

Status: This version of this provision is prospective.

Changes to legislation: Health and Social Care Act 2012, Section 128 is up to date with all changes known to be in force on or before 25 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



Health and Social Care Act 2012

2012 CHAPTER 7

PART 3

REGULATION OF HEALTH AND ADULT SOCIAL CARE SERVICES

CHAPTER 5

HEALTH SPECIAL ADMINISTRATION

PROSPECTIVE

128 Health special administration orders

- (1) In this Chapter “health special administration order” means an order which—
 - (a) is made by the court in relation to a relevant provider, and
 - (b) directs that the affairs, business and property of the provider are to be managed by one or more persons appointed by the court.
- (2) An application to the court for a health special administration order may be made only by [^{F1}NHS England].
- (3) A person appointed as mentioned in subsection (1)(b) is referred to in this Chapter as a “health special administrator”.
- (4) A health special administrator of a company—
 - (a) is an officer of the court, and
 - (b) in exercising functions in relation to the company, is the company's agent.
- (5) A person is not to be the health special administrator of a company unless the person is qualified to act as an insolvency practitioner in relation to the company.
- (6) A health special administrator of a relevant provider must manage its affairs, business and property, and exercise the health special administrator's functions, so as to—

Status: This version of this provision is prospective.

Changes to legislation: Health and Social Care Act 2012, Section 128 is up to date with all changes known to be in force on or before 25 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

- (a) achieve the objective set out in section 129 as quickly and as efficiently as is reasonably practicable,
 - (b) in seeking to achieve that objective, ensure that any regulated activity carried on in providing the services provided by the provider is carried on in accordance with any requirements or conditions imposed in respect of that activity by virtue of Chapter 2 of Part 1 of the Health and Social Care Act 2008,
 - (c) so far as is consistent with the objective set out in section 129, protect the interests of the creditors of the provider as a whole, and
 - (d) so far as is consistent with that objective and subject to those interests, protect the interests of the members of the provider as a whole.
- (7) In relation to a health special administration order applying to a non-GB company, references in this Chapter to the affairs, business and property of the company are references only to its affairs and business so far as carried on in Great Britain and to its property in Great Britain.
- (8) In this section—
- (a) a reference to a person qualified to act as an insolvency practitioner in relation to a company is to be construed in accordance with Part 13 of the Insolvency Act 1986 (insolvency practitioners and their qualifications);
 - (b) “regulated activity” has the same meaning as in Part 1 of the Health and Social Care Act 2008 (see section 8 of that Act).
- (9) In this Chapter—
- “business” and “property” each have the same meaning as in the Insolvency Act 1986 (see section 436 of that Act);
- “company” includes a company not registered under the Companies Act 2006;
- “court”, in relation to a company, means the court—
- (a) having jurisdiction to wind up the company, or
 - (b) that would have such jurisdiction apart from section 221(2) or 441(2) of the Insolvency Act 1986 (exclusion of winding up jurisdiction in case of companies incorporated in, or having principal place of business in, Northern Ireland);
- “member” is to be read in accordance with section 250 of the Insolvency Act 1986;
- “non-GB company” means a company incorporated outside Great Britain;
- “relevant provider” means a company which is providing services to which a condition included in the company's licence under section 97(1)(i), (j) or (k) applies;
- “wholly-owned subsidiary” has the meaning given by section 1159 of the Companies Act 2006.

Textual Amendments

F1 Words in s. 128(2) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 5 para. 74](#); [S.I. 2022/734](#), [reg. 2\(a\)](#), [Sch.](#) (with [regs. 13, 29, 30](#))

Status:

This version of this provision is prospective.

Changes to legislation:

Health and Social Care Act 2012, Section 128 is up to date with all changes known to be in force on or before 25 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 :

- 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\(5\)](#)