



Health and Social Care Act 2012

2012 CHAPTER 7

PART 3 U.K.

REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

CHAPTER 6 E+W

FINANCIAL ASSISTANCE IN SPECIAL ADMINISTRATION CASES

Supplementary

144 Investment principles and reviews E+W

- (1) [^{F1}NHS England] must prepare and publish a statement of the principles that govern its decisions, or decisions made on its behalf, about making investments for the purposes of this Chapter.
- (2) [^{F1}NHS England] must—
 - (a) in each financial year, review the statement,
 - (b) if it considers necessary in light of the review, revise the statement, and
 - (c) if it revises the statement, publish the revised statement.
- (3) As soon as reasonably practicable after the end of each financial year, [^{F1}NHS England] must undertake and publish a review of the operation during that year of—
 - (a) the procedure for health special administration under Chapter 5,
 - (b) the procedure for trust special administration for NHS foundation trusts under Chapter 5A of Part 2 of the National Health Service Act 2006, and
 - (c) such mechanisms as have been established under section 134.
- (4) The purposes of the review under subsection (3)(c) are—
 - (a) to assess the operation of the mechanisms concerned,

Status: Point in time view as at 01/07/2022.

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- (b) to assess the accuracy of the estimates given by [^{F2}NHS England] in relation to the operation of the mechanisms,
 - (c) to assess what improvements can be made to the process for making estimates in relation to the operation of the mechanisms, and
 - (d) to review the extent of the protection which the mechanisms are required to provide.
- (5) Where a fund established under section 135 has been in operation for the whole or part of the year concerned, the review published under this section must specify—
- (a) the income of the fund during that year, and
 - (b) the expenditure from the fund during that year.
- (6) [^{F3}NHS England] must exclude from a review published under this section information which it is satisfied is—
- (a) commercial information the disclosure of which would, or might, significantly harm the legitimate business interests of an undertaking to which it relates;
 - (b) information relating to the private affairs of an individual the disclosure of which would, or might, significantly harm that person's interests.

Textual Amendments

- F1** Words in s. 144(1)–(3) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 87](#); [S.I. 2022/734, reg. 2\(a\)](#), [Sch.](#) (with regs. 13, 29, 30)
- F2** Words in s. 144(4)(b) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 87](#); [S.I. 2022/734, reg. 2\(a\)](#), [Sch.](#) (with regs. 13, 29, 30)
- F3** Words in s. 144(6) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 87](#); [S.I. 2022/734, reg. 2\(a\)](#), [Sch.](#) (with regs. 13, 29, 30)

Commencement Information

- I1** [S. 144\(3\)\(b\)\(6\)](#) in force at 1.11.2012 by [S.I. 2012/2657, art. 2\(2\)](#)

145 Borrowing E+W

- (1) [^{F4}NHS England] may—
- (a) borrow from a deposit-taker such sums as it may from time to time require for exercising its functions under this Chapter;
 - (b) give security for sums that it borrows.
- (2) But [^{F5}NHS England] may not borrow if the effect would be—
- (a) to take the aggregate amount outstanding in respect of the principal of sums borrowed by it over such limit as the Secretary of State may by order specify, or
 - (b) to increase the amount by which the aggregate amount so outstanding exceeds that limit.
- (3) In this section, “deposit-taker” means—
- (a) a person who has permission under [^{F6}Part 4A] of the Financial Services and Markets Act 2000, ^{F7}...
 - ^{F7}(b)
- (4) The definition of “deposit-taker” in subsection (3) must be read with—

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- (a) section 22 of the Financial Services and Markets Act 2000,
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.

Textual Amendments

- F4** Words in s. 145(1) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), **Sch. 5 para. 88**; [S.I. 2022/734, reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F5** Words in s. 145(2) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), **Sch. 5 para. 88**; [S.I. 2022/734, reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))
- F6** Words in s. 145(3)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 137** (with [Sch. 20](#)); [S.I. 2013/423, art. 3](#), [Sch.](#)
- F7** [S. 145\(3\)\(b\)](#) and word omitted (31.12.2020) by virtue of [The EEA Passport Rights \(Amendment, etc., and Transitional Provisions\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1149\)](#), [reg. 1\(3\)](#), **Sch. para. 43** (with [reg. 4](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)

Commencement Information

- I2** S. 145 partly in force; s. 145 in force for specified purposes at Royal Assent, see [s. 306\(1\)\(d\)](#)

146 Shortfall or excess of available funds, etc. **E+W**

- (1) The Secretary of State may provide financial assistance to [^{F8}NHS England] if the Secretary of State is satisfied that—
 - (a) there are insufficient funds available from a mechanism established under section 134, or
 - (b) the mechanism is otherwise unable to operate effectively.
- (2) If the Secretary of State is satisfied that the level of funds available from a mechanism established under section 134 exceeds the level that is necessary, the Secretary of State may direct [^{F8}NHS England] to transfer the excess to the Secretary of State.
- (3) If the Secretary of State is satisfied that a mechanism established under section 134 has become dormant, or if a mechanism so established is being wound up, the Secretary of State may direct [^{F8}NHS England] to transfer to the Secretary of State such funds as are available from the mechanism.

Textual Amendments

- F8** Words in s. 146(1)-(3) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), **Sch. 5 para. 89**; [S.I. 2022/734, reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))

Commencement Information

- I3** S. 146 partly in force; s. 146 in force for specified purposes at Royal Assent, see [s. 306\(1\)\(d\)](#)

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