



# National Health Service (Scotland) Act 1978

## 1978 CHAPTER 29

### PART V

#### PROPERTY AND FINANCE

##### *Finance and accounts*

#### **[<sup>F1</sup>85B Schemes for meeting losses and liabilities etc. of certain health service bodies.**

(1) The Secretary of State may by regulations made with the consent of the Treasury establish a scheme whereby any of the bodies mentioned in subsection (2) may make provision to meet—

- (a) expenses arising from any loss of or damage to their property; and
- (b) liabilities to third parties for loss, damage (including solatium) or injury arising out of the carrying out of the functions of the bodies concerned.

(2) The bodies referred to in subsection (1) are—

- (a) Health Boards;
- (b) the Agency;
- (c) <sup>F2</sup> .....
- (d) NHS trusts <sup>F3</sup>[<sup>F4</sup> . . .
- (e) Special Health Boards][<sup>F5</sup>;

[ HIS;] and

<sup>F6</sup>(ea)

- (f) the Mental Welfare Commission for Scotland],

but a scheme under this section may limit the class or description of bodies which are eligible to participate in it.

[ The reference—

<sup>F7</sup>(2A)

*Status: Point in time view as at 01/04/2011. This version of this provision has been superseded.*

**Changes to legislation:** National Health Service (Scotland) Act 1978, Section 85B is up to date with all changes known to be in force on or before 04 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) in paragraph (a) of subsection (1) to property of HIS is to be construed as a reference to property held by HIS in connection with the exercise of its health service functions;
  - (b) in paragraph (b) of that subsection to the functions of HIS is to be construed as a reference to the health service functions of that body.]
- (3) Without prejudice to the generality of the power conferred by subsection (1), a scheme under this section may-
- (a) provide for the scheme to be administered by the Secretary of State, the Agency [<sup>F8</sup>HIS], or a Health Board or NHS trust specified in the scheme;
  - (b) require any body which participates in the scheme to make payments in accordance with the scheme; and
  - (c) provide for the making of payments for the purposes of the scheme by the Secretary of State.
- (4) Without prejudice to any other power of direction conferred on the Secretary of State,-
- (a) if the Secretary of State so directs, any body which is eligible to participate in a scheme shall do so; and
  - (b) where a scheme provides for it to be administered by the Secretary of State, the Agency [<sup>F9</sup>, HIS] or a Health Board or NHS trust shall carry out such functions in connection with the administration of the scheme as the Secretary of State may direct.
- (5) Neither the Secretary of State nor any body administering a scheme under this section shall, by virtue of their activities under the scheme, be regarded as [<sup>F10</sup>effecting or carrying out contracts of insurance for the purposes of the Financial Services and Markets Act 2000].]

#### Textual Amendments

- F1** S. 85B inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), **s. 41**
- F2** S. 85B(2)(c) repealed (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), arts. 1, 3, **Sch. 2**
- F3** Word in s. 85B(2) repealed (13.5.2002) by [2002 asp 5](#), **s.21(a)**; S.S.I. 2002/170, **art. 2**
- F4** S. 85B(2)(e) and the word preceding it inserted (1.10.1999) by [1999 c. 8, s. 65\(1\)](#), **Sch. 4 para. 56(b)**; S.S.I. 1999/90, **art. 2(a)(b)**, **Sch. 1**
- F5** S. 85B(2)(f) and the word preceding it inserted (13.5.2002) by [2002 asp 5](#), **s. 21(b)**; S.S.I. 2002/170, **art. 2(2)**
- F6** S. 85B(2)(ea) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **Sch. 17 para. 18(a)**; S.S.I. 2010/321, **art. 3, Sch.**; S.S.I. 2011/122, **art. 2, Sch.**
- F7** S. 85B(2A) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **Sch. 17 para. 18(b)**; S.S.I. 2010/321, **art. 3, Sch.**; S.S.I. 2011/122, **art. 2, Sch.**
- F8** Word in s. 85B(3)(a) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **Sch. 17 para. 18(c)**; S.S.I. 2010/321, **art. 3, Sch.**; S.S.I. 2011/122, **art. 2, Sch.**
- F9** Words in s. 85B(4)(b) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **Sch. 17 para. 18(d)**; S.S.I. 2010/321, **art. 3, Sch.**; S.S.I. 2011/122, **art. 2, Sch.**
- F10** Words in s. 85B(5) substituted (1.12.2001) by [S.I. 2001/3649](#), **arts. 1, 221**

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**Modifications etc. (not altering text)**

- C1** Ss. 85B, 86 applied (1.4.1991) by S.I. 1990/2639, art. 5(1)(2), **Sch. Pt. I**
- C2** S. 85B applied (1.4.1993) by S.I. 1993/577, art. 5(1)(2), **Sch. Pt. I** (with art. 6)
- S. 85B applied (1.4.1995) by S.I. 1995/574, art. 5(1)(2), **Sch. Pt. I** (with art. 6)
- S. 85B applied (1.4.1999) by S.I. 1999/686, art. 5(1)(2), **Sch. Pt. I**
- S. 85B applied (1.4.1999) by S.I. 1999/726, art. 5(1)(2), **Sch. Pt. I**
- S. 85B applied (1.4.2000) by S.S.I. 2000/47, art. 5(1)(2), **Sch. Pt. I**
- S. 85B applied (6.4.2001) by S.S.I. 2001/137, art. 5(1), **Sch. Pt. I**
- S. 85B applied (31.3.2002) by S.S.I. 2002/103, art. 6, **Sch. Pt. I** (with art. 4(4))
- S. 85B applied (27.6.2002) by S.S.I. 2002/305, art. 5(1), **Sch. Pt. I** (with art. 4(4))

**Status:**

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