

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Regulation of Health and Adult Social Care Services

Chapter 5 – Health special administration

Section 128 - Health special administration orders

920. Health special administration could commence only by an order of the court on an application made by Monitor.
921. A health special administration order may only be sought against a company providing NHS services that is subject to specific licence conditions set by Monitor, under section 97(1)(i), (j) or (k), that relate to the continued provision of NHS services. Section 130 makes provision for the health special administration regulations to set out requirements for Monitor to publish and maintain details of relevant providers that are potentially within the scope of the health special administration regime.
922. Where the court makes a health special administration order, a health special administrator is appointed (*subsection (1)*). The health special administrator is an officer of the court and in carrying out their functions acts as the company's agent (*subsection (4)*). Only a qualified insolvency practitioner could be appointed as a health special administrator (*subsection (5)*).
923. Under *subsection (6)* the health special administrator is obliged to manage the affairs, business and property of the provider to achieve the objective of health special administration as quickly and efficiently as reasonably practicable.
924. In doing so, the health special administrator must ensure that the provider continues to comply with the requirements and conditions of the Care Quality Commission's provider registration regime (provided for in Part 1, Chapter 2 of the Health and Social Care Act 2008).
925. The health special administrator is also required to act in a manner that, insofar as it is consistent with the objectives of a health special administration, protects the interests of the creditors of the provider as a whole, and, subject to those interests, the interests of its members.