

CARE ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Care standards

Quality of Services

Section 85 – Trust special administration: objective, consultation and reports

494. This section amends provisions in Chapter 5A of Part 2 of the National Health Service Act 2006 (in relation to trust special administrators for NHS foundation trusts) to bring within coverage the quality and safety of health care services. To achieve this, the objective of trust special administration, as laid down in section 65DA, has been broadened to include an additional requirement for the services, whose continuous provision is to be secured through special administration, to be of sufficient safety and quality (*subsection (1)*). The objective will apply to any foundation trust in special administration regardless of whether the order was made to resolve a financial failure or a serious failure to provide services of sufficient quality.
495. In particular, *subsection (2)* provides for the CQC to be added to the list in section 65F of persons that must be consulted before the trust special administrator provides a draft report to Monitor recommending the action to be taken by Monitor in relation to the trust. Also, the administrator may not provide a draft report to Monitor, under section 65F or 65G, unless the administrator has first obtained a statement from the CQC that the part of the objective relating to the quality of services has been met (*subsections (3) and (5)*). The intention is to ensure that the CQC is satisfied that the services which are to be continued to be provided by the foundation trust are of sufficient safety and quality.
496. Additionally, when considering the final report from the trust special administrator under section 65KB (or the re-submitted report under section 65KD), the Secretary of State must also be satisfied that the CQC has discharged its functions for the purposes of Chapter 5A (*subsection (8)*). If, on considering a re-submitted final report, the Secretary of State is not satisfied that the CQC has discharged its functions, the Secretary of State is able to use his powers under section 82 of the 2008 Act (failure by the CQC in discharge of functions) to intervene, which includes power to direct the CQC as to the carrying out of its functions (*subsection (14)*). *Subsection (15)* ensures that these provisions apply correctly once all NHS trusts have been abolished.