



NHS Management Executive
St. Andrew's House
Edinburgh EH1 3DG
24 June 1996

Dear Colleague

NHS (RESIDUAL LIABILITIES) ACT 1996

Summary

This letter confirms that the NHS (Residual Liabilities) Act 1996 received Royal Assent on 22 May and the Annex to this letter outlines the provisions made by the Act.

The Act makes provision in relation to liabilities outstanding when an NHS body ceases to exist, and has particular relevance to the private finance initiative. The Act removes any uncertainty about the transfer of liabilities and will provide reassurance to private sector partners in PFI projects with regard to the covenant of NHS bodies.

Action

The Act comes into effect immediately. The contents of the letter and Annex should be noted by senior managers and legal representatives of NHS bodies.

Yours sincerely

SIMON FEATHERSTONE

Director of Finance

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NHS (RESIDUAL LIABILITIES) ACT 1996

PROVISIONS

The Act places a duty on the Secretary of State, in the event of the dissolution of an NHS trust, or the abolition of a Health Board Authority or Special Health Board Authority, to secure that no liabilities remain untransferred. The Act sets out the NHS bodies, including the Secretary of State, to which the liabilities may be transferred.

The change brought about by the Act is of a technical nature in that it removes a discretion on the part of the Secretary of State that is largely theoretical. Prior to the passing of this legislation there had been no cases where the Secretary of State had not exercised his discretion to transfer trust property, rights or liabilities on their dissolution.

The Act makes provision in relation to England, with corresponding provisions for Scotland and Northern Ireland.

Section 1 places a duty on the Secretary of State for Health, in the event of an NHS trust, a Health Authority or a Special Health Authority ceasing to exist, to ensure that all its liabilities are dealt with. A liability is dealt with by being transferred to the Secretary of State, an NHS trust, a Health Authority or a Special Health Authority.

Section 2 makes corresponding provision in relation to NHS trusts, Health Boards and Special Health Boards in Scotland.

Section 3 makes procedural provision for any corresponding Order in Council to be made under the Northern Ireland Act 1974, subject to the negative resolution procedure.

Section 4 deals with extent and citation.