

# 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 3 – Licensing*

#### **Transitional provision**

#### *Section 113 – Orders under section 112: criteria for deciding applicable trusts*

858. This section sets out the process to be followed when the Secretary of State decides to make an order to release foundation trusts from Monitor’s transitional intervention powers. *Subsection (1)* provides that the Secretary of State must notify Monitor where he proposes to make an order releasing trusts from the powers in this way.
859. *Subsection (2)* provides that, where Monitor receives a notification under subsection (1), it must develop criteria to decide which foundation trusts should be released from its transitional intervention powers. *Subsection (3)* requires Monitor to consult the Care Quality Commission and other appropriate persons and to obtain the Secretary of State’s approval for the criteria before applying them.
860. *Subsection (4)* requires that, following approval by the Secretary of State, Monitor must publish the criteria. Monitor must apply the criteria to decide which foundation trusts should be released from the transitional intervention powers. Monitor must notify the Secretary of State about which foundation trusts it has determined should be released from the transitional powers and publish a list of those trusts.
861. *Subsection (5)* provides for a situation where the Secretary of State did not approve the criteria developed by Monitor under subsection (2). Monitor would have to propose revised criteria to the Secretary of State and repeat the process in subsections (3) and (4).
862. *Subsection (6)* requires the Secretary of State, on receiving notification from Monitor under subsection (4), to review Monitor’s determination about the trusts to be released.