



Health and Social Care Act 2012

2012 CHAPTER 7

PART 3

REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

CHAPTER 5

HEALTH SPECIAL ADMINISTRATION

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- (1) The objective of a health special administration is to secure—
- (a) the continued provision of such of the health care services provided for the purposes of the NHS by the company subject to the health special administration order, at such level, as the commissioners of those services determine by applying criteria specified in health special administration regulations (see section 130), and
 - (b) that it becomes unnecessary, by one or both of the means set out in subsection (2), for the health special administration order to remain in force for that purpose.
- (2) Those means are—
- (a) the rescue as a going concern of the company subject to the health special administration order, and
 - (b) one or more transfers falling within subsection (3).
- (3) A transfer falls within this subsection if it is a transfer as a going concern—
- (a) to another person, or
 - (b) as respects different parts of the undertaking of the company subject to the health special administration order, to two or more other persons,
- of so much of that undertaking as it is appropriate to transfer for the purpose of achieving the objective of the health special administration.

Status: This is the original version (as it was originally enacted).

- (4) The means by which a transfer falling within subsection (3) may be effected include in particular—
- (a) a transfer of the undertaking of the company subject to the health special administration order, or of part of its undertaking, to a wholly-owned subsidiary of that company, and
 - (b) a transfer to a company of securities of a wholly-owned subsidiary to which there has been a transfer falling within paragraph (a).
- (5) The objective of a health special administration may be achieved by transfers to the extent only that—
- (a) the rescue as a going concern of the company subject to the health special administration order is not reasonably practicable or is not reasonably practicable without such transfers,
 - (b) the rescue of the company as a going concern will not achieve that objective or will not do so without such transfers,
 - (c) such transfers would produce a result for the company’s creditors as a whole that is better than the result that would be produced without them, or
 - (d) such transfers would, without prejudicing the interests of its creditors as a whole, produce a result for the company’s members as a whole that is better than the result that would be produced without them.