



National Health Service Act 2006

2006 CHAPTER 41

PART 2

HEALTH SERVICE BODIES

CHAPTER 5

NHS FOUNDATION TRUSTS

Miscellaneous

^{F1}58 Taxation

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Textual Amendments

F1 S. 58 repealed (with effect in accordance with s. 216(3)(4) of the amending Act) by [Finance Act 2012](#) (c. 14), s. 216(2)(b)

59 Conduct of elections

- (1) Regulations may make provision as to the conduct of elections for membership of the [^{F2}council of governors] of an NHS foundation trust.
- (2) The regulations may in particular provide for—
 - (a) nomination of candidates and obligations to declare their interests,
 - (b) systems and methods of voting, and the allocation of places on the [^{F3}council of governors], at contested elections,
 - (c) filling of vacancies,
 - (d) supervision of elections,

Changes to legislation: National Health Service Act 2006, Cross Heading: Miscellaneous 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

- (e) elections expenses and publicity,
 - (f) questioning of elections and the consequences of irregularities.
- (3) Regulations under this section may create offences punishable on summary conviction with a maximum fine not exceeding level 4 on the standard scale.
- (4) An NHS foundation trust must secure that its constitution is in accordance with regulations under this section.
- (5) Pending the coming into force of regulations under this section, elections for membership of the ^{F4}council of governors] of an NHS foundation trust, if contested, must be by secret ballot.

Textual Amendments

- F2** Words in s. 59(1) substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 151\(9\)\(a\), 306\(4\); S.I. 2012/1831, art. 2\(2\)](#)
- F3** Words in s. 59(2)(b) substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 151\(9\)\(a\), 306\(4\); S.I. 2012/1831, art. 2\(2\)](#)
- F4** Words in s. 59(5) substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 151\(9\)\(a\), 306\(4\); S.I. 2012/1831, art. 2\(2\)](#)

60 Voting and standing for election

- (1) A person may not vote at an election for the ^{F5}council of governors] of an NHS foundation trust unless, within the specified period, he has made a declaration in the specified form of the particulars of his qualification to vote as a member of the constituency, or class within a constituency, for which the election is being held.
- (2) A person may not stand for election to ^{F6}the council] unless—
- (a) he has within the specified period made a declaration in the specified form of the particulars of his qualification to vote as a member of the constituency, or class within a constituency, for which the election is being held, and
 - (b) he is not prevented from being a member of ^{F6}the council] by paragraph 8 of Schedule 7.
- (3) A person elected to ^{F6}the council] may not vote at a meeting of ^{F6}the council] unless—
- (a) he has within the specified period made a declaration in the specified form of the particulars of his qualification to vote as a member of the trust, and
 - (b) he is not prevented from being a member of ^{F6}the council] by paragraph 8 of Schedule 7.
- (4) This section does not apply to an election held for the staff constituency.
- (5) “Specified” means specified in the trust's constitution.
- (6) A person is guilty of an offence if he—
- (a) makes a declaration under this section which he knows to be false in a material particular, or
 - (b) recklessly makes such a declaration which is false in a material particular.
- (7) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

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Textual Amendments

- F5** Words in s. 60(1) substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 151\(9\)\(a\), 306\(4\); S.I. 2012/1831, art. 2\(2\)](#)
- F6** Words in s. 60(2)(3) substituted (1.10.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 151\(9\)\(b\), 306\(4\); S.I. 2012/1831, art. 2\(2\)](#)

61 Representative membership

[^{F7}(1)] [^{F8}An NHS foundation trust must] take steps to secure that (taken as a whole) the actual membership of any public constituency and (if there is one) of the patients' constituency is representative of those eligible for such membership.

[^{F9}(2) In deciding which areas are to be areas for public constituencies, or in deciding whether there is to be a patients' constituency, an NHS foundation trust must have regard to the need for those eligible for such membership to be representative of those to whom the trust provides services.]

Textual Amendments

- F7** S. 61(1): s. 61 renumbered as s. 61(1) (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), ss. 153\(1\), 306\(4\); S.I. 2013/160, art. 2\(2\) \(with arts. 7-9\)](#)
- F8** Words in s. 61(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), ss. 153\(1\), 306\(4\); S.I. 2013/160, art. 2\(2\) \(with arts. 7-9\)](#)
- F9** S. 61(2) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), ss. 153\(2\), 306\(4\); S.I. 2013/160, art. 2\(2\) \(with arts. 7-9\)](#)

62 Audit

Schedule 10 makes provision in relation to the audit of accounts of NHS foundation trusts.

63 General duty of NHS foundation trusts

An NHS foundation trust must exercise its functions effectively, efficiently and economically.

[^{F10}63A Duty to have regard to wider effect of decisions

(1) In making a decision about the exercise of its functions, an NHS foundation trust must have regard to all likely effects of the decision in relation to—

- (a) the health and well-being of the people of England;
- (b) the quality of services provided to individuals—
 - (i) by relevant bodies, or
 - (ii) in pursuance of arrangements made by relevant bodies,

for or in connection with the prevention, diagnosis or treatment of illness, as part of the health service in England;

- (c) efficiency and sustainability in relation to the use of resources by relevant bodies for the purposes of the health service in England.

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- (2) In subsection (1)—
- (a) the reference to a decision does not include a reference to a decision about the services to be provided to a particular individual for or in connection with the prevention, diagnosis or treatment of illness;
 - (b) the reference to effects of a decision in relation to the health and well-being of the people of England includes a reference to its effects in relation to inequalities between the people of England with respect to their health and well-being;
 - (c) the reference to effects of a decision in relation to the quality of services provided to individuals includes a reference to its effects in relation to inequalities between individuals with respect to the benefits that they can obtain from those services.
- (3) In discharging the duty under this section, NHS foundation trusts must have regard to guidance published by NHS England under section 13NB.
- (4) In this section “relevant bodies” means—
- (a) NHS England,
 - (b) integrated care boards,
 - (c) NHS trusts established under section 25, and
 - (d) NHS foundation trusts.]

Textual Amendments

F10 S. 63A inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 67**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with [regs. 13, 29, 30](#))

[^{F11}63B Duties in relation to climate change etc

- (1) An NHS foundation trust must, in the exercise of its functions, have regard to the need to—
- (a) contribute towards compliance with—
 - (i) section 1 of the Climate Change Act 2008 (UK net zero emissions target), and
 - (ii) section 5 of the Environment Act 2021 (environmental targets), and
 - (b) adapt to any current or predicted impacts of climate change identified in the most recent report under section 56 of the Climate Change Act 2008.
- (2) In discharging the duty under this section, NHS foundation trusts must have regard to guidance published by NHS England under section 13ND.]

Textual Amendments

F11 S. 63B inserted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), **ss. 68**, 186(6); S.I. 2022/734, reg. 2(a), Sch. (with [regs. 13, 29, 30](#))

Changes to legislation:

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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\(3\)](#)