



National Health Service Act 2006

2006 CHAPTER 41

PART 2

HEALTH SERVICE BODIES

CHAPTER 5

NHS FOUNDATION TRUSTS

[^{F1}Mergers, acquisitions and separations]

Textual Amendments

- F1** 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—
- an NHS foundation trust, and
 - another NHS foundation trust or an NHS trust [^{F2}established under section 25], to the regulator for [^{F3}the dissolution of the trusts and the establishment of a new NHS foundation trust.]

[^{F4}(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—
- be supported by the Secretary of State if one of the parties to it is an NHS trust,

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- (b) specify the property and liabilities proposed to be transferred to the new NHS foundation trust,
- (c) ^{F5}...and
- (d) be accompanied by a copy of the proposed constitution of the new trust,

^{F6}...

^{F7}(3)

[^{F8}(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.]

^{F9}(5)

^{F9}(6)

^{F9}(7)

^{F9}(8)

^{F9}(9)

^{F9}(10)

(11) [^{F10}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.

Textual Amendments

- F2** 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)
- F3** 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)
- F4** 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)
- F5** 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)
- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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)

[^{F11}56A Acquisitions

- (1) An application may be made jointly by—
 - (a) an NHS foundation trust (A), and

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- (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

F11 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)

[^{F12}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

F12 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)

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57 [F13 Sections 56 to 56B: supplementary]

- (1) Where [F14 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 [F15 or trusts].
- (2) Where [F16 such an application is granted, the regulator] must make an order—
- dissolving the [F17 trust or] trusts in question, and
 - transferring, or providing for the transfer of, the property and liabilities specified by the regulator to the new NHS foundation trust [F18 or trusts].
- [F19(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—
- transfer, or provide for the transfer of, any of the remaining property or liabilities to [F20 another NHS foundation trust, an NHS trust established under section 25 or the Secretary of State],
 - [F21]
- (4) In [F22 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 [F23 another NHS foundation trust or an NHS trust established under section 25].
- (5) Where one of the parties to an application under section 56 [F24 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.
- [F25(6)

Textual Amendments

- F13** 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)
- F14** 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)
- F15** 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)
- F16** 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)
- F17** 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)
- F18** 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)
- F19** 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)
- F20** 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)
- F21** 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)
- F22** 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)

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- F23** 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\(2\)\(3\)](#)
- F24** 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\(3\)](#)
- F25** 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\(3\)](#)

[^{F26}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.]

Textual Amendments

- F26** 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\(3\)](#)

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