



National Health Service Act 2006

2006 CHAPTER 41

PART 2

HEALTH SERVICE BODIES

CHAPTER 6

MISCELLANEOUS

Losses and liabilities of certain health service bodies

71 Schemes for meeting losses and liabilities etc of certain health service bodies

- (1) The Secretary of State may by regulations made with the consent of the Treasury establish a scheme whereby any of the bodies [^{F1}or other persons] specified in subsection (2) may make provision to meet—
- (a) expenses arising from any loss of or damage to their property, and
 - (b) liabilities to third parties for loss, damage or injury arising out of the carrying out of the functions of the bodies [^{F1}or other persons] concerned.
- (2) The bodies [^{F2} and other persons] referred to in subsection (1) are—
- ^{F3}(za) [^{F4}NHS England],
 - ^{F5}(zb) integrated care boards,]]
 - ^{F6}(a)
 - ^{F7}(b)
 - (c) NHS trusts,
 - (d) Special Health Authorities,
 - ^{F8}(da) NICE,]
 - ^{F9}(db)
 - ^{F10}(dc)
 - (e) NHS foundation trusts,

Changes to legislation: National Health Service Act 2006, Section 71 is up to date with all changes known to be in force on or before 20 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

- (f) [^{F11}the Care Quality Commission] , and
- [^{F12}(fa) the Health Research Authority;]
- [^{F13}(fb) the Health Services Safety Investigations Body,]
- ^{F14}(g)
- [^{F15}(ga) the Commissioner for Patient Safety,]
- [^{F16}(h) the Secretary of State,
- [a company formed under section 223 and wholly or partly owned by the
- ^{F17}(ha) Secretary of State or [^{F4}NHS England],
- (hb) a subsidiary of a company which is formed under that section and wholly owned by the Secretary of State,] and
- (i) a body or other person (other than a body or other person within any of [^{F18}paragraphs (za) to (hb)]) providing, or arranging the provision of, health services whose provision is the subject of arrangements with a body or other person within any of [^{F19}paragraphs (za) to (h)] ,]
- but a scheme under this section may limit the class or description of bodies which [^{F20}, or other persons who,] are eligible to participate in it.
- [^{F21}(2A) In subsection (1)(b) “functions”—
- (a) in relation to the Secretary of State, means the Secretary of State's functions in connection with the health service;
- [in relation to a company within paragraph (ha) or (hb) of subsection (2), means
- ^{F22}(ab) the company's activities in providing facilities or services to any person or body;]
- (b) in relation to a body or other person within paragraph (i) of subsection (2), means the body's or person's functions of providing, or arranging the provision of, health services whose provision is the subject of arrangements with a body or other person within any of [^{F23}paragraphs (za) to (h)] of that subsection.]
- (3) A scheme under this section may, in particular—
- (a) provide for the scheme to be administered by the Secretary of State [^{F24}or [^{F4}NHS England]] or by a ^{F25}... ^{F26}...NHS trust, Special Health Authority or NHS foundation trust specified in the scheme,
- (b) require any body which [^{F27}, or other person who,] participates in the scheme to make payments in accordance with the scheme, and
- (c) provide for the making of payments for the purposes of the scheme by the Secretary of State [^{F28} (whether or not a participator in the scheme and, if a participator, whether or not required to make payments as a participator)].
- (4) If the Secretary of State so directs, a body which is eligible to participate in a scheme must do so.
- [^{F29}(5) The Secretary of State may make a direction under subsection (4) in respect of a body only if the body is within any of paragraphs [^{F30}(c), (d)] [^{F31}and (f)] of subsection (2).]
- (6) Where a scheme provides for the scheme to be administered by the Secretary of State, [^{F32}[^{F4}NHS England] or] a ^{F33}... ^{F34}... NHS trust, Special Health Authority or NHS foundation trust must carry out such functions in connection with the administration of the scheme by the Secretary of State as he may direct.
- (7) Subsections (4) and (6) do not affect any other power of direction of the Secretary of State.

Changes to legislation: National Health Service Act 2006, Section 71 is up to date with all changes known to be in force on or before 20 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

(8) A person or body administering a scheme under this section does not require permission under any provision of the Financial Services and Markets Act 2000 (c. 8) as respects activities carried out under the scheme.

[^{F35}(9) In subsection (2)(i), the reference to a person providing health services does not include a person providing health services under a contract of employment.

(10) In this section “health services” means services provided as part of the health service.]

Textual Amendments

- F1** Words in s. 71(1) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(2)**, 170(3)(4); S.I. 2008/2497, art. 5
- F2** Words in s. 71(2) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(3)(a)**, 170(3)(4); S.I. 2008/2497, art. 5
- F3** S. 71(2)(za)(zb) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(2)(a)**; S.I. 2012/1831, art. 2(2)
- F4** Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 1 para. 1(1)(2)**; S.I. 2022/734, reg. 2(a), **Sch. (with regs. 13, 29, 30)**
- F5** S. 71(2)(zb) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 101**; S.I. 2022/734, reg. 2(a), **Sch. (with regs. 13, 29, 30)**
- F6** S. 71(2)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(2)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F7** S. 71(2)(b) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(2)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F8** S. 71(2)(da) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 17 para. 10(3)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F9** S. 71(2)(db) omitted (1.2.2023) by virtue of The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 10(4)** (with reg. 3)
- F10** S. 71(2)(dc) omitted (1.4.2023) by virtue of The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 1 para. 9(12)** (with reg. 7)
- F11** Words in s. 71(2)(f) substituted (1.4.2009) by Health and Social Care Act 2008 (c. 14), s. 170(3)(4), **Sch. 5 para. 85**; S.I. 2009/462, art. 2(1), **Sch. 1 para. 35(bb)**
- F12** S. 71(2)(fa) inserted (1.1.2015) by Care Act 2014 (c. 23), s. 127(1), **Sch. 7 para. 18(9)**; S.I. 2014/2473, art. 5(m)
- F13** S. 71(2)(fb) inserted (1.10.2023) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 15 para. 8(3)**; S.I. 2023/1035, reg. 2(c)
- F14** S. 71(2)(g) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 7 para. 19(a)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F15** S. 71(2)(ga) inserted (11.4.2021) by Medicines and Medical Devices Act 2021 (c. 3), s. 50(2)(a), **Sch. 1 para. 5(4)** (with **Sch. 1 para. 3(4)**)
- F16** S. 71(2)(h)(i) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(3)(b)**, 170(3)(4); S.I. 2008/2497, art. 5
- F17** S. 71(2)(ha)(hb) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(2)(d)**; S.I. 2012/1831, art. 2(2)
- F18** Words in s. 71(2)(i) substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(2)(e)(i)**; S.I. 2012/1831, art. 2(2)
- F19** Words in s. 71(2)(i) substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(2)(e)(ii)**; S.I. 2012/1831, art. 2(2)
- F20** Words in s. 71(2) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(3)(c)**, 170(3)(4); S.I. 2008/2497, art. 5

Changes to legislation: National Health Service Act 2006, Section 71 is up to date with all changes known to be in force on or before 20 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

- F21** S. 71(2A) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(4)**, 170(3)(4); S.I. 2008/2497, art. 5
- F22** S. 71(2A)(ab) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(3)(a)**; S.I. 2012/1831, art. 2(2)
- F23** Words in s. 71(2A)(b) substituted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(3)(b)**; S.I. 2012/1831, art. 2(2)
- F24** Words in s. 71(3)(a) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(4)(a)**; S.I. 2012/1831, art. 2(2)
- F25** Words in s. 71(3)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(4)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F26** Words in s. 71(3)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(4)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F27** Words in s. 71(3)(b) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(5)(a)**, 170(3)(4); S.I. 2008/2497, art. 5
- F28** Words in s. 71(3)(c) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(5)(b)**, 170(3)(4); S.I. 2008/2497, art. 5
- F29** S. 71(5) substituted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(6)**, 170(3)(4); S.I. 2008/2497, art. 5
- F30** Words in s. 71(5) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(5)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F31** Words in s. 71(5) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 7 para. 19(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F32** Words in s. 71(6) inserted (1.10.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(6)(a)**; S.I. 2012/1831, art. 2(2)
- F33** Words in s. 71(6) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(6)(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F34** Words in s. 71(6) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 18(6)(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F35** S. 71(9)(10) inserted (1.10.2008) by Health and Social Care Act 2008 (c. 14), **ss. 142(7)**, 170(3)(4); S.I. 2008/2497, art. 5

Modifications etc. (not altering text)

- C1** S. 71(2) modified (temp.) (1.10.2008) by Health and Social Care Act 2008 (Consequential Amendments and Transitory Provisions) Order 2008 (S.I. 2008/2250), arts. 1(1), **3(15)**

Changes to legislation:

National Health Service Act 2006, Section 71 is up to date with all changes known to be in force on or before 20 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 :

- s. 71(2)(c) omitted by [2012 c. 7 Sch. 14 para. 28\(a\)](#)
- s. 71(2)(f) word repealed by [2008 c. 14 Sch. 15 Pt. 4](#)
- s. 71(3) words omitted by [2012 c. 7 Sch. 14 para. 28\(b\)](#)
- s. 71(5) word omitted by [2012 c. 7 Sch. 14 para. 28\(c\)](#)
- s. 71(6) words omitted by [2012 c. 7 Sch. 14 para. 28\(b\)](#)

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\(3\)](#)