

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Regulation of Health and Adult Social Care Services

Chapter 5 – Health special administration

Section 129 - Objective of a health special administration

926. *Subsection (1)* provides that the objective of health special administration is to secure the continued provision of certain NHS services provided by relevant providers, so that it becomes unnecessary for the health special administration order to remain in place. These services are those determined by the relevant commissioners in accordance with the criteria set out in the health special administration regulations.
927. *Subsection (2)* provides that the objective of health special administration may be achieved by either rescuing the provider as a going concern, so that it was able to continue in business, and/or the transfer of all or some of the services it provided to one or more alternative providers.
928. The section provides for a hierarchy in these two possible outcomes. The health special administrator is required to work towards rescuing the company as a going concern, under *subsection (5)*, and may only make transfers to the extent that:
- a rescue is not reasonably practicable at all or without the transfer of some services;
 - a rescue would not achieve the objective of health special administration or would not do so unless services were transferred;
 - transfers would produce a better result for the company's creditors as a whole; or
 - transfers would produce a better result for members without prejudicing the interest of creditors.