

# HEALTH AND SOCIAL CARE ACT 2012

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

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

#### **Emergency powers**

#### ***Section 50 - Charges in respect of certain public health functions***

508. This section sets out when the Secretary of State or local authorities would be able to charge for steps taken in the exercise of their public health functions – i.e. their functions under new sections 2A and 2B of the NHS Act inserted by sections 11 and 12. The section inserts a new section 186A into the NHS Act. Any service which is provided under section 2A or 2B is a service provided as part of the comprehensive health service and so must be provided free of charge, unless specific provision is made for a charge in legislation (see section 1(3) of the NHS Act).
509. The new section allows the Secretary of State to charge an appropriate amount for any health protection step taken by the Secretary of State under his duty to protect public health (section 2A), including charges for any services or facilities provided. However, this power to charge does not include services or facilities that are provided to an individual in order to protect that individual's health – vaccination or screening, for example (see subsection (2)). These provisions are intended to ensure an approach consistent with the existing position for NHS services, which are generally free of charge to patients.
510. *Subsection (4)* of the new section allows the Secretary of State to make regulations specifying the steps to improve public health taken under section 2B that local authorities would be able to charge for. Subsection (4) also allows the Secretary of State to specify the health protection steps taken under section 2A (by virtue of regulations under section 6C(1)) that local authorities would be able to charge for.
511. The Secretary of State would be able to specify particular services for which a charge may be made, or particular circumstances in which such services could be charged for, and to specify the maximum amount of any charge, or how the charge is calculated. Some existing services for which local authorities charge under current legislation would now fall within the new duty to improve health, and so the new section would enable the Secretary of State to allow local authorities to continue to charge, in appropriate cases, while maintaining the general position that services under the NHS Act are free of charge.