



National Health Service Act 2006

2006 CHAPTER 41

PART 2

HEALTH SERVICE BODIES

[^{F2}CHAPTER 5A

TRUST SPECIAL ADMINISTRATORS: NHS TRUSTS AND NHS FOUNDATION TRUSTS

^{F1}/^{F2}...

Textual Amendments

- F1** S. 65D cross-heading omitted (1.11.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), ss. [174\(7\)](#), [306\(4\)](#); S.I. 2012/2657, art. 2(2)
- F2** Pt. 2 Ch. 5A inserted (15.2.2010) by [Health Act 2009 \(c. 21\)](#), ss. [16](#), [40\(1\)](#); S.I. 2010/30, art. 3(a)

65D [^{F3}NHS foundation trusts: appointment of trust special administrator]

- [^{F4}(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.]
- [^{F4}(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.]
- [^{F4}(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) Before [^{F5}making an order] under this section, the regulator must consult first the Secretary of State and then—

Status: Point in time view as at 01/11/2012.

Changes to legislation: National Health Service Act 2006, Cross Heading: ... is up to date with all changes known to be in force on or before 02 July 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)

- (a) the trust,
[the Board,]
^{F6}(aa)
^{F7}(b)
(c) any other person to which the trust provides ^{F8}... services under this Act and which the regulator considers it appropriate to consult [^{F9}, and
(d) the Care Quality Commission.]
- [An order under subsection (2) must specify the date when the appointment is to take ^{F10}(5) 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.]

Textual Amendments

- F3** S. 65D heading substituted (1.11.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), ss. 174(6), 306(4); [S.I. 2012/2657](#), art. 2(2)
- F4** S. 65D(1)-(3) substituted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 174(3)**, 306(4); [S.I. 2012/2657](#), art. 2(2)
- F5** Words in s. 65D(4) substituted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 174(4)(a)**, 306(4); [S.I. 2012/2657](#), art. 2(2)
- F6** S. 65D(4)(aa) inserted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 174(4)(b)**, 306(4); [S.I. 2012/2657](#), art. 2(2)
- F7** S. 65D(4)(b) omitted (1.11.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 174(4)(c)**, 306(4); [S.I. 2012/2657](#), art. 2(2)
- F8** Words in s. 65D(4)(c) omitted (1.11.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 174(4)(d)**, 306(4); [S.I. 2012/2657](#), art. 2(2)

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F9 S. 65D(4)(d) and word inserted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 174\(4\)\(e\), 306\(4\); S.I. 2012/2657, art. 2\(2\)](#)

F10 S. 65D(5)-(12) inserted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 174\(5\), 306\(4\); S.I. 2012/2657, art. 2\(2\)](#)

Objective of trust special administration

65DA

- (1) The objective of a trust special administration is to secure—
 - (a) the continued provision of such of the services provided for the purposes of the NHS by the NHS foundation trust that is subject to an order under section 65D(2), at such level, as the commissioners of those services determine, and
 - (b) that it becomes unnecessary for the order to remain in force for that purpose.
- (2) The commissioners may determine that the objective set out in subsection (1) is to apply to a service only if they are satisfied that the criterion in subsection (3) is met.
- (3) The criterion is that ceasing to provide the service under this Act would, in the absence of alternative arrangements for its provision under this Act, be likely to—
 - (a) have a significant adverse impact on the health of persons in need of the service or significantly increase health inequalities, or
 - (b) cause a failure to prevent or ameliorate either a significant adverse impact on the health of such persons or a significant increase in health inequalities.
- (4) In determining whether that criterion is met, the commissioners must (in so far as they would not otherwise be required to do so) have regard to—
 - (a) the current and future need for the provision of the service under this Act,
 - (b) whether ceasing to provide the service under this Act would significantly reduce equality between those for whom the commissioner arranges for the provision of services under this Act with respect to their ability to access services so provided, and
 - (c) such other matters as may be specified in relation to NHS foundation trusts in guidance published by the regulator.
- (5) The regulator may revise guidance under subsection (4)(c) and, if it does so, must publish the guidance as revised.
- (6) Before publishing guidance under subsection (4)(c) or (5), the regulator must obtain the approval of—
 - (a) the Secretary of State;
 - (b) the Board.
- (7) The Board must make arrangements for facilitating agreement between commissioners in determining the services provided by the trust under this Act to which the objective set out in subsection (1) is to apply.
- (8) Where commissioners fail to reach agreement in pursuance of arrangements under subsection (7), the Board may make the determination (and the duty imposed by subsection (1)(a), so far as applying to the commissioners concerned, is to be regarded as discharged).
- (9) In this section—

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“commissioners” means the persons to which the trust provides services under this Act, and

“health inequalities” means the inequalities between persons with respect to the outcomes achieved for them by the provision of services that are provided as part of the health service.]

Textual Amendments

F11 S. 65DA inserted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 175(1), 306(4)** (with s. 175(2)); [S.I. 2012/2657](#), art. 2(2)

^{F12}65E NHS foundation trusts: de-authorisation and appointment of trust special administrator

.....]

Textual Amendments

F12 S. 65E omitted (1.11.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 173(3), 306(4)**; [S.I. 2012/2657](#), art. 2(2)

Status:

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