



National Health Service Act 2006

2006 CHAPTER 41

PART 2

HEALTH SERVICE BODIES

CHAPTER 5

NHS FOUNDATION TRUSTS

Functions

43 [^{F1}Provision of goods and services]

[^{F2}(1) The principal purpose of an NHS foundation trust is the provision of goods and services for the purposes of the health service in England.]

[^{F2}(2) An NHS foundation trust may provide goods and services for any purposes related to—

- (a) the provision of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness, and
- (b) the promotion and protection of public health.]

[^{F2}(2A) An NHS foundation trust does not fulfil its principal purpose unless, in each financial year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.]

(3) [^{F3}An] NHS foundation trust may also carry on activities other than those mentioned in [^{F4}subsection (2)]^{F5}... for the purpose of making additional income available in order better to carry on its principal purpose.

[^{F6}(3A) Each annual report prepared by an NHS foundation trust must give information on the impact that income received by the trust otherwise than from the provision of goods

Changes to legislation: National Health Service Act 2006, Cross Heading: Functions is up to date with all changes known to be in force on or before 19 April 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

and services for the purposes of the health service in England has had on the provision by the trust of goods and services for those purposes.

^{F7}(3B)

^{F8}(3C)

(3D) An NHS foundation trust which proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the health service in England may implement the proposal only if more than half of the members of the council of governors of the trust voting approve its implementation.]

^{F9}(4)

^{F9}(5)

^{F9}(6)

^{F9}(7)

Textual Amendments

- F1** S. 43 title substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. **164(5)**, 306(4); S.I. 2013/671, art. 2(3)
- F2** S. 43(1)-(2A) substituted for s. 43(1)(2) (1.10.2012) by Health and Social Care Act 2012 (c. 7), ss. **164(1)**, 306(4); S.I. 2012/1831, art. 2(2)
- F3** Word in s. 43(3) substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), ss. **164(2)(a)**, 306(4); S.I. 2012/1831, art. 2(2)
- F4** Words in s. 43(3) substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), ss. **164(2)(b)**, 306(4); S.I. 2012/1831, art. 2(2)
- F5** Words in s. 43(3) omitted (1.10.2012) by virtue of Health and Social Care Act 2012 (c. 7), ss. **164(2)(c)**, 306(4); S.I. 2012/1831, art. 2(2)
- F6** S. 43(3A)-(3D) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), ss. **164(3)**, 306(4); S.I. 2012/1831, art. 2(2)
- F7** S. 43(3B) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), ss. **63(1)(a)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 17, 29)
- F8** S. 43(3C) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), ss. **63(1)(a)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 17, 29)
- F9** S. 43(4)-(7) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), ss. **164(4)**, 306(4); S.I. 2013/671, art. 2(3)

44 [^{F10}Power to charge for accommodation etc.]

^{F11}(1)

^{F12}(2)

^{F13}(2A)

^{F14}(3)

^{F14}(4)

^{F14}(5)

Changes to legislation: National Health Service Act 2006, Cross Heading: Functions is up to date with all changes known to be in force on or before 19 April 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

- (6) According to the nature of its functions, an NHS foundation trust may, in the case of patients being provided with goods and services for the purposes of the health service, make accommodation or further services available for patients who give undertakings (or for whom undertakings are given) to pay any charges imposed by the NHS foundation trust in respect of the accommodation or services.
- (7) An NHS foundation trust may exercise the power conferred by subsection (6) only to the extent that its exercise does not to any significant extent interfere with the performance by the NHS foundation trust of its functions.

Textual Amendments

- F10** S. 44 title substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 165\(2\)](#), 306(4); S.I. 2012/1831, art. 2(2)
- F11** S. 44(1) omitted (1.10.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\), ss. 165\(1\)\(a\)](#), 306(4); S.I. 2012/1831, art. 2(2)
- F12** S. 44(2) omitted (1.10.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\), ss. 165\(1\)\(b\)](#), 306(4); S.I. 2012/1831, art. 2(2)
- F13** S. 44(2A) omitted (1.10.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\), ss. 165\(1\)\(c\)](#), 306(4); S.I. 2012/1831, art. 2(2)
- F14** S. 44(3)-(5) omitted (1.10.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\), ss. 165\(1\)\(d\)](#), 306(4); S.I. 2012/1831, art. 2(2)

F15 45 Protection of property

Textual Amendments

- F15** S. 45 omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), ss. 163\(7\)](#), 306(4); S.I. 2013/671, art. 2(3)

46 Financial powers

- (1) An NHS foundation trust may borrow money for the purposes of or in connection with its functions.
- F16**(2)
- F16**(3)
- (4) An NHS foundation trust may invest money (other than money held by it as trustee) for the purposes of or in connection with its functions.
- (5) The investment may include investment by—
 - (a) forming, or participating in forming, bodies corporate,
 - (b) otherwise acquiring membership of bodies corporate.
- (6) An NHS foundation trust may give financial assistance (whether by way of loan, guarantee or otherwise) to any person for the purposes of or in connection with its functions.

Changes to legislation: National Health Service Act 2006, Cross Heading: Functions is up to date with all changes known to be in force on or before 19 April 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

Textual Amendments

F16 S. 46(2)(3) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), ss. 163(8), 306(4); S.I. 2013/671, art. 2(3)

47 General powers

- (1) An NHS foundation trust may do anything which appears to it to be necessary or expedient for the purpose of or in connection with its functions.
- (2) In particular it may—
 - (a) acquire and dispose of property,
 - (b) enter into contracts,
 - (c) accept gifts of property (including property to be held on trust for the purposes of the NHS foundation trust or for any purposes relating to the health service),
 - (d) employ staff.
- (3) Any power of the NHS foundation trust to pay remuneration and allowances to any person includes power to make arrangements for providing, or securing the provision of, pensions or gratuities (including those payable by way of compensation for loss of employment or loss or reduction of pay).
- (4) “The purposes of the NHS foundation trust” means the general or any specific purposes of the trust (including the purposes of any specific hospital at or from which services are provided by the trust).

[^{F17}47A Joint exercise of functions

An NHS foundation trust may enter into arrangements for the carrying out, on such terms as the NHS foundation trust considers appropriate, of any of its functions jointly with any other person.]

Textual Amendments

F17 S. 47A inserted (1.7.2022) by Health and Care Act 2022 (c. 31), ss. 64, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

[^{F18}48 Information

- (1) The Secretary of State may require an NHS foundation trust to provide the Secretary of State with such information as the Secretary of State considers it necessary to have for the purposes of the functions of the Secretary of State in relation to the health service.
- [^{F19}(1A) An integrated care board may require any of its partner NHS foundation trusts to provide it with any information that it requires.]
- (2) [^{F20}Information required under this section must be provided in such form, and at such time or within such period, as may be specified by the person imposing the requirement.]]

Changes to legislation: National Health Service Act 2006, Cross Heading: Functions is up to date with all changes known to be in force on or before 19 April 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

Textual Amendments

- F18** S. 48 substituted (1.11.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 166**, 306(4); S.I. 2012/2657, art. 2(2) (with art. 10)
- F19** S. 48(1A) inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 25(3)(a)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30, 33)
- F20** S. 48(2) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 25(3)(b)**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30, 33)

^{F21}49 Entry and inspection of premises

.....

Textual Amendments

- F21** S. 49 omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 159(8)**, 306(4); S.I. 2013/671, art. 2(3)

[^{F22}50 Fees

An NHS foundation trust must pay to [^{F23}NHS England] such fee as [^{F23}NHS England] may determine in respect of its exercise of functions under—

- (a) section 39;
- (b) section 39A.]

Textual Amendments

- F22** S. 50 substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 163(9)**, 306(4); S.I. 2013/671, art. 2(3)
- F23** Words in s. 50 substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), **Sch. 5 para. 17**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

^{F24}51 Trust funds and trustees

.....

Textual Amendments

- F24** S. 51 omitted (17.6.2021) by virtue of [NHS \(Charitable Trusts Etc\) Act 2016 \(c. 10\)](#), **ss. 1(1)(a)**, 5(1); S.I. 2021/712, reg. 3(a)

[^{F25}51A Significant transactions

- (1) An NHS foundation trust may enter into a significant transaction only if more than half of the members of the council of governors of the trust voting approve entering into the transaction.

Changes to legislation: National Health Service Act 2006, Cross Heading: Functions is up to date with all changes known to be in force on or before 19 April 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

- (2) “Significant transaction” means a transaction or arrangement of such description as may be specified in the trust's constitution.
- (3) If an NHS foundation trust does not wish to specify any descriptions of transaction or arrangement for the purposes of subsection (2), the constitution of the trust must specify that it contains no such descriptions.]

Textual Amendments

F25 S. 51A inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 167, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

Changes to legislation:

National Health Service Act 2006, Cross Heading: Functions is up to date with all changes known to be in force on or before 19 April 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.

[View outstanding changes](#)

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):

- s. 3B(1)(aa) inserted by [2022 c. 31 Sch. 3 para. 2\(b\)](#)
- s. 3B(1)(za) inserted by [2022 c. 31 Sch. 3 para. 2\(a\)](#)
- s. 13G(4) words omitted by virtue of 2012 c. 7, Sch. 14 para. 4A (as inserted) by [2014 c. 23 s. 120\(18\)\(a\)](#)
- s. 35(3A)(3B) inserted by [2012 c. 7 s. 159\(4\)](#)
- s. 35(3A) words substituted by [2022 c. 31 Sch. 5 para. 12\(4\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 35(3A) by 2012 c. 7 s.159(4) not yet in force.)
- s. 40(4)-(4B) substituted for s. 40(4) by [2012 c. 7 Sch. 14 para. 5](#)
- s. 42(1A) inserted by [2012 c. 7 Sch. 14 para. 6](#)
- s. 65F(2A)-(2F) inserted by [2012 c. 7 Sch. 14 para. 15\(4\)](#) (This amendment is itself amended before it comes into force by 2014 c. 23, ss. 85(15), 120(18)(b)(c), 127(1); S.I. 2014/1714, art. 3(2)(b)(c))
- s. 65H(10A) inserted by [2012 c. 7 Sch. 14 para. 17\(4\)](#)
- s. 65H(10A) omitted by [2022 c. 31 Sch. 8 para. 7\(7\)](#) (This amendment not applied to legislation.gov.uk. 2012 c. 7 Sch. 14 revoked at 1.7.2022 by 2022 c. 31, s. 186(6), Sch. 7 para. 13 before the insertion of s. 65H(10A) could come into effect.)
- s. 82A-83A and cross-heading substituted for s. 83 and cross-heading by [2022 c. 31 Sch. 3 para. 3](#)
- s. 84(4)-(4B) substituted for s. 84(4) by [2022 c. 31 Sch. 3 para. 4\(4\)](#)
- s. 92(5A) inserted by [2022 c. 31 Sch. 3 para. 9\(4\)](#)
- s. 94(3)(ca)(cb) substituted for s. 94(3)(ca) by [2022 c. 31 Sch. 3 para. 11\(3\)](#)
- s. 98A98B substituted for s. 98A by [2022 c. 31 Sch. 3 para. 14](#)
- s. 98BC-99B and cross-heading substituted for s. 99 and cross-heading by [2022 c. 31 Sch. 3 para. 15](#)
- s. 100(3A)(3B) inserted by [2022 c. 31 Sch. 3 para. 16\(4\)](#)
- s. 109(3)(ca)(cb) substituted for s. 109(3)(ca) by [2022 c. 31 Sch. 3 para. 23\(3\)](#)
- s. 112(1)(za) inserted by [2022 c. 31 Sch. 3 para. 24\(2\)\(b\)](#)
- s. 114A114B substituted for s. 114A by [2022 c. 31 Sch. 3 para. 26](#)
- s. 114C and cross-heading inserted by [2022 c. 31 Sch. 3 para. 27](#)
- s. 116A116B and cross-heading inserted by [2022 c. 31 Sch. 3 para. 30](#)
- s. 117(4)(4A) substituted for s. 117(4) by [2022 c. 31 Sch. 3 para. 31\(4\)](#)
- s. 125A125B substituted for s. 125A by [2022 c. 31 Sch. 3 para. 39](#)
- s. 223C(1)(c)(d) inserted by [2022 c. 31 s. 28](#)
- s. 223LA inserted by [2022 c. 31 s. 30\(3\)](#)
- Sch. 15 para. 4(1)(b) and word omitted by [2012 c. 7 Sch. 14 para. 39\(3\)](#)