



Health Act 2009

2009 CHAPTER 21

PART 2

POWERS IN RELATION TO HEALTH BODIES

CHAPTER 1

POWERS IN RELATION TO FAILING NHS BODIES IN ENGLAND

Trust special administrators

17 Trust special administrators: Primary Care Trusts

After section 65O of the National Health Service Act 2006 (c. 41) (inserted by section 16) insert—

“CHAPTER 5B

TRUST SPECIAL ADMINISTRATORS: PRIMARY CARE TRUSTS

Appointment

65P Appointment of trust special administrator

- (1) The Secretary of State may give directions to a Primary Care Trust requiring the Primary Care Trust to appoint a trust special administrator to exercise on its behalf, to the extent, and subject to any conditions, specified in the directions, such provider functions of the Primary Care Trust as are specified in the directions.

Changes to legislation: *Health Act 2009, Section 17 is up to date with all changes known to be in force on or before 27 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) Directions may be given under subsection (1) only if the Secretary of State considers it appropriate in the interests of the health service.
- (3) The directions must specify—
 - (a) the date when the appointment is to take effect, which must be within the period of 5 working days beginning with the day on which the directions are given, and
 - (b) the name of the person to be appointed.
- (4) Before giving directions under subsection (1) the Secretary of State must consult—
 - (a) the Primary Care Trust,
 - (b) any Strategic Health Authority whose area includes any part of the Primary Care Trust's area, and
 - (c) any other person to which the Primary Care Trust provides goods or services under this Act and which the Secretary of State considers it appropriate to consult.
- (5) The Secretary of State must lay before Parliament (with the instrument containing the directions) a report stating the reasons for giving the directions.
- (6) Where a person is appointed pursuant to directions under subsection (1), the Secretary of State must publish the name of the person appointed.
- (7) A person appointed as a trust special administrator holds and vacates office in accordance with the terms of the appointment.
- (8) Directions under subsection (1) may require the appointment to be on terms specified in the directions.
- (9) The Primary Care Trust may pay the trust special administrator remuneration and expenses in accordance with the terms of the appointment.
- (10) In this section “provider function” means—
 - (a) any function of providing goods or services except to the extent that at the time of the appointment there are arrangements between the Primary Care Trust and another person or body under which the goods or services are, or are to be, provided by that person or body, and
 - (b) any function that is not a function of providing goods or services but that may be exercised for the purposes of a function within paragraph (a).

65Q Displacement of functions

- (1) When the appointment of a trust special administrator takes effect, the relevant functions cease to be exercisable by any committee, sub-committee or officer of the Primary Care Trust by whom they were previously exercisable.
- (2) Subsection (1) does not affect the employment of any officer of the Primary Care Trust.
- (3) In this Chapter “relevant functions” means the functions of the Primary Care Trust exercisable by the trust special administrator.

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Consultation and report

65R Draft report

- (1) Within the period of 45 working days beginning with the day on which a trust special administrator's appointment takes effect, the administrator must provide to the Secretary of State and publish a draft report stating the action which the administrator recommends the Secretary of State should take in relation to the performance of the relevant functions.
- (2) When preparing the draft report, the administrator must consult—
 - (a) any Strategic Health Authority whose area includes any part of the Primary Care Trust's area, and
 - (b) any other person to which the Primary Care Trust provides goods or services under this Act, if required by directions given by the Secretary of State.
- (3) After receiving the draft report, the Secretary of State must lay it before Parliament.

65S Consultation plan

- (1) At the same time as publishing a draft report under section 65R, a trust special administrator must publish a statement setting out the means by which the administrator will seek responses to the draft report.
- (2) The statement must specify a period of 30 working days within which the administrator seeks responses (the “consultation period”).
- (3) The first day of the consultation period must be within the period of 5 working days beginning with the day on which the draft report is published.

65T Consultation requirements

- (1) The following duties apply during the consultation period.
- (2) The trust special administrator must publish a notice stating that the administrator is seeking responses to the draft report and describing how people can give their responses.
- (3) A notice under subsection (2) must include details of how responses can be given in writing.
- (4) The trust special administrator must hold at least one meeting to seek responses from relevant staff and from such persons as the trust special administrator may recognise as representing relevant staff.
- (5) The trust special administrator must hold at least one other meeting to seek responses from any person who wishes to attend, after publishing notice of the date, time and place of the meeting.
- (6) Notices under subsections (2) and (5) must be published at least once in the first 5 working days of the consultation period.

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- (7) The trust special administrator must request a written response from—
 - (a) any Strategic Health Authority in whose area any part of the Primary Care Trust's area falls;
 - (b) any other person to which the Primary Care Trust provides goods or services under this Act, if required by directions given by the Secretary of State;
 - (c) any person within section 65H(8), if required by directions given by the Secretary of State.
- (8) The trust special administrator must hold at least one meeting to seek responses from representatives of each of the persons from whom the administrator must request a written response under subsection (7)(a) and (b).
- (9) The Secretary of State may direct a trust special administrator to—
 - (a) request a written response from any person;
 - (b) hold a meeting to seek a response from any person.
- (10) In subsection (4) “relevant staff” means persons employed by the trust or otherwise working for the trust (whether as or on behalf of a contractor, as a volunteer or otherwise), wholly or partly in connection with the relevant functions.

65U Final report

- (1) Within the period of 15 working days beginning with the end of the consultation period, the trust special administrator must provide to the Secretary of State a final report stating the action which the administrator recommends that the Secretary of State should take in relation to the performance of the relevant functions.
- (2) The administrator must attach to the final report a summary of all responses to the draft report which were received by the administrator in the period beginning with the publication of the draft report and ending with the last day of the consultation period.
- (3) After receiving the administrator's final report, the Secretary of State must publish it and lay it before Parliament.

65V Power to extend time

- (1) This section applies to—
 - (a) the duty of a trust special administrator to provide a draft report within the period specified in section 65R(1);
 - (b) the duty of a trust special administrator to consult in the consultation period specified under section 65S(2);
 - (c) the duty of a trust special administrator to provide a final report within the period specified in section 65U(1).
- (2) If the Secretary of State thinks it is not reasonable in the circumstances for the administrator to be required to carry out the duty within the specified period, the Secretary of State may by order extend the period.

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- (3) If an order is made extending the period mentioned in subsection (1)(a) or (c) the trust special administrator must publish a notice stating the new date on which the period will expire.
- (4) If an order is made extending the period mentioned in subsection (1)(b) the trust special administrator must—
 - (a) publish a notice stating the new date on which the period will expire, and
 - (b) publish a statement setting out the means by which the administrator will seek responses to the draft report during the extended consultation period.

Action by the Secretary of State

65W Secretary of State's decision

- (1) Within the period of 20 working days beginning with the day on which the Secretary of State receives a final report under section 65U, the Secretary of State must decide what action to take in relation to the performance of the relevant functions.
- (2) The Secretary of State must as soon as reasonably practicable—
 - (a) publish a notice of the decision and of the reasons for it;
 - (b) lay a copy of the notice before Parliament.

65X Removal of a trust special administrator

The Secretary of State may at any time give directions to a Primary Care Trust and a trust special administrator who exercises functions on behalf of the Primary Care Trust, requiring that the appointment of the administrator should come to an end with effect from a specified day.

Supplementary

65Y Replacement of trust special administrator

- (1) Where the Secretary of State has given directions under section 65P and, before the Secretary of State has published a decision under section 65W, the trust special administrator appointed under the directions (or whose appointment has effect as if made under the directions) ceases to hold office for any reason, the Secretary of State must—
 - (a) appoint another person as the trust special administrator, and
 - (b) publish the name of the person appointed.
- (2) An appointment under subsection (1) has effect as if made by the Primary Care Trust under the directions.
- (3) Where a person is appointed under subsection (1) in relation to a Primary Care Trust, anything done by or in relation to a previous trust special administrator has effect as if done by or in relation to that person, unless the Secretary of State directs otherwise.

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65Z Secretary of State's directions to trust special administrator

The Secretary of State may give directions to a trust special administrator about the exercise of functions under or by virtue of this Chapter.

65Z1 Guidance

- (1) The Secretary of State must publish guidance for trust special administrators.
- (2) It must include guidance about the publication of notices under sections 65T and 65V.
- (3) It must include guidance in relation to the preparation of draft reports, as to—
 - (a) persons to be consulted;
 - (b) factors to be taken into account;
 - (c) relevant publications.

65Z2 Directions

Directions under the following provisions of this Chapter must be laid before Parliament after they are given—

- (a) section 65P(1);
- (b) section 65X;
- (c) section 65Z.

65Z3 Interpretation of this Chapter

In this Chapter—

“relevant functions” has the meaning given in section 65Q(3);

“trust special administrator” means a person appointed under directions under section 65P(1) or under section 65Y(1)(a);

“working day” means any day which is not Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971.”

Commencement Information

II S. 17 in force at 15.2.2010 by S.I. 2010/30, art. 3(a)

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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. 2(6)(ca) inserted by [2022 c. 31 Sch. 3 para. 57\(b\)](#)
- s. 2(6)(ea) inserted by [2022 c. 31 Sch. 3 para. 57\(c\)](#)

Commencement Orders yet to be applied to the Health Act 2009

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2011/1255 art. 2](#) amendment to earlier commencing SI 2010/1068 art. 2