



National Health Service Act 2006

2006 CHAPTER 41

PART 2

HEALTH SERVICE BODIES

CHAPTER 6

MISCELLANEOUS

F1 Consolidated accounts

Textual Amendments

- F1** S. 65Z4 and cross-heading inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), ss. 14, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 15, 29, 30)

65Z4 Consolidated accounts for NHS trusts and NHS foundation trusts

- (1) NHS England must, in respect of each financial year, prepare a set of accounts that consolidates the annual accounts of—
 - (a) all NHS trusts established under section 25, and
 - (b) all NHS foundation trusts.
- (2) The Secretary of State may give NHS England directions as to—
 - (a) the content and form of the consolidated accounts, and
 - (b) the methods and principles to be applied in preparing them.
- (3) NHS England must, within such period as the Secretary of State may direct, send a copy of the consolidated accounts to—
 - (a) the Secretary of State, and
 - (b) the Comptroller and Auditor General.

Status: Point in time view as at 01/04/2023.

Changes to legislation: National Health Service Act 2006, Chapter 6 is up to date with all changes known to be in force on or before 23 May 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)

- (4) The accounts must be accompanied by such reports or other information as the Secretary of State may direct.
- (5) The Comptroller and Auditor General must—
 - (a) examine, certify and report on the consolidated accounts, and
 - (b) send a copy of the report to the Secretary of State and NHS England.
- (6) NHS England must lay before Parliament a copy of—
 - (a) the consolidated accounts, and
 - (b) the Comptroller and Auditor General’s report on them.]

F² Joint working arrangements and delegation

Textual Amendments

- F2** Ss. 65Z5-65Z7 and cross-heading inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), ss. 71\(2\), 186\(6\); S.I. 2022/734, reg. 2\(a\), Sch. \(with regs. 13, 29, 30\)](#)

65Z5 Joint working and delegation arrangements

- (1) A relevant body may arrange for any functions exercisable by it to be exercised by or jointly with any one or more of the following—
 - (a) a relevant body;
 - (b) a local authority (within the meaning of section 2B);
 - (c) a combined authority.
- (2) In this section “relevant body” means—
 - (a) NHS England,
 - (b) an integrated care board,
 - (c) an NHS trust established under section 25,
 - (d) an NHS foundation trust, or
 - (e) such other body as may be prescribed.
- (3) Regulations may—
 - (a) provide that the power in subsection (1) does not apply, or applies only to a prescribed extent, in relation to prescribed functions;
 - (b) impose conditions on the exercise of the power.
- (4) Arrangements under this section may be made on such terms as may be agreed between the parties, including—
 - (a) terms as to payment;
 - (b) terms prohibiting or restricting a body from making delegation arrangements in relation to a function that is exercisable by it by virtue of arrangements under this section.
- (5) In subsection (4)(b) “delegation arrangements” means arrangements made by a body for the exercise of a function by someone else.

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- (6) Any rights acquired, or liabilities (including liabilities in tort) incurred, in respect of the exercise by a body of any function by virtue of this section are enforceable by or against that body (and no other person).

Modifications etc. (not altering text)

- C1 S. 65Z5(1) restricted (1.7.2022) by [The National Health Service \(Joint Working and Delegation Arrangements\) \(England\) Regulations 2022 \(S.I. 2022/642\)](#), regs. 1(2), 2

65Z6 Joint committees and pooled funds

- (1) This section applies where a function is exercisable jointly (by virtue of section 65Z5 or otherwise) by a relevant body and any one or more of the following—
- (a) a relevant body;
 - (b) a local authority (within the meaning of section 2B);
 - (c) a combined authority.
- (2) The bodies by whom the function is exercisable jointly may—
- (a) arrange for the function to be exercised by a joint committee of theirs;
 - (b) arrange for one or more of the bodies, or a joint committee of the bodies, to establish and maintain a pooled fund.
- (3) A pooled fund is a fund—
- (a) which is made up of payments received in accordance with the arrangements from relevant bodies that are party to the arrangements, and
 - (b) out of which payments may be made in accordance with the arrangements towards expenditure incurred in the exercise of functions in relation to which the arrangements are made.
- (4) Arrangements under this section may be made on such terms as may be agreed between the parties, including terms as to payment.
- (5) In this section “relevant body” has the meaning given by section 65Z5(2).

65Z7 Joint working and delegation: guidance by NHS England

- (1) NHS England may publish guidance for relevant bodies about the exercise of their powers under sections 65Z5 and 65Z6.
- (2) A relevant body must have regard to any guidance published under this section.
- (3) In this section “relevant body” has the meaning given by section 65Z5(2).]

Intervention orders and default powers

66 Intervention orders

- [^{F3}(1) This section applies to—
- (a) NHS trusts, and
 - (b) Special Health Authorities.]

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- (2) If the Secretary of State—
- (a) considers that a body to which this section applies is not performing one or more of its functions adequately or at all, or that there are significant failings in the way the body is being run, and
 - (b) is satisfied that it is appropriate for him to intervene under this section, he may make an order under this section in respect of the body (an “intervention order”).
- (3) An intervention order may make any provision authorised by section 67 (including any combination of such provisions).

Textual Amendments

- F3** S. 66(1) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 21 para. 8(1) (with Sch. 21 para. 8(2)(3)); S.I. 2013/160, art. 2(2) (with arts. 7-9)

Modifications etc. (not altering text)

- C2** S. 66 modified (temp.) (11.7.2012) by The Health and Social Care Act 2012 (Commencement No.2 and Transitional, Savings and Transitory Provisions) Order 2012 (S.I. 2012/1831), art. 13(3)-(5)
- C3** S. 66(1) modified (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 21 para. 8(2)(3); S.I. 2013/160, art. 2(2) (with arts. 7-9)

67 Effect of intervention orders

- (1) In this section—
- (a) “member” means a member of a ^{F4}... ^{F5}... Special Health Authority ^{F6}...,
 - (b) “employee member” means a member of a ^{F7}... ^{F8}... Special Health Authority ^{F9}... who is an officer of the body, ^{F10}....
- (2) An intervention order may provide for the removal from office of—
- (a) all the members, or
 - (b) those specified in the order,
- and for their replacement with individuals specified in or determined in accordance with the order (who need not be the same in number as the removed individuals).
- (3) An intervention order may provide for the suspension (either wholly, or in respect only of powers and duties specified in or determined in accordance with the order) of—
- (a) all the members, or
 - (b) those specified in the order,
- and for the powers of the suspended members to be exercised, and their duties performed, during their suspension by individuals specified in or determined in accordance with the order (who need not be the same in number as the suspended individuals).
- (4) The powers and duties referred to in subsection (3) are, in the case of an employee member, only those which he has in his capacity as a member.
- (5) An intervention order may contain directions to the body to which it relates to secure that a function of the body specified in the directions—

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- (a) is performed, to the extent specified in the directions, on behalf of the body and at its expense, by such person as is specified in the directions, and
 - (b) is so performed in such a way as to achieve such objectives as are so specified, and the directions may require that any contract or other arrangement made by the body with that person contains such terms and conditions as may be so specified.
- (6) If the person referred to in subsection (5)(a) is a body to which section 66 applies, the functions of that body include the performance of the functions specified in the directions under subsection (5).
- (7) Subsection (8) applies in relation to any provision in this Act, or in any order or regulations made, or directions given, under this Act, relating to—
- (a) the membership of the body to which an intervention order relates ^{F11} ..., or
 - (b) the procedure of the body.
- (8) The intervention order may provide in relation to any provision specified in the order—
- (a) that it does not apply in relation to the body while the order remains in force, or
 - (b) that it applies in relation to the body, while the order remains in force, with modifications specified in the order.
- (9) An intervention order may contain such supplementary directions to the body to which it relates as the Secretary of State considers appropriate for the purpose of giving full effect to the order.

Textual Amendments

- F4** Words in s. 67(1)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 16\(a\)\(i\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F5** Words in s. 67(1)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 16\(a\)\(ii\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F6** Words in s. 67(1)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 21 para. 9\(2\)\(a\)](#) (with s. 179(5)(c)); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F7** Words in s. 67(1)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 16\(b\)\(i\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F8** Words in s. 67(1)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 16\(b\)\(i\)\(ii\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F9** Words in s. 67(1)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 21 para. 9\(2\)\(b\)\(i\)](#) (with s. 179(5)(c)); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F10** Words in s. 67(1)(b) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 21 para. 9\(2\)\(b\)\(ii\)](#) (with s. 179(5)(c)); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F11** Words in s. 67(7)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 21 para. 9\(3\)](#) (with s. 179(5)(c)); S.I. 2013/160, art. 2(2) (with arts. 7-9)

68 Default powers

[^{F12}(1) This section applies to—

- (a) NHS trusts established under section 25, and
- (b) Special Health Authorities.]

(2) If the Secretary of State considers that a body to which this section applies—

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- (a) has failed to carry out any functions conferred or imposed on it by or under this Act, or
 - (b) has in carrying out those functions failed to comply with any regulations or directions relating to those functions,
- he may after such inquiry as he considers appropriate make an order declaring it to be in default.
- (3) The members of the body in default must immediately vacate their office, and the order—
- (a) must provide for the appointment, in accordance with the provisions of this Act, of new members of the body, and
 - (b) may contain such provisions as seem to the Secretary of State expedient for authorising any person to act in the place of the body pending the appointment of new members.
- (4) An order under this section may contain such supplementary and incidental provisions as appear to the Secretary of State to be necessary or expedient, including—
- (a) provision for the transfer to the Secretary of State of property and liabilities of the body in default, and
 - (b) where any such order is varied or revoked by a subsequent order, provision in the subsequent order for the transfer to the body in default of any property or liabilities acquired or incurred by the Secretary of State in discharging any of the functions transferred to him.

Textual Amendments

F12 S. 68(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 21 para. 10\(1\)](#) (with [Sch. 21 para. 9\(2\)\(3\)](#)); S.I. 2013/160, art. 2(2) (with arts. 7-9)

Modifications etc. (not altering text)

- C4** S. 68 modified (temp.) (11.7.2012) by [The Health and Social Care Act 2012 \(Commencement No.2 and Transitional, Savings and Transitory Provisions\) Order 2012 \(S.I. 2012/1831\), art. 13\(3\)-\(5\)](#)
- C5** S. 68(1) modified (temp.) (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 21 para. 10\(2\)\(3\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

Protection of members and officers of health service bodies

69 Protection from personal liability

- (1) Section 265 of the Public Health Act 1875 (c. 55) (which relates to the protection of members and officers of certain authorities) has effect as if there were included in the authorities referred to in that section a reference to an NHS body.
- (2) Any reference in that section to the Public Health Act 1875 has effect as if it included a reference to this Act and the National Health Service (Wales) Act 2006 (c. 42).

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[^{F13}Transfer schemes

Textual Amendments

F13 S. 69A and cross-heading inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), ss. 69, 186\(6\); S.I. 2022/734, reg. 2\(a\), Sch. \(with regs. 13, 29, 30\)](#)

69A Transfer schemes: NHS trusts and NHS foundation trusts

- (1) NHS England may make one or more schemes for the transfer of property, rights and liabilities from a relevant NHS body to another relevant NHS body on an application made to it under this section.
- (2) The application must—
 - (a) be made jointly by the relevant NHS bodies, and
 - (b) state the property, rights or liabilities to be transferred.
- (3) NHS England may grant an application under this section only if it is satisfied that such steps as are necessary to prepare for the transfer have been taken.
- (4) The things that may be transferred under a transfer scheme include—
 - (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) criminal liabilities.
- (5) A transfer scheme may—
 - (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by the transferor in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;
 - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
 - (e) make provision for the shared ownership or use of property;
 - (f) make provision which is the same as or similar to the TUPE regulations;
 - (g) make other consequential, supplementary, incidental or transitional provision.
- (6) A transfer scheme may provide—
 - (a) for modifications by agreement;
 - (b) for modifications to have effect from the date when the original scheme came into effect.
- (7) In this section—
 - (a) references to rights and liabilities include rights and liabilities relating to a contract of employment;
 - (b) references to the transfer of property include the grant of a lease.
- (8) In this section—

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“relevant NHS body” means—

- (a) an NHS trust established under section 25;
- (b) an NHS foundation trust;

“the TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).]

Transfer of residual liabilities

70 Transfer of residual liabilities [^{F14}of certain health service bodies]

- (1) If ^{F15}... ^{F16}... an NHS trust or a Special Health Authority ceases to exist, the Secretary of State must exercise his functions so as to secure that all of the body's liabilities (other than any criminal liabilities) are dealt with.
- (2) A liability is dealt with by being transferred to an NHS body, the Secretary of State or the Welsh Ministers.

Textual Amendments

- F14** Words in s. 70 heading inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 17(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F15** Words in s. 70(1) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 17(a)(i)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F16** Words in s. 70(1) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 17(a)(ii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

Losses and liabilities of certain health service bodies

71 Schemes for meeting losses and liabilities etc of certain health service bodies

- (1) The Secretary of State may by regulations made with the consent of the Treasury establish a scheme whereby any of the bodies [^{F17}or other persons] specified in subsection (2) may make provision to meet—
 - (a) expenses arising from any loss of or damage to their property, and
 - (b) liabilities to third parties for loss, damage or injury arising out of the carrying out of the functions of the bodies [^{F17}or other persons] concerned.
- (2) The bodies [^{F18} and other persons] referred to in subsection (1) are—
 - ^{F19}(za) [^{F20}NHS England],
 - ^{F21}(zb) integrated care boards,]]
 - ^{F22}(a)
 - ^{F23}(b)
 - (c) NHS trusts,
 - (d) Special Health Authorities,
 - ^{F24}(da) NICE,]
 - ^{F25}(db)
 - ^{F26}(dc)
 - (e) NHS foundation trusts,

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- (f) [^{F27}the Care Quality Commission] , and
- [^{F28}(fa) the Health Research Authority;]
- ^{F29}(g)
- [^{F30}(ga) the Commissioner for Patient Safety,]
- [^{F31}(h) the Secretary of State,
- [^{F32}(ha) a company formed under section 223 and wholly or partly owned by the Secretary of State or [^{F20}NHS England],
- (hb) a subsidiary of a company which is formed under that section and wholly owned by the Secretary of State,] and
- (i) a body or other person (other than a body or other person within any of [^{F33}paragraphs (za) to (hb)]) providing, or arranging the provision of, health services whose provision is the subject of arrangements with a body or other person within any of [^{F34}paragraphs (za) to (h)] ,]

but a scheme under this section may limit the class or description of bodies which [^{F35}, or other persons who,] are eligible to participate in it.

[^{F36}(2A) In subsection (1)(b) “functions”—

(a) in relation to the Secretary of State, means the Secretary of State's functions in connection with the health service;

[^{F37}(ab) in relation to a company within paragraph (ha) or (hb) of subsection (2), means the company's activities in providing facilities or services to any person or body;]

(b) in relation to a body or other person within paragraph (i) of subsection (2), means the body's or person's functions of providing, or arranging the provision of, health services whose provision is the subject of arrangements with a body or other person within any of [^{F38}paragraphs (za) to (h)] of that subsection.]

(3) A scheme under this section may, in particular—

(a) provide for the scheme to be administered by the Secretary of State [^{F39} or [^{F20}NHS England]] or by a ^{F40} ... ^{F41} ... NHS trust, Special Health Authority or NHS foundation trust specified in the scheme,

(b) require any body which [^{F42}, or other person who,] participates in the scheme to make payments in accordance with the scheme, and

(c) provide for the making of payments for the purposes of the scheme by the Secretary of State [^{F43} (whether or not a participator in the scheme and, if a participator, whether or not required to make payments as a participator)].

(4) If the Secretary of State so directs, a body which is eligible to participate in a scheme must do so.

[^{F44}(5) The Secretary of State may make a direction under subsection (4) in respect of a body only if the body is within any of paragraphs [^{F45}(c), (d)][^{F46}and (f)] of subsection (2).]

(6) Where a scheme provides for the scheme to be administered by the Secretary of State, [^{F47}[^{F20}NHS England] or] a ^{F48} ... ^{F49} ... NHS trust, Special Health Authority or NHS foundation trust must carry out such functions in connection with the administration of the scheme by the Secretary of State as he may direct.

(7) Subsections (4) and (6) do not affect any other power of direction of the Secretary of State.

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- (8) A person or body administering a scheme under this section does not require permission under any provision of the Financial Services and Markets Act 2000 (c. 8) as respects activities carried out under the scheme.
- [^{F50}(9) In subsection (2)(i), the reference to a person providing health services does not include a person providing health services under a contract of employment.
- (10) In this section “health services” means services provided as part of the health service.]

Textual Amendments

- F17** Words in s. 71(1) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(2)**, 170(3)(4); S.I. 2008/2497, art. 5
- F18** Words in s. 71(2) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(3)(a)**, 170(3)(4); S.I. 2008/2497, art. 5
- F19** S. 71(2)(za)(zb) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(2)(a)**; S.I. 2012/1831, art. 2(2)
- F20** Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F21** S. 71(2)(zb) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 101**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F22** S. 71(2)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(2)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F23** S. 71(2)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(2)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F24** S. 71(2)(da) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 17 para. 10(3)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F25** S. 71(2)(db) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 10(4)** (with reg. 3)
- F26** S. 71(2)(dc) omitted (1.4.2023) by virtue of The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 9(12)** (with reg. 7)
- F27** Words in s. 71(2)(f) substituted (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 5 para. 85**; S.I. 2009/462, art. 2(1), Sch. 1 para. 35(bb)
- F28** S. 71(2)(fa) inserted (1.1.2015) by Care Act 2014 (c. 23), s. 127(1), **Sch. 7 para. 18(9)**; S.I. 2014/2473, art. 5(m)
- F29** S. 71(2)(g) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 7 para. 19(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F30** S. 71(2)(ga) inserted (11.4.2021) by Medicines and Medical Devices Act 2021 (c. 3), s. 50(2)(a), **Sch. 1 para. 5(4)** (with Sch. 1 para. 3(4))
- F31** S. 71(2)(h)(i) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(3)(b)**, 170(3)(4); S.I. 2008/2497, art. 5
- F32** S. 71(2)(ha)(hb) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(2)(d)**; S.I. 2012/1831, art. 2(2)
- F33** Words in s. 71(2)(i) substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(2)(e)(i)**; S.I. 2012/1831, art. 2(2)
- F34** Words in s. 71(2)(i) substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(2)(e)(ii)**; S.I. 2012/1831, art. 2(2)
- F35** Words in s. 71(2) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(3)(c)**, 170(3)(4); S.I. 2008/2497, art. 5
- F36** S. 71(2A) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(4)**, 170(3)(4); S.I. 2008/2497, art. 5

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- F37** S. 71(2A)(ab) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(3)(a)**; S.I. 2012/1831, art. 2(2)
- F38** Words in s. 71(2A)(b) substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(3)(b)**; S.I. 2012/1831, art. 2(2)
- F39** Words in s. 71(3)(a) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(4)(a)**; S.I. 2012/1831, art. 2(2)
- F40** Words in s. 71(3)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(4)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F41** Words in s. 71(3)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(4)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F42** Words in s. 71(3)(b) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(5)(a)**, 170(3)(4); S.I. 2008/2497, art. 5
- F43** Words in s. 71(3)(c) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(5)(b)**, 170(3)(4); S.I. 2008/2497, art. 5
- F44** S. 71(5) substituted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(6)**, 170(3)(4); S.I. 2008/2497, art. 5
- F45** Words in s. 71(5) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(5)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F46** Words in s. 71(5) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 7 para. 19(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F47** Words in s. 71(6) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(6)(a)**; S.I. 2012/1831, art. 2(2)
- F48** Words in s. 71(6) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(6)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F49** Words in s. 71(6) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(6)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F50** S. 71(9)(10) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(7)**, 170(3)(4); S.I. 2008/2497, art. 5

Modifications etc. (not altering text)

- C6** S. 71(2) modified (temp.) (1.10.2008) by Health and Social Care Act 2008 (Consequential Amendments and Transitory Provisions) Order 2008 (S.I. 2008/2250), arts. 1(1), **3(15)**

Co-operation between NHS bodies

72 Co-operation between NHS bodies

[^{F51}(1)] It is the duty of NHS bodies to co-operate with each other in exercising their functions.

[^{F52}(1A) The Secretary of State may publish guidance on the discharge of the duty under subsection (1) in relation to England.

(1B) An NHS body other than a Welsh NHS body must have regard to any guidance published under subsection (1A).]

[^{F53}(2) For the purposes of this section, NICE is an NHS body.]

^{F54}(3)

^{F55}(4)

[^{F56}(5) In this section “Welsh NHS body” means—

- (a) an NHS trust established under the National Health Service (Wales) Act 2006,

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- (b) a Special Health Authority established under that Act, or
- (c) a Local Health Board.]

Textual Amendments

- F51** S. 72(1): s. 72 renumbered as s. 72(1) (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 17 para. 10\(4\)\(a\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F52** S. 72(1A)(1B) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 75\(2\)\(a\)](#), 186(6); S.I. 2022/734, reg. 2(a), [Sch.](#) (with regs. 13, 29, 30)
- F53** S. 72(2) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 17 para. 10\(4\)\(b\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F54** S. 72(3) omitted (1.2.2023) by virtue of [The Health and Social Care Information Centre \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/98\)](#), reg. 1(2), [Sch. para. 10\(5\)](#) (with reg. 3)
- F55** S. 72(4) omitted (1.4.2023) by virtue of [The Health Education England \(Transfer of Functions, Abolition and Transitional Provisions\) Regulations 2023 \(S.I. 2023/368\)](#), reg. 1(2), [Sch. 1 para. 9\(13\)](#) (with reg. 7)
- F56** S. 72(5) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 75\(2\)\(b\)](#), 186(6); S.I. 2022/734, reg. 2(a), [Sch.](#) (with regs. 13, 29, 30)

[^{F57}NHS trusts and foundation trusts: exemption from merger legislation

Textual Amendments

- F57** S. 72A and cross-heading inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), [ss. 83\(1\)](#), 186(6); S.I. 2022/734, reg. 2(a), [Sch.](#) (with regs. 13, 29, 30)

72A Exemption from Part 3 of the Enterprise Act 2002

- (1) For the purposes of Part 3 of the Enterprise Act 2002 (mergers), a relevant merger situation is not to be treated as having been created where two or more relevant NHS enterprises cease to be distinct enterprises.
- (2) But subsection (1) does not apply to a case where two or more relevant NHS enterprises and one or more enterprises that are not relevant NHS enterprises cease to be distinct enterprises.
- (3) In this section “relevant NHS enterprise” means the activities, or part of the activities, of—
 - (a) an NHS trust established under section 25;
 - (b) an NHS foundation trust.]

Directions and regulations under this Part

73 Directions and regulations under this Part

- (1) This section applies to directions and regulations under any of—
 - (a) section 7,
 - [^{F58}(aa) section 7B,]

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- [^{F59}(ab) section 7C,]
- (b) section 8,
- [^{F60}(ba) section 13YB,]
- [^{F61}(bb) section 27B,]
- ^{F62}(c)
- ^{F62}(d)
- ^{F62}(e)
- ^{F62}(f)
- (g) section 29.

- (2) Except in prescribed cases, the directions and regulations must not preclude a person or body by whom the function is exercisable apart from the directions or regulations from exercising the function.

Textual Amendments

- F58** S. 73(1)(aa) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 43(3)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F59** S. 73(1)(ab) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 44(3)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F60** S. 73(1)(ba) inserted (1.4.2023) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 13(3)**, 186(6); S.I. 2023/371, reg. 2(a)
- F61** S. 73(1)(bb) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 55(3)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F62** S. 73(1)(c)-(f) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), **Sch. 4 para. 19**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

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