



Health and Social Care Act 2012

2012 CHAPTER 7

PART 4

NHS FOUNDATION TRUSTS & NHS TRUSTS

Functions

164 Goods and services

- (1) In section 43 of the National Health Service Act 2006 (authorised services), for subsections (1) and (2) substitute—
- “(1) The principal purpose of an NHS foundation trust is the provision of goods and services for the purposes of the health service in England.
 - (2) An NHS foundation trust may provide goods and services for any purposes related to—
 - (a) the provision of services provided to individuals for or in connection with the prevention, diagnosis or treatment of illness, and
 - (b) the promotion and protection of public health.
 - (2A) An NHS foundation trust does not fulfil its principal purpose unless, in each financial year, its total income from the provision of goods and services for the purposes of the health service in England is greater than its total income from the provision of goods and services for any other purposes.”
- (2) In subsection (3) of that section (power to carry on other activities in order to generate additional income)—
- (a) for “The” substitute “An”,
 - (b) for “subsection (1)” substitute “subsection (2)”, and
 - (c) omit “, subject to any restrictions in the authorisation,”.
- (3) After that subsection insert—

Status: This is the original version (as it was originally enacted).

- “(3A) Each annual report prepared by an NHS foundation trust must give information on the impact that income received by the trust otherwise than from the provision of goods and services for the purposes of the health service in England has had on the provision by the trust of goods and services for those purposes.
- (3B) Each document prepared by an NHS foundation trust under paragraph 27 of Schedule 7 (forward plan) must include information about—
- (a) the activities other than the provision of goods and services for the purposes of the health service in England that the trust proposes to carry on, and
 - (b) the income it expects to receive from doing so.
- (3C) Where a document which is being prepared under paragraph 27 of Schedule 7 contains a proposal that an NHS foundation trust carry on an activity of a kind mentioned in subsection (3B)(a), the council of governors of the trust must—
- (a) determine whether it is satisfied that the carrying on of the activity will not to any significant extent interfere with the fulfilment by the trust of its principal purpose or the performance of its other functions, and
 - (b) notify the directors of the trust of its determination.
- (3D) An NHS foundation trust which proposes to increase by 5% or more the proportion of its total income in any financial year attributable to activities other than the provision of goods and services for the purposes of the health service in England may implement the proposal only if more than half of the members of the council of governors of the trust voting approve its implementation.”
- (4) Omit subsections (4) to (7) of that section (goods and services that may be authorised, etc.).
- (5) For the title to that section substitute “Provision of goods and services”.
- (6) In paragraph 2 of Schedule 7 to that Act (constitution), the existing text of which becomes sub-paragraph (1), after that sub-paragraph insert—
- “(2) If the corporation is an NHS foundation trust, the constitution must specify its principal purpose (as to which, see section 43(1)).”