



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 4

#### NHS FOUNDATION TRUSTS & NHS TRUSTS

##### *Failure*

#### **174 Trust special administrators**

- (1) In section 65A of the National Health Service Act 2006 (bodies to which trust special administration regime applies)—
  - (a) in subsection (1), for paragraphs (b) and (c) substitute—

“(b) any NHS foundation trust.”, and
  - (b) omit subsection (2).
- (2) For the title to section 65B of that Act substitute “NHS trusts: appointment of trust special administrator”.
- (3) In section 65D of that Act (NHS foundation trusts: regulator's notice), for subsections (1) to (3) substitute—
  - “(1) This section applies if the regulator is satisfied that an NHS foundation trust is, or is likely to become, unable to pay its debts.
  - (2) The regulator may make an order authorising the appointment of a trust special administrator to exercise the functions of the governors, chairman and directors of the trust.
  - (3) As soon as reasonably practicable after the making of an order under subsection (2), the Care Quality Commission must provide to the regulator a report on the safety and quality of the services that the trust provides under this Act.”
- (4) In subsection (4) of that section—
  - (a) for “giving a notice” substitute “making an order”,

**Changes to legislation:** Health and Social Care Act 2012, Section 174 is up to date with all changes known to be in force on or before 09 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) after paragraph (a) insert—
    - “(aa) the Board,”
  - (c) omit paragraph (b),
  - (d) in paragraph (c), omit “goods or”, and
  - (e) after paragraph (c) insert “, and
    - (d) the Care Quality Commission.”
- (5) After that subsection insert—
- “(5) An order under subsection (2) must specify the date when the appointment is to take effect, which must be within the period of 5 working days beginning with the day on which the order is made.
  - (6) The regulator must lay before Parliament (with the statutory instrument containing the order) a report stating the reasons for making the order.
  - (7) If the regulator makes an order under subsection (2), it must—
    - (a) appoint a person as the trust special administrator with effect from the day specified in the order, and
    - (b) publish the name of the person appointed.
  - (8) A person appointed as a trust special administrator under this section holds and vacates office in accordance with the terms of the appointment.
  - (9) A person appointed as a trust special administrator under this section must manage the trust's affairs, business and property, and exercise the trust special administrator's functions, so as to achieve the objective set out in section 65DA as quickly and as efficiently as is reasonably practicable.
  - (10) When the appointment of a trust special administrator under this section takes effect, the trust's governors, chairman and executive and non-executive directors are suspended from office; and Chapter 5 of this Part, in its application to the trust, is to be read accordingly.
  - (11) But subsection (10) does not affect the employment of the executive directors or their membership of any committee or sub-committee of the trust.
  - (12) The regulator may indemnify a trust special administrator appointed under this section in respect of such matters as the regulator may determine.”
- (6) For the title to that section substitute “NHS foundation trusts: appointment of trust special administrator”.
- (7) Omit the cross-heading preceding that section.

#### Commencement Information

**II** S. 174 in force at 1.11.2012 by [S.I. 2012/2657](#), [art. 2\(2\)](#)

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 174(2) omitted by [2012 c. 7 Sch. 14 para. 13\(2\)](#)
- 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. 1B inserted by [2022 c. 31 s. 96](#)
- s. 102(4)(ba) inserted by S.I. 2019/93, Sch. 1 para. 13(3) (as substituted) by [S.I. 2019/1245 reg. 28](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- 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. 250(2)-(2B) substituted for s. 250(2) by [2022 c. 31 s. 95\(2\)\(a\)](#)
- s. 250(6)-(6D) substituted for s. 250(6) by [2022 c. 31 s. 95\(2\)\(d\)](#)
- s. 251251ZA substituted for s. 251 by [2022 c. 31 s. 95\(3\)](#)
- s. 251C(6A) inserted by [2022 c. 31 s. 95\(4\)\(a\)](#)
- s. 259(1)(aa)(b) substituted for s. 259(1)(b) by [2022 c. 31 s. 98\(b\)](#)
- s. 259(1)(aa) words substituted by [S.I. 2023/98 Sch. para. 17\(11\)\(a\)\(iii\)](#) (This amendment comes in force at the same time as 2022 c. 31, s. 98 comes into force)
- s. 259(10A)(10B) inserted by [2022 c. 31 s. 98\(h\)](#)
- s. 304(5)(ja) inserted by [2022 c. 31 s. 95\(5\)](#)