

*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 3 - Regulation of Health and Adult Social Care Services

Chapter 2 – Competition

Section 79 - Mergers involving NHS foundation trusts

740. This section applies Part 3 of the 2002 Act, which sets out the general merger control regime for enterprises in the UK, to NHS foundation trusts where it would otherwise be uncertain as to whether those provisions would apply to them. This section is intended to avoid legal uncertainty as to when the merger control regime in Part 3 of the 2002 Act would apply to mergers involving NHS foundation trusts. This provision allows for a single regime for merger control, which avoids duplication of the roles of Monitor and the OFT and eliminates risk of double-jeopardy. The OFT must notify Monitor of a merger situation involving one or more Foundation Trusts Monitor in turn must advise the OFT on the likely costs and benefits to patients which would arise. The OFT is obliged to consider the advice from Monitor as part of their general public law duties.