



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 3

#### REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

### CHAPTER 3

#### LICENSING

#### *Transitional provision*

#### **111 Imposition of licence conditions on NHS foundation trusts**

- (1) Where Monitor is satisfied that the governance of an NHS foundation trust is such that the trust will fail to comply with the conditions of its licence, Monitor may include in the licence such conditions relating to governance as it considers appropriate for the purpose of reducing that risk.
- (2) The circumstances in which Monitor may be satisfied as mentioned in subsection (1) include circumstances where it is satisfied that the council of governors, the board of directors or the council of governors and board of directors taken together are failing—
  - (a) to secure compliance with conditions in the trust's licence, or
  - (b) to take steps to reduce the risk of a breach of a condition in the trust's licence.
- (3) A condition included under subsection (1) has effect until this section ceases, by virtue of section 112, to have effect in relation to the trust.
- (4) Monitor may modify a condition included under subsection (1).
- (5) Where Monitor is satisfied that the trust has breached or is breaching a condition included under subsection (1), Monitor may by notice require the trust to—
  - (a) remove one or more of the directors or members of the council of governors and appoint interim directors or members of the council;

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*Status: This is the original version (as it was originally enacted).*

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- (b) suspend one or more of the directors or members of the council from office as a director or member for a specified period;
  - (c) disqualify one or more of the directors or members of the council from holding office as a director or member for a specified period.
- (6) Where Monitor is satisfied that a person has failed or is failing to comply with a notice under subsection (5), Monitor may do one or more of the things which it may require the trust to do under that subsection.
- (7) Subsection (5) does not prevent Monitor from exercising in relation to a condition included in a licence under subsection (1) the powers conferred by sections 105 and 106 (breach of licence condition etc: enforcement powers which apply during and after period in which this section and sections 112 to 114 have effect).
- (8) Where Monitor includes a condition under subsection (1), it may also make such incidental or consequential modifications as it considers necessary or expedient of any other condition of the licence concerned which is affected.
- (9) Where Monitor includes a condition under subsection (1) by modifying a standard condition of the licence concerned, the modification does not prevent any other part of the condition from continuing to be regarded as a standard condition for the purposes of this Chapter.
- (10) In this section, a reference to failing to discharge functions includes a reference to failing to discharge those functions properly.
- (11) Omit section 52 of the National Health Service Act 2006 (failing NHS foundation trusts); and in consequence of that, omit—
  - (a) section 39(2)(f) of that Act (copy of notice under section 52 of that Act to be on register), and
  - (b) paragraph 22(1)(f) of Schedule 7 to that Act (copy of that notice to be available for public inspection).