

# HEALTH AND SOCIAL CARE ACT 2012

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3 - Regulation of Health and Adult Social Care Services**

#### *Chapter 6 – Financial assistance in special administration cases*

#### **Applications for Financial Assistance**

#### *Section 136 - Applications*

953. This section provides for the process by which a special administrator can make an application for financial assistance from Monitor.
954. *Subsection (2)* enables Monitor to specify the form of the application and the supporting evidence required. Monitor is required to either grant or refuse the application.
955. *Subsection (3)* requires that Monitor notifies a successful applicant of the purpose for which the financial assistance must be used, and the conditions attached, and *subsection (4)* requires that the special administrator may not use the assistance for any other purpose and must observe the conditions.
956. *Subsection (6)* obliges Monitor to notify an unsuccessful applicant of its reasons for refusing an application. If a special administrator requests a reconsideration of any refusal, Monitor must reconsider it and may request information from the applicant for that purpose. Any reconsideration must be carried out by individuals other than those who made the original decision to refuse the application (*subsection (7)*).
957. *Subsection (9)* provides that following reconsideration of an application, Monitor must notify the applicant of its decision and successful applicants must be notified of the purpose of the assistance and any conditions attached to it. Where the applicant is unsuccessful Monitor must give reasons for the refusal.
958. Financial assistance can be provided only during the period during which a provider was in special administration, however, it could be for a shorter time than the entire period (*subsection (5)*).

#### *Section 137 – Grants and loans*

959. This section prescribes the circumstances in which Monitor is able to give financial assistance in the form of loans or grants in response to an application from a special administrator. *Subsection (1)* provides that Monitor may only grant financial assistance if it is established that it is necessary to enable a provider to continue to provide some or all of the health care services that it provides for the purposes of the NHS or to secure a viable business to secure continued access to NHS services and that there is no other source of funding available.
960. *Subsection (3)* provides that Monitor would be able to grant financial assistance in whatever manner, and on whatever terms, it considered appropriate, subject to

*These notes refer to the Health and Social Care Act 2012  
(c.7) which received Royal Assent on 27 March 2012*

*subsection (2)*, which provides that those terms would have to include a term requiring the whole or a part of the grant to be repaid to Monitor if there were a contravention of the other terms.

961. *Subsections (4) and (5)* provide that Monitor is able to recover overpayments in the provision of grants and loans under this section. This includes a power to recover interest on the amount overpaid.