



Health and Social Care Act 2012

2012 CHAPTER 7

PART 4

NHS FOUNDATION TRUSTS & NHS TRUSTS

Failure

174 Trust special administrators

- (1) In section 65A of the National Health Service Act 2006 (bodies to which trust special administration regime applies)—
 - (a) in subsection (1), for paragraphs (b) and (c) substitute—

“(b) any NHS foundation trust.”, and
 - (b) omit subsection (2).
- (2) For the title to section 65B of that Act substitute “NHS trusts: appointment of trust special administrator”.
- (3) In section 65D of that Act (NHS foundation trusts: regulator’s notice), for subsections (1) to (3) substitute—
 - “(1) This section applies if the regulator is satisfied that an NHS foundation trust is, or is likely to become, unable to pay its debts.
 - (2) The regulator may make an order authorising the appointment of a trust special administrator to exercise the functions of the governors, chairman and directors of the trust.
 - (3) As soon as reasonably practicable after the making of an order under subsection (2), the Care Quality Commission must provide to the regulator a report on the safety and quality of the services that the trust provides under this Act.”
- (4) In subsection (4) of that section—
 - (a) for “giving a notice” substitute “making an order”,

Status: This is the original version (as it was originally enacted).

- (b) after paragraph (a) insert—
 - “(aa) the Board,”
 - (c) omit paragraph (b),
 - (d) in paragraph (c), omit “goods or”, and
 - (e) after paragraph (c) insert “, and
 - (d) the Care Quality Commission.”
- (5) After that subsection insert—
- “(5) An order under subsection (2) must specify the date when the appointment is to take effect, which must be within the period of 5 working days beginning with the day on which the order is made.
 - (6) The regulator must lay before Parliament (with the statutory instrument containing the order) a report stating the reasons for making the order.
 - (7) If the regulator makes an order under subsection (2), it must—
 - (a) appoint a person as the trust special administrator with effect from the day specified in the order, and
 - (b) publish the name of the person appointed.
 - (8) A person appointed as a trust special administrator under this section holds and vacates office in accordance with the terms of the appointment.
 - (9) A person appointed as a trust special administrator under this section must manage the trust’s affairs, business and property, and exercise the trust special administrator’s functions, so as to achieve the objective set out in section 65DA as quickly and as efficiently as is reasonably practicable.
 - (10) When the appointment of a trust special administrator under this section takes effect, the trust’s governors, chairman and executive and non-executive directors are suspended from office; and Chapter 5 of this Part, in its application to the trust, is to be read accordingly.
 - (11) But subsection (10) does not affect the employment of the executive directors or their membership of any committee or sub-committee of the trust.
 - (12) The regulator may indemnify a trust special administrator appointed under this section in respect of such matters as the regulator may determine.”
- (6) For the title to that section substitute “NHS foundation trusts: appointment of trust special administrator”.
- (7) Omit the cross-heading preceding that section.