

HEALTH ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Powers in Relation to Health Bodies

Chapter 1 – Powers in Relation to Failing NHS Bodies in England

Section 18 Trust special administrators: consequential amendments

230. *Section 18* makes amendments to the NHS Act consequential on the amendments made by section 15 (de-authorisation of NHS foundation trusts) and sections 16 and 17 (trust special administrators). In particular, subsections (2) to (6) amend sections 53 and 54 of the NHS Act so that the existing provisions for voluntary arrangements and the dissolution of NHS foundation trusts apply only to NHS foundation trusts to which the new regime does not apply (meaning those authorised on an application by a body other than an NHS trust under section 34 of the Act, or those established under section 56 which are not within section 65A(2)).
231. *Subsection (5)* amends section 53(4) of the NHS Act, to ensure that the existing provisions for voluntary arrangements and the dissolution of NHS foundation trusts apply only to NHS foundation trusts to which the new de-authorisation provisions in new sections 52A to 52E and the trust special administrators regime (Chapter 5A inserted by section 16) do not apply.
232. *Subsection (7)* amends section 242 of the NHS Act (public involvement and consultation), so that PCTs, NHS trusts and NHS foundation trusts will not be obliged to consult, or make other arrangements for involvement, in relation to matters to which the draft report or final report relates as relevant consultation will be undertaken by the TSA under the new sections.
233. *Subsection (8)* amends section 272 of the NHS Act (orders, regulations, rules and directions) to make provision about the procedure which is to apply to the orders made under new sections 52A to 52E (de-authorisation of NHS foundation trusts) and 65A to 65Z (trust special administrators).
234. *Subsections (9) and (12)* provide for the definition of ‘NHS trust’ in section 275(1) of the NHS Act 2006 and section 206(1) of the NHS (Wales) Act 2006 to include a body that becomes a NHS trust by virtue of an order for de-authorisation of an NHS foundation trust made under new section 52D(1) or 65E(1).