



National Health Service Act 2006

2006 CHAPTER 41

PART 2

HEALTH SERVICE BODIES

[^{F1}CHAPTER 5A

TRUST SPECIAL ADMINISTRATORS: NHS TRUSTS AND NHS FOUNDATION TRUSTS

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[^{F1}[^{F2}65DA] **Objective of trust special administration**

- (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
 - [^{F3}(aa) that the services whose continuous provision is secured as mentioned in paragraph (a) are of sufficient safety and quality to be provided under this Act,]
 - (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.

Changes to legislation: *National Health Service Act 2006, Section 65DA is up to date with all changes known to be in force on or before 11 June 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) View outstanding changes*

- (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 [^{F4}NHS England].
- (5) [^{F5}NHS England] may revise guidance under subsection (4)(c) and, if it does so, must publish the guidance as revised.
- [Before publishing guidance under subsection (4)(c), [^{F7}NHS England] must consult ^{F6}(5A) the Care Quality Commission.]
- (6) Before publishing guidance under subsection (4)(c) or (5), [^{F8}NHS England] must obtain the approval of—
- (a) the Secretary of State;
 - ^{F9}(b)
- (7) [^{F10}NHS England] 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), [^{F11}NHS England] 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—
- “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

- F1** 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)
- F2** 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)
- F3** S. 65DA(1)(aa) inserted (15.7.2014) by *Care Act 2014 (c. 23)*, ss. **85(1)**, 127(1); S.I. 2014/1714, art. 3(2)(b)
- F4** Words in s. 65DA(4)(c) substituted (1.7.2022) by *Health and Care Act 2022 (c. 31)*, s. 186(6), **Sch. 8 para. 4(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F5** Words in s. 65DA(5) substituted (1.7.2022) by *Health and Care Act 2022 (c. 31)*, s. 186(6), **Sch. 8 para. 4(3)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F6** S. 65DA(5A) inserted (15.7.2014) by *Care Act 2014 (c. 23)*, ss. **85(2)**, 127(1); S.I. 2014/1714, art. 3(2)(b)
- F7** Words in s. 65DA(5A) substituted (1.7.2022) by *Health and Care Act 2022 (c. 31)*, s. 186(6), **Sch. 8 para. 4(4)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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- F8** Words in s. 65DA(6) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 8 para. 4\(5\)\(a\)](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F9** S. 65DA(6)(b) omitted (1.7.2022) by virtue of [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 8 para. 4\(5\)\(b\)](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F10** Words in s. 65DA(7) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 8 para. 4\(6\)](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F11** Words in s. 65DA(8) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\), s. 186\(6\), Sch. 8 para. 4\(7\)](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 3B(1)(aa) inserted by [2022 c. 31 Sch. 3 para. 2\(b\)](#)
- s. 3B(1)(za) inserted by [2022 c. 31 Sch. 3 para. 2\(a\)](#)
- s. 13G(4) words omitted by virtue of 2012 c. 7, Sch. 14 para. 4A (as inserted) by [2014 c. 23 s. 120\(18\)\(a\)](#)
- s. 35(3A)(3B) inserted by [2012 c. 7 s. 159\(4\)](#)
- s. 35(3A) words substituted by [2022 c. 31 Sch. 5 para. 12\(4\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 35(3A) by 2012 c. 7 s.159(4) not yet in force.)
- s. 40(4)-(4B) substituted for s. 40(4) by [2012 c. 7 Sch. 14 para. 5](#)
- s. 42(1A) inserted by [2012 c. 7 Sch. 14 para. 6](#)
- s. 65F(2A)-(2F) inserted by [2012 c. 7 Sch. 14 para. 15\(4\)](#) (This amendment is itself amended before it comes into force by 2014 c. 23, ss. 85(15), 120(18)(b)(c), 127(1); S.I. 2014/1714, art. 3(2)(b)(c))
- s. 65H(10A) inserted by [2012 c. 7 Sch. 14 para. 17\(4\)](#)
- s. 65H(10A) omitted by [2022 c. 31 Sch. 8 para. 7\(7\)](#) (This amendment not applied to legislation.gov.uk. 2012 c. 7 Sch. 14 revoked at 1.7.2022 by 2022 c. 31, s. 186(6), Sch. 7 para. 13 before the insertion of s. 65H(10A) could come into effect.)
- s. 82A-83A and cross-heading substituted for s. 83 and cross-heading by [2022 c. 31 Sch. 3 para. 3](#)
- s. 84(4)-(4B) substituted for s. 84(4) by [2022 c. 31 Sch. 3 para. 4\(4\)](#)
- s. 92(5A) inserted by [2022 c. 31 Sch. 3 para. 9\(4\)](#)
- s. 94(3)(ca)(cb) substituted for s. 94(3)(ca) by [2022 c. 31 Sch. 3 para. 11\(3\)](#)
- s. 98A98B substituted for s. 98A by [2022 c. 31 Sch. 3 para. 14](#)
- s. 98BC-99B and cross-heading substituted for s. 99 and cross-heading by [2022 c. 31 Sch. 3 para. 15](#)
- s. 100(3A)(3B) inserted by [2022 c. 31 Sch. 3 para. 16\(4\)](#)
- s. 109(3)(ca)(cb) substituted for s. 109(3)(ca) by [2022 c. 31 Sch. 3 para. 23\(3\)](#)
- s. 112(1)(za) inserted by [2022 c. 31 Sch. 3 para. 24\(2\)\(b\)](#)
- s. 114A114B substituted for s. 114A by [2022 c. 31 Sch. 3 para. 26](#)
- s. 114C and cross-heading inserted by [2022 c. 31 Sch. 3 para. 27](#)
- s. 116A116B and cross-heading inserted by [2022 c. 31 Sch. 3 para. 30](#)
- s. 117(4)(4A) substituted for s. 117(4) by [2022 c. 31 Sch. 3 para. 31\(4\)](#)
- s. 125A125B substituted for s. 125A by [2022 c. 31 Sch. 3 para. 39](#)
- s. 223C(1)(c)(d) inserted by [2022 c. 31 s. 28](#)
- s. 223LA inserted by [2022 c. 31 s. 30\(3\)](#)
- Sch. 15 para. 4(1)(b) and word omitted by [2012 c. 7 Sch. 14 para. 39\(3\)](#)