



National Health Service Act 2006

2006 CHAPTER 41

PART 2

HEALTH SERVICE BODIES

CHAPTER 5

NHS FOUNDATION TRUSTS

Introductory

30 NHS foundation trusts

- (1) An NHS foundation trust is a public benefit corporation [^{F1}the function of which is to provide in accordance with this Chapter] goods and services for the purposes of the health service in England.
- (2) A public benefit corporation is a body corporate which, in pursuance of an application under this Chapter, is constituted in accordance with Schedule 7.

Textual Amendments

- F1** Words in s. 30(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), ss. 159(1), 306(4); S.I. 2013/671, art. 2(3)

^{F2}31 Independent Regulator of NHS Foundation Trusts

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Status: Point in time view as at 01/04/2013.

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Textual Amendments

- F2** S. 31 omitted (1.7.2012 for specified purposes, 1.11.2012 in so far as not already in force) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 13 para. 9(1)**; S.I. 2012/1319, art. 2(3); S.I. 2012/2657, art. 2(2)

^{F3}32 General duty of regulator

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Textual Amendments

- F3** S. 32 omitted (1.11.2012) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 13 para. 10(1)** (with Sch. 13 para. 10(2)); S.I. 2012/2657, art. 2(2) (with art. 12)

Authorisation

33 Applications by NHS trusts

- (1) An NHS trust may make an application to the regulator for authorisation to become an NHS foundation trust, if the application is supported by the Secretary of State.
- (2) The application must—
 - ^{F4}(a)
 - (b) be accompanied by a copy of the proposed constitution of the NHS foundation trust,
and must give any further information which the regulator requires the applicant to give.
- (3) The applicant may modify the application with the agreement of the regulator at any time before authorisation is given under section 35.
- (4) Once an NHS trust has made the application—
 - (a) the provisions of the proposed constitution which give effect to paragraphs 3 to 19 of Schedule 7 have effect, but only for the purpose of establishing the initial membership of the NHS foundation trust and of the [^{F5}council of governors] , and the initial directors, and enabling the [^{F5}council of governors] and board of directors to make preparations for the performance of their functions,
 - (b) the NHS trust may do anything (including the things mentioned in paragraph 14 of Schedule 4) which appears to it to be necessary or expedient for the purpose of preparing it for NHS foundation trust status.

Textual Amendments

- F4** S. 33(2)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 159(2)**, 306(4); S.I. 2013/671, art. 2(3)
- F5** Words in s. 33(4)(a) substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), **ss. 151(9)(a)**, 306(4); S.I. 2012/1831, art. 2(2)

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F6 34 Other applications

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Textual Amendments

F6 S. 34 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 160(1), 306(4)** (with [s. 160\(4\)\(7\)](#)); [S.I. 2012/1319](#), art. 2(3)

35 Authorisation of NHS foundation trusts

- (1) The regulator may give an authorisation under this section—
 - (a) to an NHS trust which has applied under section 33, ^{F7}...
 - ^{F7}(b)if the regulator is satisfied as to the following matters.
- (2) The matters are that—
 - (a) the applicant's constitution will be in accordance with Schedule 7 and will otherwise be appropriate,
 - (b) the applicant has taken steps to secure that (taken as a whole) the actual membership of any public constituency, and (if there is one) of the patients' constituency, will be representative of those eligible for such membership,
 - (c) there will be a [^{F8}council of governors], and a board of directors, constituted in accordance with the constitution,
 - (d) the steps necessary to prepare for NHS foundation trust status have been taken,
 - ^{F9}(e) the applicant will be able to provide goods and services for the purposes of the health service in England,]
 - (f) any other requirements which the regulator considers appropriate are met.
- (3) In deciding whether it is satisfied as to the matters referred to in subsection (2)(e), the regulator must consider (among other things)—
 - (a) any report or recommendation in respect of the applicant made by [^{F10}the Care Quality Commission],
 - (b) the financial position of the applicant.
- ^{F11}(4)
- (5) The regulator must not give an authorisation unless it is satisfied that the applicant has sought the views about the application of the following—
 - ^{F12}(a)
 - (b) individuals who live in any area specified in the proposed constitution as the area for a public constituency,
 - (c) any local authority that would be authorised by the proposed constitution to appoint a member of the [^{F13}council of governors],
 - (d) if the proposed constitution provides for a patients' constituency, individuals who would be able to apply to become members of that constituency,
 - (e) any prescribed persons.
- (6) If regulations make provision about consultation, the regulator may not give an authorisation unless it is satisfied that the applicant has complied with the regulations.

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F14(7)

Textual Amendments

- F7** S. 35(1)(b) and word omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 160\(2\)](#), [306\(4\)](#) (with [s. 160\(5\)](#)); [S.I. 2012/1319](#), [art. 2\(3\)](#)
- F8** Words in s. 35(2)(c) substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 151\(9\)\(a\)](#), [306\(4\)](#); [S.I. 2012/1831](#), [art. 2\(2\)](#)
- F9** S. 35(2)(e) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 159\(3\)](#), [306\(4\)](#); [S.I. 2013/671](#), [art. 2\(3\)](#)
- F10** Words in s. 35(3)(a) substituted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), [s. 170\(3\)\(4\)](#), [Sch. 5 para. 83](#); [S.I. 2009/462](#), [art. 2\(1\)](#), [Sch. 1 para. 35\(bb\)](#)
- F11** S. 35(4) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 159\(5\)](#), [306\(4\)](#); [S.I. 2013/671](#), [art. 2\(3\)](#)
- F12** S. 35(5)(a) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [s. 245\(5\)](#), [Sch. 18 Pt. 18](#); [S.I. 2008/461](#), [art. 2\(3\)](#), [Sch.](#)
- F13** Words in s. 35(5)(c) substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 151\(9\)\(a\)](#), [306\(4\)](#); [S.I. 2012/1831](#), [art. 2\(2\)](#)
- F14** S. 35(7) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 159\(5\)](#), [306\(4\)](#); [S.I. 2013/671](#), [art. 2\(3\)](#)

36 Effect of authorisation

- (1) On an authorisation being given to a body corporate which is an NHS trust—
- (a) it ceases to be an NHS trust and becomes an NHS foundation trust,
 - (b) the proposed constitution has effect, and
 - (c) any order under section 25(1) is revoked.

F15(2)

- (3) The authorisation is conclusive evidence that the body in question is an NHS foundation trust.
- (4) Subsections (1) to (3) do not affect the continuity of the body or of its property or liabilities (including its criminal liabilities).
- (5) The validity of any act of an NHS foundation trust is not affected by any vacancy among the directors or by any defect in the appointment of any director.
- (6) An NHS foundation trust must not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and an NHS foundation trust's property must not be regarded as property of, or property held on behalf of, the Crown.

Textual Amendments

- F15** S. 36(2) omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 160\(3\)](#), [306\(4\)](#) (with [s. 160\(6\)\(7\)](#)); [S.I. 2012/1319](#), [art. 2\(3\)](#)

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37 Amendments of constitution

- [^{F16}(1)] An NHS foundation trust may make amendments of its constitution [^{F17}only if—
- (a) more than half of the members of the council of governors of the trust voting approve the amendments, and
 - (b) more than half of the members of the board of directors of the trust voting approve the amendments.]
- [^{F18}(2) Amendments made under this section take effect as soon as the conditions in subsection (1)(a) and (b) are satisfied.
- (3) But an amendment is of no effect in so far as the constitution would, as a result of the amendment, not accord with Schedule 7.
 - (4) The trust must inform the regulator of amendments made under this section; but the regulator's functions do not include a power or duty to determine whether or not the constitution, as a result of the amendments, accords with Schedule 7.]

Textual Amendments

- F16** S. 37 renumbered as s. 37(1) (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 161(1)**, 306(4) (with s. 161(3)); [S.I. 2013/160](#), **art. 2(2)** (with arts. 7-9)
- F17** Words in s. 37(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 161(1)**, 306(4) (with s. 161(3)); [S.I. 2013/160](#), **art. 2(2)** (with arts. 7-9)
- F18** S. 37(2)-(4) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 161(2)**, 306(4) (with s. 161(3)); [S.I. 2013/160](#), **art. 2(2)** (with arts. 7-9)

^{F19}38 Variation of authorisation

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Textual Amendments

- F19** S. 38 omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 159(6)**, 306(4); [S.I. 2013/671](#), **art. 2(3)**

39 Register of NHS foundation trusts

- (1) The regulator must continue to maintain a register of NHS foundation trusts.
- (2) The register must contain in relation to each NHS foundation trust—
 - (a) a copy of the current constitution,
 - ^{F20}(b)
 - (c) a copy of the latest annual accounts and of any report of the auditor on them,
 - (d) a copy of the latest annual report,
 - ^{F21}(e)
 - ^{F22}(f)
 - [^{F23}(g) a copy of any order made under section 65D, 65J, 65KC, 65L or 65LA,
 - (h) a copy of any report laid under section 65D,
 - (i) a copy of any information published under section 65D,

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- (j) a copy of any draft report published under section 65F,
 - (k) a copy of any statement provided under section 65F,
 - (l) a copy of any notice published under section 65F, 65G, 65H, 65J, 65KA, 65KB, 65KC or 65KD,
 - (m) a copy of any statement published or provided under section 65G,
 - (n) a copy of any final report published under section 65I,
 - (o) a copy of any statement published under section 65J or 65KC,
 - (p) a copy of any information published under section 65M.]
- (3) In relation to any time before an NHS foundation trust is first required to send an annual report to the regulator, the register must contain a list of the persons who were first elected or appointed as—
- (a) the members of the [^{F24}council of governors],
 - (b) the directors.
- (4) Members of the public may inspect the register at any reasonable time.
- (5) Any person who requests it must be provided with a copy of, or extract from, any document contained in the register on payment of a reasonable charge.

Textual Amendments

- F20** S. 39(2)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 159\(7\)](#), 306(4); [S.I. 2013/671](#), [art. 2\(3\)](#)
- F21** S. 39(2)(e) omitted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 156\(5\)](#), 306(1)(d)(4); [S.I. 2013/671](#), [art. 2\(3\)](#)
- F22** S. 39(2)(f) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 111\(11\)\(a\)](#), 306(4); [S.I. 2013/671](#), [art. 2\(3\)](#)
- F23** S. 39(2)(g)-(p) inserted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 178\(5\)](#), 306(4); [S.I. 2012/2657](#), [art. 2\(2\)](#)
- F24** Words in s. 39(3)(a) substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 151\(9\)\(a\)](#), 306(4); [S.I. 2012/1831](#), [art. 2\(2\)](#)

[^{F25}39A Panel for advising governors

- (1) The regulator may appoint a panel of persons to which a governor of an NHS foundation trust may refer a question as to whether the trust has failed or is failing—
- (a) to act in accordance with its constitution, or
 - (b) to act in accordance with provision made by or under this Chapter.
- (2) A governor may refer a question to the panel only if more than half of the members of the council of governors voting approve the referral.
- (3) The panel—
- (a) may regulate its own procedure, and
 - (b) may establish such procedures, and make such other arrangements, as it considers appropriate for the purpose of determining questions referred to it under this section.
- (4) The panel may decide whether, or to what extent, to carry out an investigation on a question referred to it under this section.

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- (5) The panel may for that purpose, or for the purpose of carrying out such an investigation, request information or advice.
- (6) Where the panel has carried out such an investigation, it must publish a report of its determination of the question referred to it.
- (7) If a person refuses to comply with a request made under subsection (5), the report under subsection (6) may refer to the refusal.
- (8) On any proceedings before a court or tribunal relating to a question referred to the panel under this section, the court may take the panel's report of its determination of the question into account.
- (9) The regulator—
 - (a) must pay expenses properly incurred by the panel, and
 - (b) must make administrative support available to the panel.
- (10) Regulations may make provision as to—
 - (a) eligibility for membership of the panel;
 - (b) the number of persons that may be appointed as members;
 - (c) the terms of appointment of members;
 - (d) circumstances in which a person ceases to be a member or may be suspended.]

Textual Amendments

F25 S. 39A inserted (27.3.2012 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 162, 306(1)(d)(4)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

Financial matters

40 Power of Secretary of State to give financial assistance

- (1) The Secretary of State may give financial assistance to any NHS foundation trust.
- (2) The financial assistance may be given by way of loan, public dividend capital, grant or other payment.
- (3) The Secretary of State may guarantee the payment of any amount payable by an NHS foundation trust under an externally financed development agreement.
- (4) “Externally financed development agreement” has the same meaning as in paragraph 23 of Schedule 4, reading references in sub-paragraphs (3) and (5) of that paragraph to the NHS trust as references to the NHS foundation trust.
- [^{F26}(5) As soon as is practicable after the end of each financial year, the Secretary of State must prepare a report on the exercise of the power under subsection (1).
- (6) In relation to each exercise of the power under that subsection during the year to which the report relates, the report must specify the amount of the loan, issue of public dividend capital, grant or other payment and—
 - (a) in the case of a loan, the amount (if any) outstanding at the end of the year and the other terms on which the loan was made,

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- (b) in the case of an issue of public dividend capital, the terms on which it was issued (or, where a decision under section 42(3) is made in relation to it during that year, the terms so decided as those on which it is treated as having been issued), and
 - (c) in the case of a grant or other payment, the terms on which it was made.
- (7) In relation to each loan made under that subsection during a previous financial year but not repaid by the beginning of the year to which the report relates, the report must specify—
- (a) the amount outstanding at the beginning of the year,
 - (b) the amount (if any) outstanding at the end of the year, and
 - (c) the other terms on which the loan was made.
- (8) A report under subsection (5) must, in relation to each NHS foundation trust, specify—
- (a) the amount of the public dividend capital of that trust at the end of the year to which the report relates, and
 - (b) the conditions on which it is held.
- (9) The Secretary of State must publish a report under subsection (5).]

Textual Amendments

F26 S. 40(5)-(9) inserted (1.4.2013 for specified purposes) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 163(1), 306(4)**; [S.I. 2013/160](#), **art. 2(2)** (with **arts. 7-9**)

F27 **41 Prudential borrowing code**

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Textual Amendments

F27 S. 41 omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 163(2), 306(4)**; [S.I. 2013/671](#), **art. 2(3)**

42 Public dividend capital

- (1) Where an NHS trust becomes an NHS foundation trust, the amount which was the public dividend capital of the NHS trust immediately before the giving of the authorisation continues as public dividend capital of the NHS foundation trust held on the same conditions (“initial public dividend capital”), but subject to this section.
- (2) Any amount issued to an NHS foundation trust as public dividend capital under section 40 is (like initial public dividend capital) an asset of the Consolidated Fund.
- (3) The Secretary of State may, with the consent of the Treasury, decide the terms on which any public dividend capital of an NHS foundation trust must be treated as having been issued.

F28(4)

F29(5)

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- (6) Any amount paid to the Secretary of State by an NHS foundation trust by way of repayment of public dividend capital must be paid into the Consolidated Fund.
- [^{F30}(7) The terms which may be decided under subsection (3) include terms to which the exercise of any power of an NHS foundation trust to do any of the following will be subject as a consequence—
- (a) providing goods or services,
 - (b) borrowing or investing money,
 - (c) providing financial assistance,
 - (d) acquiring or disposing of property,
 - (e) entering into contracts, or making other arrangements, to do anything referred to in paragraphs (a) to (d),
 - (f) applying for dissolution (whether or not when also applying for the establishment of one or more other trusts),
 - (g) applying to acquire another body.]

Textual Amendments

- F28** S. 42(4) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 163\(3\)](#), 306(4); S.I. 2013/160, [art. 2\(2\)](#) (with [arts. 7-9](#))
- F29** S. 42(5) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 163\(4\)](#), 306(4); S.I. 2013/160, [art. 2\(2\)](#) (with [arts. 7-9](#))
- F30** S. 42(7) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 163\(5\)](#), 306(4); S.I. 2013/160, [art. 2\(2\)](#) (with [arts. 7-9](#))

[^{F31}42A Criteria for making loans etc.

- (1) The Secretary of State must publish guidance on the powers conferred by sections 40 and 42.
- (2) The guidance on the power to make a loan under section 40(1) must in particular—
- (a) explain that, in exercising the power, the Secretary of State will apply the principle that a loan should be made only where there is a reasonable expectation that it will be repaid in accordance with the terms on which it is made;
 - (b) include other criteria that the Secretary of State will apply when determining whether to exercise the power and, if so, the terms on which to make the loan.
- (3) The guidance on that power must also explain—
- (a) the process for applying for a loan under section 40(1);
 - (b) the consequences of failing to comply with terms on which a loan is made under that provision.
- (4) The guidance on the power to decide terms under section 42(3) must, in particular, include the criteria that the Secretary of State will apply when deciding the terms.
- (5) The guidance on that power must also explain the consequences of failing to comply with the terms decided.
- (6) In preparing guidance under this section, the Secretary of State must have regard (among other things) to any generally accepted principles used by financial institutions

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to determine whether to make loans to bodies corporate and the terms on which to make loans to them.

- (7) Before publishing the guidance, the Secretary of State must consult—
- (a) the Treasury,
 - (b) the regulator, and
 - (c) such other persons as the Secretary of State considers appropriate.]

Textual Amendments

F31 S. 42A inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), ss. **163(6)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

Functions

43 [F32] Provision of goods and services]

[F33(1) The principal purpose of an NHS foundation trust is the provision of goods and services for the purposes of the health service in England.]

[F33(2) An NHS foundation trust may provide goods and services for any purposes related to—

- (a) the provision of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness, and
- (b) the promotion and protection of public health.]

[F33(2A) An NHS foundation trust does not fulfil its principal purpose unless, in each financial year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.]

(3) [F34 An] NHS foundation trust may also carry on activities other than those mentioned in [F35 subsection (2)]^{F36}... for the purpose of making additional income available in order better to carry on its principal purpose.

[F37(3A) Each annual report prepared by an NHS foundation trust must give information on the impact that income received by the trust otherwise than from the provision of goods and services for the purposes of the health service in England has had on the provision by the trust of goods and services for those purposes.

(3B) Each document prepared by an NHS foundation trust under paragraph 27 of Schedule 7 (forward plan) must include information about—

- (a) the activities other than the provision of goods and services for the purposes of the health service in England that the trust proposes to carry on, and
- (b) the income it expects to receive from doing so.

(3C) Where a document which is being prepared under paragraph 27 of Schedule 7 contains a proposal that an NHS foundation trust carry on an activity of a kind mentioned in subsection (3B)(a), the council of governors of the trust must—

- (a) determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfilment by the trust of its principal purpose or the performance of its other functions, and

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(b) notify the directors of the trust of its determination.

(3D) An NHS foundation trust which proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the health service in England may implement the proposal only if more than half of the members of the council of governors of the trust voting approve its implementation.]

F38(4)

F38(5)

F38(6)

F38(7)

Textual Amendments

- F32** S. 43 title substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), ss. 164\(5\)](#), 306(4); S.I. 2013/671, art. 2(3)
- F33** S. 43(1)-(2A) substituted for s. 43(1)(2) (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 164\(1\)](#), 306(4); S.I. 2012/1831, art. 2(2)
- F34** Word in s. 43(3) substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 164\(2\)\(a\)](#), 306(4); S.I. 2012/1831, art. 2(2)
- F35** Words in s. 43(3) substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 164\(2\)\(b\)](#), 306(4); S.I. 2012/1831, art. 2(2)
- F36** Words in s. 43(3) omitted (1.10.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\), ss. 164\(2\)\(c\)](#), 306(4); S.I. 2012/1831, art. 2(2)
- F37** S. 43(3A)-(3D) inserted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 164\(3\)](#), 306(4); S.I. 2012/1831, art. 2(2)
- F38** S. 43(4)-(7) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), ss. 164\(4\)](#), 306(4); S.I. 2013/671, art. 2(3)

44 [F39 Power to charge for accommodation etc.]

F40(1)

F41(2)

F42(2A)

F43(3)

F43(4)

F43(5)

(6) According to the nature of its functions, an NHS foundation trust may, in the case of patients being provided with goods and services for the purposes of the health service, make accommodation or further services available for patients who give undertakings (or for whom undertakings are given) to pay any charges imposed by the NHS foundation trust in respect of the accommodation or services.

(7) An NHS foundation trust may exercise the power conferred by subsection (6) only to the extent that its exercise does not to any significant extent interfere with the performance by the NHS foundation trust of its functions.

Status: Point in time view as at 01/04/2013.

Changes to legislation: National Health Service Act 2006, Chapter 5 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F39** S. 44 title substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 165(2)**, 306(4); S.I. 2012/1831, art. 2(2)
- F40** S. 44(1) omitted (1.10.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 165(1)(a)**, 306(4); S.I. 2012/1831, art. 2(2)
- F41** S. 44(2) omitted (1.10.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 165(1)(b)**, 306(4); S.I. 2012/1831, art. 2(2)
- F42** S. 44(2A) omitted (1.10.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 165(1)(c)**, 306(4); S.I. 2012/1831, art. 2(2)
- F43** S. 44(3)-(5) omitted (1.10.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 165(1)(d)**, 306(4); S.I. 2012/1831, art. 2(2)

^{F44} 45 Protection of property

.....

Textual Amendments

- F44** S. 45 omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 163(7)**, 306(4); S.I. 2013/671, art. 2(3)

46 Financial powers

- (1) An NHS foundation trust may borrow money for the purposes of or in connection with its functions.
- ^{F45}(2)
- ^{F45}(3)
- (4) An NHS foundation trust may invest money (other than money held by it as trustee) for the purposes of or in connection with its functions.
- (5) The investment may include investment by—
- forming, or participating in forming, bodies corporate,
 - otherwise acquiring membership of bodies corporate.
- (6) An NHS foundation trust may give financial assistance (whether by way of loan, guarantee or otherwise) to any person for the purposes of or in connection with its functions.

Textual Amendments

- F45** S. 46(2)(3) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 163(8)**, 306(4); S.I. 2013/671, art. 2(3)

47 General powers

- (1) An NHS foundation trust may do anything which appears to it to be necessary or expedient for the purpose of or in connection with its functions.

Status: Point in time view as at 01/04/2013.

Changes to legislation: National Health Service Act 2006, Chapter 5 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) In particular it may—
- (a) acquire and dispose of property,
 - (b) enter into contracts,
 - (c) accept gifts of property (including property to be held on trust for the purposes of the NHS foundation trust or for any purposes relating to the health service),
 - (d) employ staff.
- (3) Any power of the NHS foundation trust to pay remuneration and allowances to any person includes power to make arrangements for providing, or securing the provision of, pensions or gratuities (including those payable by way of compensation for loss of employment or loss or reduction of pay).
- (4) “The purposes of the NHS foundation trust” means the general or any specific purposes of the trust (including the purposes of any specific hospital at or from which services are provided by the trust).

[^{F46}48 Information

- (1) The Secretary of State may require an NHS foundation trust to provide the Secretary of State with such information as the Secretary of State considers it necessary to have for the purposes of the functions of the Secretary of State in relation to the health service.
- (2) The information must be provided in such form, and at such time or within such period, as the Secretary of State may require.]

Textual Amendments

F46 S. 48 substituted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 166**, 306(4); S.I. 2012/2657, [art. 2\(2\)](#) (with [art. 10](#))

[^{F47}49 Entry and inspection of premises

.....

Textual Amendments

F47 S. 49 omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 159(8)**, 306(4); S.I. 2013/671, [art. 2\(3\)](#)

[^{F48}50 Fees

An NHS foundation trust must pay to the regulator such fee as the regulator may determine in respect of its exercise of functions under—

- (a) section 39;
- (b) section 39A.]

Status: Point in time view as at 01/04/2013.

Changes to legislation: National Health Service Act 2006, Chapter 5 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F48 S. 50 substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 163\(9\)](#), 306(4); [S.I. 2013/671](#), art. 2(3)

51 Trust funds and trustees

- (1) The Secretary of State may by order provide for the appointment of trustees for an NHS foundation trust to hold property on trust—
 - (a) for the purposes of the NHS foundation trust, or
 - (b) for any purposes relating to the health service.
- (2) The order may—
 - (a) make provision as to the persons by whom trustees must be appointed and generally as to the method of their appointment,
 - (b) make any appointment subject to such conditions as may be specified in the order (including conditions requiring the consent of the Secretary of State),
 - (c) make provision as to the number of trustees to be appointed, including provision under which that number may from time to time be determined by the Secretary of State after consultation with such persons as he considers appropriate,
 - (d) make provision with respect to the term of office of any trustee and his removal from office.
- (3) Where trustees have been appointed for an NHS foundation trust under this section, the Secretary of State may by order provide for the transfer of any trust property from the NHS foundation trust to the trustees.
- (4) Where an NHS trust for which trustees have been appointed under paragraph 10 of Schedule 4 is given an authorisation, the order appointing the trustees has effect as an order under this section.
- (5) “The purposes of the NHS foundation trust” means the general or any specific purposes of the trust (including the purposes of any specific hospital at or from which services are provided by the trust).

[^{F49}51A Significant transactions

- (1) An NHS foundation trust may enter into a significant transaction only if more than half of the members of the council of governors of the trust voting approve entering into the transaction.
- (2) “Significant transaction” means a transaction or arrangement of such description as may be specified in the trust's constitution.
- (3) If an NHS foundation trust does not wish to specify any descriptions of transaction or arrangement for the purposes of subsection (2), the constitution of the trust must specify that it contains no such descriptions.]

Status: Point in time view as at 01/04/2013.

Changes to legislation: National Health Service Act 2006, Chapter 5 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F49 S. 51A inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 167**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

Failure

^{F50} 52 Failing NHS foundation trusts

.....

Textual Amendments

F50 S. 52 omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 111(11)**, 306(4); S.I. 2013/671, art. 2(3)

^{F51} 52A Application of sections 52B to 52E

.....

Textual Amendments

F51 Ss. 52A, 52B, 52D, 52E: the insertion of these provisions by [2009 c. 21, s. 15\(1\)](#) falls by virtue of the omission of that amending provision (1.11.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 173(5)**, 306(4); S.I. 2012/2657, **art. 2(2)**

^{F52} 52B De-authorisation: regulator's notice

.....

Textual Amendments

F52 Ss. 52A, 52B, 52D, 52E: the insertion of these provisions by [2009 c. 21, s. 15\(1\)](#) falls by virtue of the omission of that amending provision (1.11.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 173(5)**, 306(4); S.I. 2012/2657, **art. 2(2)**

^{F53} 52C Grounds for de-authorisation notice

.....

Textual Amendments

F53 S. 52C omitted (1.11.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 173(1)**, 306(4); S.I. 2012/2657, art. 2(2)

Status: Point in time view as at 01/04/2013.

Changes to legislation: National Health Service Act 2006, Chapter 5 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

F54 52D De-authorisation

.....

Textual Amendments

F54 Ss. 52A, 52B, 52D, 52E: the insertion of these provisions by 2009 c. 21, s. 15(1) falls by virtue of the omission of that amending provision (1.11.2012) by virtue of Health and Social Care Act 2012 (c. 7), ss. 173(5), 306(4); S.I. 2012/2657, art. 2(2)

F55 52E Secretary of State's request

.....

Textual Amendments

F55 Ss. 52A, 52B, 52D, 52E: the insertion of these provisions by 2009 c. 21, s. 15(1) falls by virtue of the omission of that amending provision (1.11.2012) by virtue of Health and Social Care Act 2012 (c. 7), ss. 173(5), 306(4); S.I. 2012/2657, art. 2(2)

F56 53 Voluntary arrangements

.....

Textual Amendments

F56 Ss. 53-55 omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), ss. 173(2), 306(4); S.I. 2013/671, art. 2(3)

F56 54 Dissolution etc

.....

Textual Amendments

F56 Ss. 53-55 omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), ss. 173(2), 306(4); S.I. 2013/671, art. 2(3)

F56 55 Sections 53 and 54: supplementary

.....

Textual Amendments

F56 Ss. 53-55 omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), ss. 173(2), 306(4); S.I. 2013/671, art. 2(3)

Status: Point in time view as at 01/04/2013.

Changes to legislation: National Health Service Act 2006, Chapter 5 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[^{F57}Mergers, acquisitions and separations]

Textual Amendments

F57 S. 56 cross-heading substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), ss. 172\(9\), 306\(4\); S.I. 2013/671, art. 2\(3\)](#)

56 Mergers

- (1) An application may be made jointly by—
- (a) an NHS foundation trust, and
 - (b) another NHS foundation trust or an NHS trust [^{F58}established under section 25],
- to the regulator for [^{F59}the dissolution of the trusts and the establishment of a new NHS foundation trust.]

[^{F60}(1A) An application under this section may be made only with the approval of more than half of the members of the council of governors of each applicant (that is an NHS foundation trust).]

- (2) The application must—
- (a) be supported by the Secretary of State if one of the parties to it is an NHS trust,
 - (b) specify the property and liabilities proposed to be transferred to the new NHS foundation trust,
 - (c) ^{F61}...and
 - (d) be accompanied by a copy of the proposed constitution of the new trust,
- ^{F62}...

^{F63}(3)

[^{F64}(4) The regulator must grant the application if it is satisfied that such steps as are necessary to prepare for the dissolution of the trusts and the establishment of the proposed new trust have been taken.]

^{F65}(5)

^{F65}(6)

^{F65}(7)

^{F65}(8)

^{F65}(9)

^{F65}(10)

(11) [^{F66}On the grant of the application], the proposed constitution of the NHS foundation trust has effect, but the directors of the applicants may exercise the functions of the trust on its behalf until a board of directors is appointed in accordance with the constitution.

Status: Point in time view as at 01/04/2013.

Changes to legislation: National Health Service Act 2006, Chapter 5 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F58** Words in s. 56(1)(b) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 168(1)(a)**, 306(4); S.I. 2013/671, art. 2(3)
- F59** Words in s. 56(1) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 168(1)(b)**, 306(4); S.I. 2013/671, art. 2(3)
- F60** S. 56(1A) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 168(2)**, 306(4); S.I. 2013/671, art. 2(3)
- F61** S. 56(2)(c) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 168(3)(a)**, 306(4); S.I. 2013/671, art. 2(3)
- F62** Words in s. 56(2) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 168(3)(b)**, 306(4); S.I. 2013/671, art. 2(3)
- F63** S. 56(3) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 168(4)**, 306(4); S.I. 2013/671, art. 2(3)
- F64** S. 56(4) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 168(5)**, 306(4); S.I. 2013/671, art. 2(3)
- F65** S. 56(5)-(10) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 168(6)**, 306(4); S.I. 2013/671, art. 2(3)
- F66** Words in s. 56(11) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 168(7)**, 306(4); S.I. 2013/671, art. 2(3)

[^{F67} 56A Acquisitions

- (1) An application may be made jointly by—
 - (a) an NHS foundation trust (A), and
 - (b) another NHS foundation trust or an NHS trust established under section 25 (B),
 to the regulator for the acquisition by A of B.
- (2) An application under this section may be made only with the approval of more than half of the members of the council of governors of each applicant (that is an NHS foundation trust).
- (3) The application must—
 - (a) be supported by the Secretary of State if B is an NHS trust, and
 - (b) be accompanied by a copy of the proposed constitution of A, amended on the assumption that A acquires B.
- (4) The regulator must grant the application if it is satisfied that such steps as are necessary to prepare for the acquisition have been taken.
- (5) On the grant of the application, the proposed constitution has effect, but where a person who is specified as a director of A in the constitution has yet to be appointed as such, the directors of A may exercise that person's functions under the constitution.]

Textual Amendments

- F67** S. 56A inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 169**, 306(4); S.I. 2013/671, art. 2(3)

Status: Point in time view as at 01/04/2013.

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[^{F68}56B Separations

- (1) An application may be made to the regulator by an NHS foundation trust for the dissolution of the trust and the establishment of two or more new NHS foundation trusts.
- (2) An application under this section may be made only with the approval of more than half of the members of the council of governors of the applicant.
- (3) The application must, by reference to each of the proposed new trusts—
 - (a) specify the property and liabilities proposed to be transferred to it;
 - (b) be accompanied by a copy of its proposed constitution.
- (4) The regulator must grant the application if it is satisfied that such steps as are necessary to prepare for the dissolution of the trust and the establishment of each of the proposed new trusts have been taken.
- (5) On the grant of the application, the proposed constitution of each of the new trusts has effect but, in the case of each of the new trusts, the proposed directors may exercise the functions of the trust on its behalf until a board of directors is appointed in accordance with the constitution.]

Textual Amendments

F68 S. 56B inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), ss. 170, 306(4); S.I. 2013/671, art. 2(3)

57 [^{F69}Sections 56 to 56B: supplementary]

- (1) Where [^{F70}an application is granted under section 56 or 56B], the regulator must specify the property and liabilities to be transferred to the new NHS foundation trust [^{F71}or trusts].
- (2) Where [^{F72}such an application is granted, the regulator] must make an order—
 - (a) dissolving the [^{F73}trust or] trusts in question, and
 - (b) transferring, or providing for the transfer of, the property and liabilities specified by the regulator to the new NHS foundation trust [^{F74}or trusts].
- [^{F75}(2A) An order under section 56 or 56B is conclusive evidence of incorporation and conclusive evidence that the corporation is an NHS foundation trust.]
- (3) The order may—
 - (a) transfer, or provide for the transfer of, any of the remaining property or liabilities to [^{F76}another NHS foundation trust, an NHS trust established under section 25 or the Secretary of State],
 - [^{F77}(b)
- (4) In [^{F78}sections 56(2) and 56B(3)], and subsections (1) and (2) of this section, “liabilities” includes criminal liabilities; and an order under subsection (3) of this section may transfer any remaining criminal liabilities to [^{F79}another NHS foundation trust or an NHS trust established under section 25].

Status: Point in time view as at 01/04/2013.

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- (5) Where one of the parties to an application under section 56 [^{F80}or 56A] is an NHS trust, the powers conferred on the Secretary of State by Part 3 of Schedule 4 are not exercisable in relation to the trust.

^{F81}(6)

Textual Amendments

- F69** S. 57 title substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 172(8), 306(4); S.I. 2013/671, art. 2(3)
- F70** Words in s. 57(1) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 172(1)(a), 306(4); S.I. 2013/671, art. 2(3)
- F71** Words in s. 57(1) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 172(1)(b), 306(4); S.I. 2013/671, art. 2(3)
- F72** Words in s. 57(2) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 172(2)(a), 306(4); S.I. 2013/671, art. 2(3)
- F73** Words in s. 57(2)(a) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 172(2)(b), 306(4); S.I. 2013/671, art. 2(3)
- F74** Words in s. 57(2)(b) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 172(2)(c), 306(4); S.I. 2013/671, art. 2(3)
- F75** S. 57(2A) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 172(3), 306(4); S.I. 2013/671, art. 2(3)
- F76** Words in s. 57(3)(a) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 172(4), 173(2)(a)(i), 306(4); S.I. 2013/671, arts. 2(2)(3)
- F77** S. 57(3)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), ss. 173(2)(a)(ii), 306(4); S.I. 2013/671, art. 2(3)
- F78** Words in s. 57(4) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 172(5)(a), 306(4); S.I. 2013/671, art. 2(3)
- F79** Words in s. 57(4) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 172(5)(b), 173(2)(a)(iii), 306(4); S.I. 2013/671, arts. 2(2)(3)
- F80** Words in s. 57(5) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 172(6), 306(4); S.I. 2013/671, art. 2(3)
- F81** S. 57(6) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), ss. 172(7), 306(4); S.I. 2013/671, art. 2(3)

[^{F82}57A Dissolution

- (1) An application may be made by an NHS foundation trust to the regulator for dissolution.
- (2) An application under this section may be made only with the approval of more than half of the members of the council of governors of the applicant.
- (3) The regulator must grant the application if it is satisfied that—
 - (a) the trust has no liabilities, and
 - (b) such steps as are necessary to prepare for the dissolution have been taken.
- (4) Where an application under this section is granted, the regulator must make an order—
 - (a) dissolving the trust in question, and
 - (b) transferring, or providing for the transfer of, the property of the trust (if any) to the Secretary of State.]

Status: Point in time view as at 01/04/2013.

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Textual Amendments

- F82** S. 57A inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 171**, 306(4); S.I. 2013/671, art. 2(3)

Miscellaneous

^{F83}58 Taxation

.....

Textual Amendments

- F83** S. 58 repealed (with effect in accordance with s. 216(3)(4) of the amending Act) by [Finance Act 2012 \(c. 14\)](#), **s. 216(2)(b)**

59 Conduct of elections

- (1) Regulations may make provision as to the conduct of elections for membership of the [^{F84}council of governors] of an NHS foundation trust.
- (2) The regulations may in particular provide for—
 - (a) nomination of candidates and obligations to declare their interests,
 - (b) systems and methods of voting, and the allocation of places on the [^{F85}council of governors], at contested elections,
 - (c) filling of vacancies,
 - (d) supervision of elections,
 - (e) elections expenses and publicity,
 - (f) questioning of elections and the consequences of irregularities.
- (3) Regulations under this section may create offences punishable on summary conviction with a maximum fine not exceeding level 4 on the standard scale.
- (4) An NHS foundation trust must secure that its constitution is in accordance with regulations under this section.
- (5) Pending the coming into force of regulations under this section, elections for membership of the [^{F86}council of governors] of an NHS foundation trust, if contested, must be by secret ballot.

Textual Amendments

- F84** Words in s. 59(1) substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 151(9)(a)**, 306(4); S.I. 2012/1831, art. 2(2)
- F85** Words in s. 59(2)(b) substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 151(9)(a)**, 306(4); S.I. 2012/1831, art. 2(2)
- F86** Words in s. 59(5) substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 151(9)(a)**, 306(4); S.I. 2012/1831, art. 2(2)

Status: Point in time view as at 01/04/2013.

Changes to legislation: National Health Service Act 2006, Chapter 5 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

60 Voting and standing for election

- (1) A person may not vote at an election for the [^{F87}council of governors] of an NHS foundation trust unless, within the specified period, he has made a declaration in the specified form of the particulars of his qualification to vote as a member of the constituency, or class within a constituency, for which the election is being held.
- (2) A person may not stand for election to [^{F88}the council] unless—
 - (a) he has within the specified period made a declaration in the specified form of the particulars of his qualification to vote as a member of the constituency, or class within a constituency, for which the election is being held, and
 - (b) he is not prevented from being a member of [^{F88}the council] by paragraph 8 of Schedule 7.
- (3) A person elected to [^{F88}the council] may not vote at a meeting of [^{F88}the council] unless—
 - (a) he has within the specified period made a declaration in the specified form of the particulars of his qualification to vote as a member of the trust, and
 - (b) he is not prevented from being a member of [^{F88}the council] by paragraph 8 of Schedule 7.
- (4) This section does not apply to an election held for the staff constituency.
- (5) “Specified” means specified in the trust's constitution.
- (6) A person is guilty of an offence if he—
 - (a) makes a declaration under this section which he knows to be false in a material particular, or
 - (b) recklessly makes such a declaration which is false in a material particular.
- (7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Textual Amendments

F87 Words in s. 60(1) substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 151\(9\)\(a\), 306\(4\); S.I. 2012/1831, art. 2\(2\)](#)

F88 Words in s. 60(2)(3) substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 151\(9\)\(b\), 306\(4\); S.I. 2012/1831, art. 2\(2\)](#)

61 Representative membership

- [^{F89}(1)] [^{F90}An NHS foundation trust must] take steps to secure that (taken as a whole) the actual membership of any public constituency and (if there is one) of the patients' constituency is representative of those eligible for such membership.
- [^{F91}(2)] In deciding which areas are to be areas for public constituencies, or in deciding whether there is to be a patients' constituency, an NHS foundation trust must have regard to the need for those eligible for such membership to be representative of those to whom the trust provides services.]

Status: Point in time view as at 01/04/2013.

Changes to legislation: National Health Service Act 2006, Chapter 5 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F89** S. 61(1): s. 61 renumbered as s. 61(1) (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 153(1)**, 306(4); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F90** Words in s. 61(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 153(1)**, 306(4); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)
- F91** S. 61(2) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 153(2)**, 306(4); [S.I. 2013/160, art. 2\(2\)](#) (with arts. 7-9)

62 Audit

Schedule 10 makes provision in relation to the audit of accounts of NHS foundation trusts.

63 General duty of NHS foundation trusts

An NHS foundation trust must exercise its functions effectively, efficiently and economically.

Supplementary

64 Orders and regulations under this Chapter

- (1) Any power under this Chapter to make an order or regulations is exercisable by statutory instrument.
- (2) Subject to subsections (3) and (4), a statutory instrument made by virtue of this Chapter is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A statutory instrument containing—
 - (a) the first regulations under section 55(4) or 59,
 - ^[F92](aa) regulations under paragraph 30(1) of Schedule 7,] or
 - (b) an order or regulations under this Chapter making, by virtue of subsection (5) (b), provision which amends or repeals any part of the text of an Act,may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (4) Subsection (2) does not apply to a statutory instrument containing an order under—
 - (a) section 51,
 - ^{F93}(b)
 - (c) section 57 ^[F94], or
 - (d) section 57A.]
- ^[F95](4A) The Statutory Instruments Act 1946 applies in relation to the power of the regulator to make an order under section 57 or 57A as if the regulator were a Minister of the Crown.]
- (5) Any order or regulations under this Chapter—
 - (a) may make different provision for different purposes, and
 - (b) may make incidental, supplementary, consequential, transitory or transitional or saving provision.

Status: Point in time view as at 01/04/2013.

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- (6) Any power under this Chapter to make an order or regulations (as well as being exercisable in relation to all cases to which it extends) may be exercised in relation to all those cases subject to exceptions or in relation to any particular case or class of case.

Textual Amendments

- F92** S. 64(3)(aa) inserted (27.3.2012 for specified purposes, 1.10.2012 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 158(2)**, 306(1)(d)(4); S.I. 2012/1831, art. 2(2)
- F93** S. 64(4)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 172(10)(a)**, 173(2)(b), 306(4); S.I. 2013/671, **art. 2(3)**
- F94** S. 64(4)(d) and word inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 172(10)(b)**, 306(4); S.I. 2013/671, art. 2(3)
- F95** S. 64(4A) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 172(11)**, 306(4); S.I. 2013/671, art. 2(3)

65 Interpretation of this Chapter

- (1) In this Chapter—
- “authorisation” means an authorisation under section 35 or 56,
- “health service body” means a Strategic Health Authority, a Primary Care Trust, an NHS trust, a Special Health Authority or an NHS foundation trust.
- (2) Any references in this Chapter to goods and services include, in particular, facilities, education and training.

Status:

Point in time view as at 01/04/2013.

Changes to legislation:

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