



Health and Social Care Act 2012

2012 CHAPTER 7

PART 3

REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

CHAPTER 6

FINANCIAL ASSISTANCE IN SPECIAL ADMINISTRATION CASES

PROSPECTIVE

Applications for financial assistance

136 Applications

- (1) Monitor may, on an application by a special administrator, provide financial assistance to the special administrator by using a mechanism established under section 134.
- (2) An application under this section must be in such form, and must be supported by such evidence or other information, as Monitor may require (and a requirement under this subsection may be imposed after the receipt, but before the determination, of the application).
- (3) If Monitor grants an application under this section, it must notify the applicant of—
 - (a) the purpose for which the financial assistance is being provided, and
 - (b) the other conditions to which its provision is subject.
- (4) The special administrator must secure that the financial assistance is used only—
 - (a) for the purpose notified under subsection (3)(a), and
 - (b) in accordance with the conditions notified under subsection (3)(b).

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Health and Social Care Act 2012. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- (5) Financial assistance under this section may be provided only in the period during which the provider in question is in special administration.
- (6) If Monitor refuses an application under this section, it must notify the applicant of the reasons for the refusal.
- (7) Monitor must, on a request by an applicant whose application under this section has been refused, reconsider the application; but no individual involved in the decision to refuse the application may be involved in the decision on the reconsideration of the application.
- (8) For the purposes of reconsidering an application, Monitor may request information from the applicant.
- (9) Monitor must notify the applicant of its decision on reconsidering the application; and
 - (a) if Monitor grants the application, it must notify the applicant of the matters specified in subsection (3), and
 - (b) if Monitor refuses the application, it must notify the applicant of the reasons for the refusal.
- (10) In this Chapter—
 - (a) “special administrator” means—
 - (i) a person appointed as a health special administrator under Chapter 5, or
 - (ii) a person appointed as a trust special administrator under section 65D(2) of the National Health Service Act 2006, and
 - (b) references to being in special administration are to be construed accordingly.

137 Grants and loans

- (1) Monitor may not provide financial assistance under section 136 in the form of a grant or loan unless it is satisfied that—
 - (a) it is necessary for the provider—
 - (i) to be able to continue to provide one or more of the health care services that it provides for the purposes of the NHS, or
 - (ii) to be able to secure a viable business in the long term, and
 - (b) no other source of funding which would enable it do so and on which it would be reasonable for it to rely is likely to become available to it.
- (2) The terms of a grant or loan must include a term that the whole or a specified part of the grant or loan becomes repayable in the event of a breach by the provider or special administrator of the terms of the grant or loan.
- (3) Subject to that, where Monitor makes a grant or loan under section 136, it may do so in such manner and on such terms as it may determine.
- (4) Monitor may take such steps as it considers appropriate (including steps to adjust the amount of future payments towards the mechanism established under section 134 to raise funds for grants or loans under section 136) to recover overpayments in the provision of a grant or loan under that section.

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- (5) The power to recover an overpayment under subsection (4) includes a power to recover interest, at such rate as Monitor may determine, on the amount of the overpayment for the period beginning with the making of the overpayment and ending with its recovery.

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2012/1831 art. 10 by [S.I. 2012/2657](#) art. 15

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):

- Pt. 9 Ch. 1A inserted by [2015 c. 28](#) s. 2
- s. 58(6)(c) inserted by [2013 c. 32](#) Sch. 12 para. 103
- s. 73(3A) inserted by [S.I. 2014/892](#) Sch. 1 para. 189(5)
- s. 80(3) inserted by [S.I. 2014/892](#) Sch. 1 para. 192(3)
- s. 101(4A) inserted by [2013 c. 24](#) Sch. 6 para. 128(4)
- s. 105(3A) (3B) inserted by [2013 c. 24](#) Sch. 14 para. 21
- s. 106(3A) (3B) inserted by [2013 c. 24](#) Sch. 14 para. 22
- s. 111(2A) inserted by [2014 c. 23](#) s. 83(2)
- s. 120(5A) inserted by [2013 c. 24](#) Sch. 6 para. 131(4)
- s. 142(4A) inserted by [2013 c. 24](#) Sch. 6 para. 135(3)

- s. 251A(7)(a) words substituted by
2018 c. 12
Sch. 19
para. 173(2)
- s. 251A(9) inserted by
2018 c. 12
Sch. 19
para. 173(3)
- s. 251B inserted by
2015 c. 28
s. 3
- s. 251B(5)(a) words substituted by
2018 c. 12
Sch. 19
para. 174(2)
- s. 251B(7) inserted by
2018 c. 12
Sch. 19
para. 174(3)
- s. 251C inserted by
2015 c. 28
s. 4
- s. 251C modified (temp.) by
S.I. 2015/1438
reg. 4
- s. 253(1)(ca) inserted by
2014 c. 23
s. 122(2)
- s. 261(1A) inserted by
2014 c. 23
s. 122(3)
- s. 262A inserted by
2014 c. 23
s. 122(4)
- s. 290(3)(ca) inserted by
2014 c. 23
Sch. 5
para. 15(3)
- Sch. 8 para. 11(2A) inserted by
2013 c. 24
Sch. 15
para. 49
- Sch. 10 para. 10(2A) inserted by
S.I. 2014/892
Sch. 1
para. 195(4)
- Sch. 10 para. 10(3)(aa) inserted by
S.I. 2014/892
Sch. 1
para. 195(5)
- Sch. 14 para. 16(1) Sch. 14 para. 16 renumbered as Sch. 14 para. 16(1) by
2014 c. 23
s. 120(18)(e)
- Sch. 14 para. 24(2A) inserted by
2014 c. 23
s. 84(8)
- Sch. 14 para. 4A 4B inserted by
2014 c. 23

- [s. 120\(18\)\(a\)](#)
Sch. 14 para. 15(8) inserted by
[2014 c. 23](#)
- [s. 120\(18\)\(d\)](#)
Sch. 14 para. 16(2)-(4) inserted by
[2014 c. 23](#)
- [s. 120\(18\)\(e\)](#)
Sch. 14 para. 17(4A) inserted by
[2014 c. 23](#)
- [s. 120\(18\)\(g\)](#)
Sch. 14 para. 24(2A) inserted by
[2014 c. 23](#)
- [s. 120\(18\)\(h\)](#)
Sch. 14 para. 24A inserted by
[2014 c. 23](#)
- [s. 120\(18\)\(i\)](#)
Sch. 14 para. 35(e) and word inserted by
[2014 c. 23](#)
- [s. 120\(18\)\(j\)](#)