

# HEALTH AND SOCIAL CARE ACT 2012

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 11 – Miscellaneous

##### Transfer schemes

##### *Section 300 – Transfer schemes*

1534. This section enables the Secretary of State to establish schemes to transfer staff or property, rights and liabilities from one body to another, in connection with the establishment, modification or abolition of a body by the Act. For example, the schemes may transfer property currently held by a PCT (which are being abolished by the Act) to a CCG; or transfer staff currently involved in the provision of public health commissioning from a PCT to a local authority.
1535. *Subsection (1)* allows the Secretary of State to establish transfer schemes for property or staff.
1536. *Subsection (2)* defines a property transfer scheme and sets out the organisations or bodies that may transfer or receive property under these schemes. Property transfers can be made from the bodies listed in column 1 of the table in Schedule 22 (property transfer schemes) to a body listed in the corresponding entry in column 2 of that table.
1537. *Subsection (3)* defines a staff transfer scheme and sets out the organisations or bodies that staff may be transferred from or to under these schemes. Staff transfers can be made from the bodies listed in column 1 of the table in Schedule 23 (staff transfer schemes) to a body listed in the corresponding entry in column 2 of that table.
1538. *Subsection (4)* allows the Secretary of State to direct the NHS Commissioning Board or a “qualifying company” to exercise the Secretary of State’s functions and make staff or property transfer schemes in connection with the abolition of one or more PCTs or SHAs. A qualifying company is a company defined for these purposes in *subsection (8)* as wholly or partly owned by the Secretary of State or the NHS Commissioning Board and formed under section 223 of the NHS Act, for the purpose of providing facilities or services to the NHS, or a subsidiary of a company formed under that section and wholly owned by the Secretary of State. Such a company could be used, for example, as an intermediate solution to hold PCT property before it is transferred to, for example, local authorities, consenting persons or public authorities providing services as part of the health service in England, or CCGs. Section 223 has been used by Secretary of State in the past to set up a number of companies to offer services to the NHS, such as NHS Professionals Limited, Bio Products Laboratory Limited and Community Health Partnerships Limited (the LIFT delivery company).
1539. *Subsection (5)* allows the Secretary of State to give directions to the NHS Commissioning Board or to qualifying company about how to do this.

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

1540. *Subsection (6)* makes provision as to how individuals employed by the civil service are to be treated for the purposes of transfer schemes under section 300 and section 301.
1541. *Subsections (7), (8) and (9)* cover definitions, including defining a “qualifying company” and clarifying that a transfer of property includes the grant of a lease.