



Health and Social Care Act 2012

2012 CHAPTER 7

PART 3

REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

CHAPTER 5

HEALTH SPECIAL ADMINISTRATION

130 Health special administration regulations

- (1) Regulations (referred to in this Chapter as “health special administration regulations”) must make further provision about health special administration orders.
- (2) Health special administration regulations may apply with or without modifications—
 - (a) any provision of Part 2 of the Insolvency Act 1986 (administration) or any related provision of that Act, and
 - (b) any other enactment which relates to insolvency or administration or makes provision by reference to anything that is or may be done under that Act.
- (3) Health special administration regulations may, in particular, provide that the court may make a health special administration order in relation to a relevant provider if it is satisfied, on a petition by the Secretary of State under section 124A of the Insolvency Act 1986 (petition for winding up on grounds of public interest), that it would be just and equitable (disregarding the objective of the health special administration) to wind up the provider in the public interest.
- (4) Health special administration regulations may make provision about—
 - (a) the application of procedures under the Insolvency Act 1986 in relation to relevant providers, and
 - (b) the enforcement of security over property of relevant providers.
- (5) Health special administration regulations may, in particular, make provision about the publication and maintenance by Monitor of a list of relevant providers.

Status: This is the original version (as it was originally enacted).

- (6) Health special administration regulations may in particular—
- (a) require Monitor to publish guidance for commissioners about the application of the criteria referred to in section 129(1)(a);
 - (b) confer power on Monitor to revise guidance published by virtue of paragraph (a) and require it to publish guidance so revised;
 - (c) require Monitor, before publishing guidance by virtue of paragraph (a) or (b), to obtain the approval of the Secretary of State and the National Health Service Commissioning Board;
 - (d) require commissioners, when applying the criteria referred to in section 129(1)(a), to have regard to such matters as Monitor may specify in guidance published by virtue of paragraph (a) or (b);
 - (e) require the National Health Service Commissioning Board to make arrangements for facilitating agreement between commissioners in their exercise of their function under section 129(1)(a);
 - (f) confer power on the Board, where commissioners fail to reach agreement in pursuance of arrangements made by virtue of paragraph (e), to exercise their function under section 129(1)(a);
 - (g) provide that, in consequence of the exercise of the power conferred by virtue of paragraph (f), the function under section 129(1)(a), so far as applying to the commissioners concerned, is to be regarded as discharged;
 - (h) require a health special administrator to carry out in accordance with the regulations consultation on the action which the administrator recommends should be taken in relation to the provider concerned.
- (7) Health special administration regulations may modify this Chapter or any enactment mentioned in subsection (8) in relation to any provision made by virtue of this Chapter.
- (8) The enactments are—
- (a) the Insolvency Act 1986, and
 - (b) any other enactment which relates to insolvency or administration or makes provision by reference to anything that is or may be done under that Act.
- (9) The power to make rules under section 411 of the Insolvency Act 1986 (company insolvency rules) applies for the purpose of giving effect to provision made by virtue of this Chapter as it applies for the purpose of giving effect to Parts 1 to 7 of that Act.
- (10) For that purpose—
- (a) the power to make rules in relation to England and Wales is exercisable by the Lord Chancellor with the concurrence of the Secretary of State and, in the case of rules that affect court procedure, with the concurrence of the Lord Chief Justice;
 - (b) the power to make rules in relation to Scotland is exercisable by the Secretary of State;
 - (c) references in section 411 of that Act to those Parts are to be read as including a reference to this Chapter.
- (11) Before making health special administration regulations the Secretary of State must consult—
- (a) Monitor, and
 - (b) such other persons as the Secretary of State considers appropriate.