



# Health and Social Care Act 2001

## 2001 CHAPTER 15

### PART 3 **U.K.**

#### CARE TRUSTS AND PARTNERSHIP ARRANGEMENTS

#### 45 **Care Trusts** **E+W**

- (1) Where—
  - (a) a Primary Care Trust or an NHS trust is, or is to be, a party to any existing or proposed LA delegation arrangements, and
  - (b) the relevant authority is of the opinion that designation of the trust as a Care Trust would be likely to promote the effective exercise by the trust of prescribed health-related functions of a local authority (in accordance with the arrangements) in conjunction with prescribed NHS functions of the trust, the relevant authority may designate the trust as a Care Trust.
- (2) A trust may, however, only be so designated in pursuance of an application made to the relevant authority jointly by every prescribed body.
- (3) If—
  - (a) the relevant authority is of the opinion that it would be appropriate to do so, and
  - (b) the application under subsection (2) requests the authority to do so,the authority may when designating a trust as a Care Trust direct that, while it is so designated, the trust may (in addition to exercising health-related functions of the local authority as mentioned in subsection (1)(b)) exercise such prescribed health-related functions of the local authority as are specified in the direction in relation to persons in any area so specified, even though it does not exercise any NHS functions in relation to persons in that area.
- (4) Where a body is designated as a Care Trust under this section—
  - (a) its designation may be revoked by the relevant authority at any time—
    - (i) of the authority's own motion, and

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- (ii) after such consultation as the authority considers appropriate;
  - (b) if an application for the revocation of its designation is made to the relevant authority by one or more of the parties to the LA delegation arrangements, its designation shall be revoked by the relevant authority at the earliest time at which the authority considers it practicable to do so, having regard, in particular, to any steps that need to be taken in relation to those arrangements in connection with the revocation.
- (5) The designation of a body as a Care Trust under this section shall be effected by an order under section 16A of the 1977 Act or section 5(1) of the 1990 Act (as the case may be) which—
- (a) (in the case of an existing body) amends the order establishing the body so as to change its name to one that includes the words “Care Trust”, or
  - (b) (in the case of a new body) establishes the body with a name that includes those words;
- and any revocation of its designation shall be effected by a further order under that provision which makes such provision for changing the name of the body as the relevant authority considers expedient.
- (6) The power of the relevant authority to dissolve a Primary Care Trust or an NHS trust shall include power to dissolve such a trust where the authority is of the opinion that it is appropriate to do so in connection with the designation of any other such body (whether existing or otherwise) as a Care Trust.
- (7) Regulations may make such incidental, supplementary or consequential provision (including provision amending, repealing or revoking enactments) as the relevant authority considers expedient in connection with the preceding provisions of this section.
- (8) Regulations under subsection (7) may, in particular, make provision—
- (a) prescribing—
    - (i) the manner and circumstances in which, and
    - (ii) any conditions which must be satisfied before,
 an application may be made for a body to be designated as a Care Trust under this section, or to cease to be so designated, and the information to be supplied with such an application;
  - (b) enabling the relevant authority to terminate appointments of persons as members of a Primary Care Trust or of the board of directors of an NHS trust (or of a committee of such a trust) where the authority is of the opinion that it is appropriate to do so in connection with the designation of the trust as a Care Trust;
  - (c) requiring the consent of the relevant authority to be obtained before any prescribed change is made with respect to the governance of a body so designated;
  - (d) for supplementing or modifying, in connection with the operation of subsection (3), any provision made by regulations under section 31 of the Health Act 1999 (c. 8) (partnership arrangements between NHS bodies and local authorities).
- (9) The designation of a body as a Care Trust under this section shall not affect any of the functions, rights or liabilities of that body in its capacity as a Primary Care Trust or NHS trust (as the case may be).

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(10) In connection with the exercise by a body so designated of any relevant social services functions under LA delegation arrangements—

- (a) section 7 of the Local Authority Social Services Act 1970 (c. 42) (authorities to exercise social services functions under guidance of Secretary of State), and
- (b) section 7A of that Act (directions of Secretary of State as to exercise of such functions),

shall apply to the body as if it were a local authority within the meaning of that Act.

(11) In this section—

“health-related functions” and “local authority” have the same meaning as in section 31 of the Health Act 1999;

“LA delegation arrangements” means arrangements falling within section 31(2)(b) of the Health Act 1999 (c. 8), whether or not made in conjunction with any pooled fund arrangements;

“NHS functions” means functions exercisable by a Primary Care Trust or NHS trust in its capacity as such;

“pooled fund arrangements” means arrangements falling within section 31(2)(a) of the Health Act 1999;

“prescribed” means prescribed to any extent by regulations;

“relevant social services functions” means health-related functions which are social services functions within the meaning of the Local Authority Social Services Act 1970 (c. 42).

#### Commencement Information

- II** S. 45 partly in force; s. 45 in force for certain purposes at 11.5.2001, see s. 70(2); s. 45 in force for E. at 19.12.2001 in so far as not already in force by S.I. 2001/4149, arts. 1(3), 2(a)

## 46 Directed partnership arrangements **E+W**

(1) If the relevant authority is of the opinion—

- (a) that a body to which this section applies (“the failing body”) is not exercising any of its functions adequately, and
- (b) that it would be likely to lead to an improvement in the way in which that function is exercised if it were to be exercised—
  - (i) by another body to which this section applies under delegation arrangements, or
  - (ii) in accordance with pooled fund arrangements made with another such body,

the relevant authority may direct those bodies to enter into such delegation arrangements or pooled fund arrangements in relation to the exercise of the appropriate function or functions as are specified in the direction.

(2) In subsection (1) “the appropriate function or functions” means—

- (a) the function of the failing body mentioned in that subsection; and
- (b) such other function of that body (if any) as the relevant authority considers would, if exercised under or in accordance with the arrangements in question, be likely to contribute to an improvement in the exercise of the function referred to in paragraph (a).

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- (3) The bodies to which this section applies are—
- (a) NHS bodies, and
  - (b) local authorities,
- but in subsections (1) and (2) any reference to functions is, in relation to a local authority, a reference only to relevant social services functions of the authority.
- (4) In this section any reference to an improvement in the way in which any function is exercised includes an improvement in the provision to any individuals of any services to which that function relates.
- (5) In this section—
- “delegation arrangements” means arrangements falling within section 31(2)(b) or (c) of the Health Act 1999, whether or not made in conjunction with any pooled fund arrangements;
- “health-related functions” and “local authority” have the same meaning as in section 31 of the Health Act 1999;
- “NHS body” means a Health Authority, Primary Care Trust or NHS trust;
- “pooled fund arrangements” means arrangements falling within section 31(2)(a) of the Health Act 1999;
- “relevant social services functions” means health-related functions which are social services functions within the meaning of the Local Authority Social Services Act 1970 (c. 42).

#### Commencement Information

**I2** S. 46 partly in force; s. 46 not in force at Royal Assent see s. 70(2); s. 46 in force for E. at 1.8.2001 by S.I. 2001/2804, arts. 1(3), 2(1)(a) (subject to art. 2(2))

#### 47 Further provisions about directions in connection with directed partnership arrangements and Care Trusts **E+W**

- (1) A direction given under section 46(1) (a “principal direction”) may make provision with respect to—
- (a) any of the matters with respect to which provision is required to be made by the specified arrangements by virtue of regulations under section 31 of the Health Act 1999 (c. 8); and
  - (b) such other matters as the relevant authority considers appropriate.
- (2) Without prejudice to the generality of subsection (1), the relevant authority may (either in a principal direction or in any subsequent direction) make provision—
- (a) for the determination, whether—
    - (i) by agreement, or
    - (ii) (in default of agreement) by the relevant authority or an arbitrator appointed by the authority,
 of the amount of any payments which need to be made by one body to another for the purposes of the effective operation of the specified arrangements, and for the variation of any such determination;
  - (b) specifying the manner in which the amount of any such payments is to be so determined (or varied);

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- (c) requiring a body specified in the direction to supply to the relevant authority or an arbitrator, for the purpose of enabling any such amount to be so determined (or varied), such information or documents as may be so specified;
  - (d) requiring any amount so determined (or varied) to be paid by and to such bodies as are specified in the direction;
  - (e) requiring capital assets specified in the direction to be made available by and to such bodies as are so specified.
- (3) The relevant authority may, when giving a principal direction to any bodies to which section 46 applies, give such directions to any other such body as the authority considers appropriate for or in connection with securing that full effect is given to the principal direction.
- (4) Before giving a principal direction to any bodies to which section 46 applies, the relevant authority may—
- (a) direct either or both of the bodies in question to take such steps specified in the direction, or
  - (b) give such other directions,
- as the authority considers appropriate with a view to enabling the authority to determine whether the principal direction should be given.
- (5) Any direction given under any provision of section 45 or 46 or this section—
- (a) must be given in writing; and
  - (b) may be varied or revoked by a subsequent direction under that provision.
- (6) It is the duty of any body to which any such direction is given to comply with the direction.
- (7) The revocation of a principal direction shall not affect the continued operation of the specified arrangements.
- (8) In this section “the specified arrangements”, in relation to a principal direction, means the arrangements specified in the direction in pursuance of section 46(1).

#### Commencement Information

**I3** S. 47 partly in force; s. 47 not in force at Royal Assent see s. 70(2); s. 47(1)-(4)(7)(8) in force for E. at 1.8.2001, s. 47(5)(6) in force for E. for certain purposes at 1.8.2001 by S.I. 2001/2804, arts. 1(3), 2(1)(a)(2); s. 47(5)(6) in force for E. in so far as not already in force by S.I. 2001/4149, arts. 1(3), 2(b)

## 48 Transfer of staff in connection with partnership arrangements **E+W**

- (1) The Health Act 1999 (c. 8) shall be amended as follows.
- (2) At the end of section 31 (arrangements between NHS bodies and local authorities) there shall be added—
- “(9) Schedule 2A makes provision with respect to the transfer of staff in connection with arrangements made by virtue of this section.”
- (3) In section 62 (regulations and orders), at the end of subsection (1) there shall be inserted “, unless it is an order under paragraph 2 of Schedule 2A.”

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- (4) The Schedule set out in Schedule 4 to this Act shall be inserted in the Health Act 1999 as Schedule 2A to that Act.

**Commencement Information**

- I4** S. 48 partly in force; s. 48 not in force at Royal Assent see s. 70(2); s. 48 in force for E. at 1.8.2001 by S.I. 2001/2804, arts. 1(3), 2(1)(a) (subject to art. 2(2))

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**Changes to legislation:**

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