

# HEALTH ACT 2006

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 4 Chapter 3

#### Protection of Nhs from Fraud and Other Unlawful Activities

#### *Section 53: Offences relating to disclosure or use of information*

261. *Section 53* relates to the offences in connection with disclosure of information obtained under this Chapter.
262. *Subsection (1)* states that a person commits an offence if he fails to comply with the provisions of section 50(2) or (5) relating to the disclosure of information or section 51(2), which relates to safeguards protecting personal information.
263. *Subsection (3)* states that if a person is charged with an offence in respect of the disclosure of information, it is a defence if he can prove (on the balance of probabilities) that he reasonably believed:
- that sharing the information was lawful; or
  - that the information had already been lawfully made available to the public, or
  - that the disclosure was necessary or expedient for the purpose of protecting the welfare of any individual; or
  - that the disclosure was made in a way that ensured personal anonymity.
264. *Subsection (2)* provides that on conviction on indictment the penalty is a maximum of 2 years' imprisonment, a fine or both (see section 78 for the transitional modification of the summary penalty).