



# Health and Social Care Act 2012

## 2012 CHAPTER 7

### PART 3

#### REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

### CHAPTER 6

#### FINANCIAL ASSISTANCE IN SPECIAL ADMINISTRATION CASES

##### *Establishment of mechanisms*

#### **134 Duty to establish mechanisms for providing financial assistance**

- (1) [F<sup>1</sup>NHS England] must establish, and secure the effective operation of, one or more mechanisms for providing financial assistance in cases where a provider of health care services for the purposes of the NHS (referred to in this Chapter as a “provider”) is subject to—
  - (a) a health special administration order (within the meaning of Chapter 5), or
  - (b) an order under section 65D(2) of the National Health Service Act 2006 (trust special administration for NHS foundation trusts).
- (2) Mechanisms that [F<sup>1</sup>NHS England] may establish under this section include, in particular—
  - (a) mechanisms for raising money to make grants or loans or to make payments in consequence of indemnities given by [F<sup>1</sup>NHS England] by virtue of section 132 or under section 65D(12) of the National Health Service Act 2006;
  - (b) mechanisms for securing that providers arrange, or are provided with, insurance facilities.
- (3) [F<sup>1</sup>NHS England] may secure that a mechanism established under this section operates so as to enable it to recover the costs it incurs in establishing and operating the mechanism.

*Status: This version of this cross heading contains provisions that are prospective.*

*Changes to legislation: Health and Social Care Act 2012, Cross Heading: Establishment of mechanisms 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*

- (4) [<sup>F1</sup>NHS England] may establish different mechanisms for different providers or providers of different descriptions.
- (5) [<sup>F1</sup>NHS England] does not require permission under any provision of the Financial Services and Markets Act 2000 as respects activities carried out under this Chapter.
- (6) An order under section 306 providing for the commencement of this Chapter may require [<sup>F1</sup>NHS England] to comply with the duty to establish under subsection (1) before such date as the order specifies.

#### Textual Amendments

- F1** Words in s. 134(1)–(6) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 78](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

#### Commencement Information

- II** [S. 134](#) partly in force; [s. 134](#) in force for specified purposes at Royal Assent, see [s. 306\(1\)\(d\)](#)

PROSPECTIVE

### 135 Power to establish fund

- (1) [<sup>F2</sup>NHS England] may, for the purposes of section 134, establish and maintain a fund.
- (2) In order to raise money for investment in a fund it establishes under this section, [<sup>F3</sup>NHS England] may impose requirements on providers or [<sup>F4</sup>integrated care boards].
- (3) [<sup>F5</sup>NHS England] must appoint at least two managers for a fund it establishes under this section.
- (4) A manager of a fund may be an individual, a firm or a body corporate.
- (5) [<sup>F6</sup>NHS England] must not appoint an individual as manager of a fund unless it is satisfied that the individual has the appropriate knowledge and experience for managing investments.
- (6) [<sup>F6</sup>NHS England] must not appoint a firm or body corporate as manager of a fund unless it is satisfied that arrangements are in place to secure that any individual who will exercise functions of the firm or body corporate as manager will, at the time of doing so, have the appropriate knowledge and experience for managing investments.
- (7) [<sup>F6</sup>NHS England] must not appoint an individual, firm or body corporate as manager of a fund unless the individual, firm or body is an authorised or exempt person within the meaning of the Financial Services and Markets Act 2000.
- (8) [<sup>F6</sup>NHS England] must secure the prudent management of any fund it establishes under this section.

#### Textual Amendments

- F2** Words in s. 135(1) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 79\(2\)](#); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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- F3** Words in s. 135(2) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 79(3)(a)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F4** Words in s. 135(2) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 79(3)(b)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F5** Words in s. 135(3) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 79(4)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F6** Words in s. 135(5)-(8) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 5 para. 79(4)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

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**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) amendment to earlier commencing SI 2012/1831 art. 10 by [S.I. 2012/2657 art. 15](#)

**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):

- Pt. 9 Ch. 1B inserted by [2022 c. 31 s. 96](#)
- s. 102(4)(ba) inserted by S.I. 2019/93, Sch. 1 para. 13(3) (as substituted) by [S.I. 2019/1245 reg. 28](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 105(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 21](#)
- s. 106(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 22](#)
- s. 250(2)-(2B) substituted for s. 250(2) by [2022 c. 31 s. 95\(2\)\(a\)](#)
- s. 250(6)-(6D) substituted for s. 250(6) by [2022 c. 31 s. 95\(2\)\(d\)](#)
- s. 251251ZA substituted for s. 251 by [2022 c. 31 s. 95\(3\)](#)
- s. 251C(6A) inserted by [2022 c. 31 s. 95\(4\)\(a\)](#)
- s. 259(1)(aa)(b) substituted for s. 259(1)(b) by [2022 c. 31 s. 98\(b\)](#)
- s. 259(1)(aa) words substituted by [S.I. 2023/98 Sch. para. 17\(11\)\(a\)\(iii\)](#) (This amendment comes in force at the same time as 2022 c. 31, s. 98 comes into force)
- s. 259(10A)(10B) inserted by [2022 c. 31 s. 98\(h\)](#)
- s. 304(5)(ja) inserted by [2022 c. 31 s. 95\(5\)](#)