

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – NHS foundation trusts and NHS trusts

Abolition of NHS trusts

Section 179 – Abolition of NHS trusts in England

1106. This section repeals the legal framework that establishes NHS trusts in England. All NHS trusts should become foundation trusts as soon as clinically feasible. *Subsection (1)* therefore abolishes NHS trusts established under section 25 of the NHS Act and *subsection (2)* repeals Chapter 3 of Part 2 of the NHS Act. The section is to be commenced by order made by the Secretary of State.
1107. There is one circumstance under which an organisation could remain as an NHS trust after the NHS trust legislation is repealed. Under what is described as a franchise agreement (which is defined under this section), a franchisee assumes many of the risks and rewards of ownership. It will be required to deliver agreed outcomes as part of the franchise contract. Under the proposed terms of the contract, the trust will retain its NHS trust status. *Subsection (5)* provides the legislative basis that will enable an NHS trust whose functions are exercised under a franchise agreement to remain an NHS trust after the repeal of the NHS trust legislation. A trust could also retain its NHS trust status for up to three years after the franchise contract had ended in order for it to be authorised as a foundation trust, or for an alternative solution to be found.
1108. [Schedule 14](#) to this Act (abolition of NHS trusts in England: consequential amendments) makes the necessary consequential amendments to the NHS Act, and other relevant Acts.