



Health and Social Care (Community Health and Standards) Act 2003

2003 CHAPTER 43

PART 1

NHS FOUNDATION TRUSTS

Functions

14 Authorised services

- (1) An authorisation must authorise the NHS foundation trust to provide goods and services for purposes related to the provision of health care.
- (2) But the authorisation must secure that the principal purpose of the trust is the provision of goods and services for the purposes of the health service in England.
- (3) The trust may also carry on activities other than those mentioned in subsection (1), subject to any restrictions in the authorisation, for the purpose of making additional income available in order to carry on its principal purpose better.
- (4) The authorisation may require the provision, wholly or partly for the purposes of the health service in England, of goods and services by the trust.
- (5) References in this Part to goods and services include, in particular—
 - (a) education and training,
 - (b) accommodation and other facilities.
- (6) The authorisation must authorise and may require the trust—
 - (a) to carry out research in connection with the provision of health care,
 - (b) to make facilities and staff available for the purposes of education, training or research carried on by others;

and, in deciding how to exercise its functions under this subsection in a case where any of the corporation's hospitals includes a medical or dental school provided by

a university, the regulator is to have regard to the need to establish and maintain appropriate arrangements with the university.

- (7) In deciding whether or not to require the trust to provide, wholly or partly for the purposes of the health service in England, any goods or services the regulator is to have regard (among other things) to—
- (a) the need for the provision of goods or services in the area in question,
 - (b) any provision of goods or services by other health service bodies in the area in question,
 - (c) any other provision by the trust with which the provision of the goods or services is connected,
 - (d) any agreement or arrangement to which the body corporate which is the trust is or was a party.
- (8) Such a requirement as is mentioned in subsection (4) may be framed by reference (among other things) to—
- (a) goods or services in general or of a particular description,
 - (b) goods or services required to meet the needs of health service bodies in general or those of a particular description,
 - (c) goods or services required to meet the needs of other persons of a particular description,
 - (d) the volume of goods or services provided,
 - (e) the place where goods or services are provided,
 - (f) the period within which goods or services are provided.

15 Private health care

- (1) An authorisation may restrict the provision, for purposes other than those of the health service in England, of goods and services by an NHS foundation trust.
- (2) The power is to be exercised, in particular, with a view to securing that the proportion of the total income of an NHS foundation trust which was an NHS trust in any financial year derived from private charges is not greater than the proportion of the total income of the NHS trust derived from such charges in the base financial year.
- (3) The base financial year means the first financial year throughout which the body corporate was an NHS trust or, if it was an NHS trust throughout the financial year ending with 31st March 2003, that year.
- (4) Private charges means charges imposed in respect of goods and services provided to patients other than patients being provided with goods and services for the purposes of the health service.
- (5) Section 14(8) applies for the purposes of this section.

16 Protection of property

- (1) An NHS foundation trust may not dispose of any protected property without the approval of the regulator.

Disposing of property includes disposing of part of it or granting an interest in it.
- (2) Protected property is property of the trust designated as protected in its authorisation.

- (3) The regulator may designate property as protected if it considers it is needed—
 - (a) for the purposes of any goods or services which the authorisation requires the trust to provide wholly or partly for the purposes of the health service in England, or
 - (b) for the purpose of doing anything which the trust is required to do under section 14(6).
- (4) The regulator may give approval under subsection (1) on any terms it considers appropriate.
- (5) An NHS foundation trust may not create a floating charge on its property.

17 Financial powers

- (1) An NHS foundation trust may borrow money for the purposes of or in connection with its functions.
- (2) But the total amount of the trust's borrowing is subject to the limit imposed by its authorisation.
- (3) The limit must be reviewed annually by the regulator.
- (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—
 - (a) forming, or participating in forming, bodies corporate,
 - (b) 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.

18 General powers

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

19 Information

- (1) An authorisation—

- (a) must require an NHS foundation trust to disclose such information as the Secretary of State specifies to the regulator,
 - (b) may require an NHS foundation trust to disclose other information to the regulator.
- (2) The regulator may require any other health service body to disclose any information which the regulator requires for the purposes of its functions.

20 Entry and inspection of premises

An authorisation may require an NHS foundation trust to allow the regulator to enter and inspect premises owned or controlled by the trust.

21 Fees

An authorisation may require an NHS foundation trust to pay a reasonable annual fee to the regulator.

22 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 are to 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 section 11 of the 1990 Act is given an authorisation, the order appointing the trustees is to have effect as an order under this section.