



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

Consultation and report

[^{F1}65G Consultation plan

- (1) At the same time as publishing a draft report under section 65F, a trust special administrator must publish a statement setting out the means by which the administrator will seek responses to the draft report.
- (2) The statement must specify a period of [^{F2}40 working days] within which the administrator seeks responses (the “consultation period”).
- (3) The first day of the consultation period must be within the period of 5 working days beginning with the day on which the draft report is published.

[In the case of an NHS foundation trust, the administrator may not make a variation to ^{F3}(4) the draft report following the consultation period—

- (a) without having obtained from each commissioner a statement that the commissioner considers that the recommendation in the draft report as so varied [^{F4}—
 - (i) would achieve the objective set out in section 65DA(1)(a), and
 - (ii) would do so without harming essential services provided for the purposes of the NHS by any other NHS foundation trust or NHS trust that provides services under this Act to the commissioner,] or

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- (b) where the administrator does not obtain a statement to that effect from one or more commissioners (other than [^{F5}NHS England]), without having obtained a statement to that effect from [^{F5}NHS England].

[Nor may the administrator make a variation to the draft report following the ^{F6}(4A) consultation period without having obtained from the Care Quality Commission a statement that it considers that the recommendation in the draft report as so varied would achieve that part of the objective set out in section 65DA(1)(aa).]

[^{F7}(5) Where NHS England decides not to provide to the administrator a statement to the effect mentioned in subsection (4)(b), NHS England must—

- (a) give a notice of the reasons for its decision to the administrator,
- (b) publish the notice, and
- (c) lay a copy of it before Parliament.

(5A) Where the Care Quality Commission decides not to provide to the administrator a statement to the effect mentioned in subsection (4A), the Commission must—

- (a) give a notice of the reasons for its decision to the administrator and to NHS England,
- (b) publish the notice, and
- (c) lay a copy of it before Parliament.]

(6) In subsection (4), “commissioner” means a person to which the trust provides services under this Act.]

[Where the administrator recommends taking action in relation to another NHS ^{F8}(7) foundation trust or an NHS trust, the references in subsection (4) to a commissioner also include a reference to a person to which the other NHS foundation trust or the NHS trust provides services under this Act that would be affected by the action.”

(8) A service provided by an NHS foundation trust or an NHS trust is an essential service for the purposes of subsection (4) if the person making the statement in question is satisfied that the criterion in section 65DA(3) is met.

(9) Section 65DA(4) applies to the person making the statement when that person is determining whether that criterion is met.]]

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** Words in s. 65G(2) substituted (15.7.2014) by [Care Act 2014 \(c. 23\)](#), **ss. 120(5)**, 127(1); S.I. 2014/1714, art. 3(2)(c)
- F3** S. 65G(4)-(6) inserted (27.3.2012 for specified purposes, 1.11.2012 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 176(3)**, 306(1)(d)(4); S.I. 2012/2657, art. 2(2)
- F4** Words in s. 65G(4)(a) substituted (15.7.2014) by [Care Act 2014 \(c. 23\)](#), **ss. 120(6)**, 127(1); S.I. 2014/1714, art. 3(2)(c)
- F5** Words in s. 65G(4)(b) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), **Sch. 8 para. 6(2)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F6** S. 65G(4A) inserted (15.7.2014) by [Care Act 2014 \(c. 23\)](#), **ss. 85(8)**, 127(1); S.I. 2014/1714, art. 3(2)(b)
- F7** S. 65G(5)(5A) substituted for s. 65G(5) (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), **Sch. 8 para. 6(3)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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F8 S. 65G(7)-(9) inserted (15.7.2014) by [Care Act 2014 \(c. 23\)](#), **ss. 120(7)**, 127(1); S.I. 2014/1714, art. 3(2)(c)

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 65G(4) words omitted by [2012 c. 7 Sch. 14 para. 16\(1\)](#) (This amendment is itself amended before it comes into force by [2014 c. 23, ss. 120\(18\)\(e\), 127\(1\)](#); S.I. [2014/1714](#), art. [3\(2\)\(c\)](#))
- s. 65G(4)(a) words substituted by [2014 c. 23 s. 85\(7\)](#)
- s. 65G(4)(a)(ii) words omitted by [2012 c. 7 Sch. 14 para. 16\(2\)](#) (This amendment is itself amended before it comes into force by [2014 c. 23, ss. 120\(18\)\(e\), 127\(1\)](#); S.I. [2014/1714](#), art. [3\(2\)\(c\)](#))
- s. 65G(7) words omitted by [2012 c. 7 Sch. 14 para. 16\(3\)](#) (This amendment is itself amended before it comes into force by [2014 c. 23, ss. 120\(18\)\(e\), 127\(1\)](#); S.I. [2014/1714](#), art. [3\(2\)\(c\)](#))
- s. 65G(8) words omitted by [2012 c. 7 Sch. 14 para. 16\(4\)](#) (This amendment is itself amended before it comes into force by [2014 c. 23, ss. 120\(18\)\(e\), 127\(1\)](#); S.I. [2014/1714](#), art. [3\(2\)\(c\)](#))

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)