

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Regulation of Health and Adult Social Care Services

Chapter 6 – Financial assistance in special administration cases

Establishment of mechanisms

Section 135 - Power to establish fund

951. *Subsection (1)* enables Monitor to establish and maintain a fund for the purposes of providing financial assistance to providers in special administration and gives Monitor flexibility to determine the appropriate mechanisms (eg a risk-pool operated by Monitor and funded by contributions from providers and, subject to regulations, commissioners).
952. *Subsections (3) to (8)* impose requirements on Monitor about the management of any such fund. Monitor is required to secure the prudential management of any such fund and to appoint at least two fund managers. These could be individuals or firms but Monitor must be satisfied:
- in the case of an individual, that the individual has the appropriate knowledge and experience for managing the investments and is not disqualified under the Financial Services and Markets Act 2000, and
 - in the case of a firm, that arrangements are in place to ensure that any individual who exercises the firm's fund manager functions, at the time of doing so, has the appropriate knowledge and experience for managing the investments.