section 29, although it will be noted that the duty upon the PCT or HA is subtly different. In the case of doctors, the PCT or HA - must arrange for sufficient GMS to be provided for everybody in the area who wishes to take advantage of the arrangements. In the case of dentists this duty is not quite the same: the duty is not to arrange the provision of GDS for everybody in the area who wishes to have GDS, but rather to arrange with dentists in the area that any person for whom those dentists have undertaken to provide GDS receive the promised GDS. However, the systems are by no means dissimilar: there exists a dental list of GPs who undertake to provide GDS, there is a system of dental vocational training (although it has been introduced by regulations and not by primary legislation); the relationship between the HA and the GP is (usually) again a statutory one between a HA and an independent professional. There is provision for the employment of salaried dentists at health centres: these dentists are employed by the PCT or HA, and represent one of the rare occasions when it is the PCT or HA itself which provides the services in question via its employees.

Common provisions

496. Sections 43A and 43B of the 1977 Act, as substituted by section 10 of the Health Act, provide a structure for the remuneration of persons providing Part 2 services. Section 10 of the Health Act has, however, not been brought into force. Neither have the original sections 43A and 43B inserted by the [Health and Social Security Act 1984 \(c.48\)](#) been commenced. In effect the original sections inserted by the 1984 Act must be complied with because of section 7 of that Act, which provides that a determination of remuneration made before the coming into force of those provisions is deemed to be validly made if regulations authorising it could have been made had that provision been in force at that time. It is therefore not open to the Secretary of State or anyone else to make a determination which is inconsistent with the provisions of sections 43A and 43B as inserted by the 1984 Act. What in fact happens is that the Secretary of State makes and publishes a determination for each of the professions, which takes the form of the separate document referred to in each of the sets of Regulations governing the four professions. These determinations therefore have the force of law, although they are not subject to any further degree of formality or Parliamentary procedure. In the case of General Medical Services, the determination is contained in a document known as the Red Book.
497. Each profession has in each HA area a local representative committee (called the Local Medical Committee, the Local Dental Committee, and so on). These represent local practitioners and are provided for under sections 44 and 45 of the 1977 Act as amended.
498. There are detailed provisions for the removal or suspension of practitioners from the list in which their names are included (see sections 49F to 49R in the 1977 Act). There is provision for review of decisions and for appeal to a new statutory body, the Family Health Services Appeal Authority ('the FHSAA'). The FHSAA is set up by section 49S

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of the 1977 Act, inserted by section 27 of the Health and Social Care Act 2001. It is constituted in accordance with new Schedule 9A. This new body may turn a local removal from a particular HA list into a national disqualification that prevents any HA from including them in their list.

Administration of Part 2 services

499. It is the duty of each PCT or HA in accordance with regulations to administer the arrangements made for the provision of GMS (and the other services): see section 15 of the 1977 Act. The PCT or HA must also perform such other management and other functions relating to those services as may be prescribed; and a number of functions have indeed been prescribed.
500. Whilst the duty to make arrangements for Part 2 services is conferred directly upon PCTs or HAs, rather than upon the Secretary of State, the exercise of those functions by PCTs and HAs may be the subject of directions issued by the Secretary of State under section 17 or the NAW under section 16BC of the 1977 Act.

Funding

501. The funding of Part 2 services by PCTs is currently effected through section 97C of the 1977 Act.

NHS trusts

502. Section 5 of the 1990 Act, and the immediately following provisions, provide for the setting up of bodies known as "NHS trusts". These are not HAs and are separate, independent bodies which were set up to assume responsibility for the ownership and management of hospitals or other establishments or facilities previously managed or provided by a HA (or, before 1 April 1996, its predecessor under the pre-1995 Act structure of the NHS), or to provide and manage hospitals or other establishments or facilities which were not previously so managed or provided. Section 5(1), as amended by section 13 of the Health Act, now provides that trusts are established to provide goods and services for the purposes of the health service. A trust's functions are conferred by its establishment order made under section 5(1) and by Schedule 2 of the Act.
503. Nearly all the hospitals in the country are now run by NHS trusts, although increasingly, smaller "community" hospitals are being run by PCTs. The essential difference between NHS trusts and the hospitals run directly by HAs is that the latter were funded by money paid to HAs for the purpose by the Secretary of State under (what is now) section 97(3) of the 1977 Act; generally speaking, NHS trusts do not have money paid to them direct by the Secretary of State, but instead must compete with each other for orders for their services placed by HAs (or more recently PCTs). PCTs and HAs have thus been "purchasers" or "commissioners" of health care on behalf of the local population; while trusts are included among the "providers" of this health care. PCTs and HAs may also choose to purchase health care from private sector institutions.
504. This system resulted in the creation of what was known as the "internal market", whereby the whole of the operation (including trusts) is still the NHS, but for internal purposes the purchasers or commissioners were split from the providers. However, it should not be of any concern to the patient how the internal arrangements work: so far as the patient is concerned, the whole thing is still the NHS.
505. The 1990 Act conferred on NHS trusts a substantial degree of autonomy. As well as not being funded centrally, the Secretary of State was able to give directions to NHS trusts only in relation to a limited range of subjects (paragraph 6 of Schedule). The Health Act restricted this freedom by extending to NHS trusts the Secretary of State's power of direction under section 17 of the 1977 Act (see section 12 of the Health Act).

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506. Paragraph 5A of Schedule 3 to the 1990 Act, as inserted by section 3 of the Health and Social Care Act 2001, now provides that the Secretary of State may make supplementary payments direct to NHS trusts. Most NHS trust income, however, continues to consist of payments by HAs/PCTs for the provision of services.

NHS contracts

507. The nature of the arrangements between HAs/PCTs and trusts is not that of an ordinary contract enforceable at law. Instead, the 1990 Act provided for a system of "NHS contracts" (section 4), which were explicitly not contracts enforceable at law (section 4(3)), but which had attached to them a special form of internal arbitration by the Secretary of State. The list of bodies between whom certain agreements take the form of NHS contracts rather than ordinary contracts is contained in section 4(2).

The Primary Care Act

508. The Primary Care Act introduced a new method of delivery of family health services. Personal medical services ("PMS") and personal dental services ("PDS") may be provided under agreements known (in the initial stage at least) as "pilot schemes" (sections 1-3 of the Primary Care Act). These agreements are made between the Strategic Health Authority or PCT and one or more of the persons or bodies listed in section 3(2). Before a pilot scheme may be made, the proposals for the scheme must be submitted to, and approved by, the Secretary of State (sections 4 and 5).
509. Although the provider of personal medical services may be an NHS trust or other qualifying body, the services themselves must be *performed* by a "suitably experienced" medical practitioner. Section 26 of the Health and Social Care Act 2001 amends the Primary Care Act by inserting a new section 8ZA, that provides powers to require the HA to keep a list of all the performers of PMS. The regulations have yet to be made.
510. The system of pilot schemes is intended ultimately to be replaced by a permanent regime, which is in substance the same as the pilot scheme regime but instead of being provided for in free standing provisions of the Primary Care Act is provided for by way of amendments to the 1977 Act. See sections 21 and 22 of the Primary Care Act which insert, in relation to England and Wales, sections 28C, 28D and 28E, which are not yet in force. All these provisions are prospectively further amended by the section 4 of and Schedule 3 to the NHS Reform Bill which devolve PMS and PDS functions from the Secretary of State and HAs to PCTs wherever practicable. Where the PCT is providing PMS or PDS rather than commissioning it, it is not considered compatible with maintaining a distinction between commissioner and provider to devolve certain functions to the PCT. In these cases, functions currently undertaken by the HA under the 1997 Act will remain at Strategic Health Authority level.
511. Pilot schemes allow PMS and PDS (essentially the same as GMS and GDS) to be provided under the Part I system. The provisions of the 1977 Act apply in relation to functions of the Secretary of State in relation to pilot schemes as if the functions were functions under Part I of the Act. NHS trusts may enter into a pilot scheme as a provider of PMS or PDS. The 1977 Act (and in particular section 17) has effect in relation to services under pilot schemes as if the services were provided as a result of delegation by the Secretary of State (by directions given under section 16D of that Act) of functions of his under Part I (section 9 of the Primary Care Act).
512. These provisions allow PMS to be provided otherwise than through the rigid regulatory system of Part 2 of the 1977 Act. They allow PCTs and HAs the power to determine locally the content of the service in their area or the practitioners with whom they choose to make the arrangements.
513. The PCT funds the services provided under a pilot scheme from its cash-limited allocation under section 97C. This means that in effect the remuneration of practitioners

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providing PMS or PDS under the Primary Care Act is cash-limited, in contrast to the remuneration of Part II practitioners.

The Health Act

514. Part I of the Health Act made further changes to both the Part I system and the Part 2 system.

PCTs

515. In England, PCTs are a tier of administrative body below Strategic Health Authorities. PCTs are established by the Secretary of State by orders under section 16A of the 1977 Act (as inserted by section 2(1) of the Health Act). Their functions are currently conferred, in the main, by directions given by the Secretary of State under section 17 of the 1977 Act.
516. In the exercise of the functions under Part I of the 1977 Act delegated to them by the Secretary of State, PCTs have already taken on the “commissioning” activities of the former HAs. Unlike HAs, however, they also provide certain services (usually community health services rather than hospital services) in the exercise of those functions. A PCT is something of a “hybrid” between a HA and an NHS trust. The other significant feature of PCTs is that the regulations for the membership of PCTs made under paragraph 5 of Schedule 5A to the 1977 Act, as inserted by Schedule 1 to the Health Act, provide that a substantial number of PCT members and PCT committee members must be GPs, local nurses and other health care professionals providing or assisting the provision of services under the 1977 Act.

Quality

517. Section 18 of the Health Act imposes a “duty of quality” on HAs, PCTs and NHS trusts. Sections 19 to 24 provide for the establishment and operation of the Commission for Health Improvement, which is responsible for monitoring the quality of care for which NHS bodies have responsibility. The Commission is able to conduct a variety of reviews and investigations: see section 20(1). Both of these provisions are amended by the NHS Reform Act.

The Health and Social Care Act 2001

518. The Health and Social Care Act 2001 made further changes. The following paragraphs summarise those changes, although the relevant provisions may already have been referred to in the general description above of the NHS system.

Health service funding

519. [Sections 1 to 5](#) of the Act makes various changes to health service funding: the Secretary of State and HAs may take into account the level of general Part 2 expenditure (which is not cash-limited) when determining the cash limited allotments of HAs and PCTs; changes are made to the arrangements under which the Secretary of State may make payments to HAs on the basis of their past performance; the Secretary of State is given the power to make supplementary payments direct to PCTs; and provision is made for the Secretary of State to form, or participate in the formation of, companies, either for the purpose of providing facilities or services to the NHS (section 4) or for the purposes of income generation (section 5).

Terms of employment of health service employees

520. Section 6 of the Health and Social Care Act 2001 amends the 1977 and 1990 Acts so as to extend the Secretary of State’s powers to direct as to the terms and conditions of staff of PCTs and NHS trusts.

PART 2 SERVICES AND PMS/PDS

521. Sections 14 and 15 of the Health and Social Care Act 2001 made new provision for GP vacancies. Section 16 provides that HAs (now PCTs) will remove or suspend practitioners from Part II lists (section 25), subject to appeal to the Family Health Services Appeal Authority (FHSAA) (section 27). Sections 17 to 24 make provision for out of hours GP services, changes to the Part II list arrangements and for supplementary lists for persons assisting the provision of Part II services. Section 26 enables the Secretary of State to make regulations for PCTs to hold lists of persons who may perform PMS/PDS. Many of these provisions are not free-standing but proceed by way of amending or inserting new sections in the 1977 Act. For example, section 25 inserts new sections 49F to 49R and section 27 inserts section 49S and Schedule 9A.

Pharmaceutical services

522. [Sections 28 to 41](#) of the Act provide for the provision of “local pharmaceutical services” under arrangements similar to those for PMS and PDS under the Primary Care Act 1997. Sections 42 to 44 makes a number of changes to the existing system for the provision of pharmaceutical services under Part II of the 1977 Act.

Care Trusts

523. [Section 45](#) provides for the Secretary of State to designate NHS trusts or PCTs as “Care Trusts” where those trusts exercise local authority functions under “partnership arrangements” under section 31 of the Health Act (see the following section). The designation does not affect the trust’s powers and duties in relation to their NHS functions.

The NHS and Local Authorities

524. Local Authorities are responsible for the provision of what may be described as "social care", e.g. residential accommodation for the disabled or elderly. The enactments under which functions in this respect are conferred on local authorities are set out in Schedule 1 to the [Local Social Services Act 1970 \(c.42\)](#) and other legislation. Section 21 and Schedule 8 of the 1977 Act make provision for the exercise of certain specified functions. Local authorities also exercise functions in respect of housing (e.g.. the [Housing Act 1985 \(c.68\)](#)) and education (the [Education Act 1996 \(c.56\)](#)).
525. [Sections 22](#) and sections 26 to 28BB of the 1977 Act, as amended by sections 27, 29 and 30 of the Health Act, make provision for co-operation between the NHS and local authorities. Section 22(1) of the 1977 Act, as substituted by section 27(2) of the Health Act, places a general duty on NHS bodies (on the one hand) and local authorities (on the other) to co-operate in the exercise of their functions in order to secure and advance the health and welfare of the people of England and Wales. Sections 26 to 28 make provision for the supply of goods and services by the Secretary of State to local authorities and vice-versa. Section 28A of the 1977 Act, as amended by section 29 of the Health Act, makes provision for HAs in England to make payments towards expenditure by various local authority bodies on community services, such as social services, housing and education for the disabled. Section 28B makes similar provision for Wales.
526. The Health Act makes further provision for co-operation between the NHS and local authorities. Most importantly, section 31 makes provision for NHS bodies and local authorities to enter arrangements under which an NHS body exercises LA functions or vice-versa. Provision is also made for arrangements to operate a “pooled fund” from which payments may be made towards expenditure on either NHS or local authority functions. In addition to section 31, section 28 provides for HAs, with the assistance of PCTs, NHS trusts and local authorities, to prepare plans setting out a strategy for improving both the health of the local population and the provision of health care to that population. Section 30 of the Health Act inserts a new section 28BB into the 1977

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Act, which makes provision for local authorities to make payments towards expenditure incurred by NHS bodies: this provision mirrors section 28A of the 1977 Act.

527. The Health and Social Care Act 2001 makes further changes in relation to “partnership arrangements”. Sections 45, 47 and 48 makes provision for NHS trusts and PCTs to be designated as “Care Trusts” where those trusts exercise local authority functions under arrangements under section 31 of the Health Act. Section 46 provides that the Secretary of State may, in certain circumstances, direct NHS bodies and local authorities to enter into such arrangements.