

*These notes refer to the Health and Social Care Act 2012
(c.7) which received Royal Assent on 27 March 2012*

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4 – NHS foundation trusts and NHS trusts

Failure

Section 173 – Repeal of de-authorisation provisions

1062. Under existing legislation, it is possible for unsustainable foundation trusts to be ‘de-authorised’. De-authorisation would cause a foundation trust to become an NHS trust, an outcome which would not be consistent with the policy that all NHS trusts are to become foundation trusts. This section repeals provision of the NHS Act which provides for the de-authorisation of foundation trusts. The effect of this is that an unsustainable foundation trust could continue to exist, as a foundation trust, during a period of special administration under this Act.
1063. This section removes the existing (and non-operational) arrangements regarding unsustainable foundation trusts set out in sections 53 to 55 of the NHS Act and removes references to these sections in other provisions of the Act.
1064. The section also removes references to NHS trusts created through de-authorisation of a foundation trust in section 206(1) of the National Health Service (Wales) Act 2006, and section 15 of the Health Act 2009.