

Status: Point in time view as at 01/02/1991. This version of this schedule contains provisions that are not valid for this point in time.

Changes to legislation: National Health Service and Community Care Act 1990, SCHEDULE 3 is up to date with all changes known to be in force on or before 28 June 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)

SCHEDULES

SCHEDULE 3

Section 9.

FINANCIAL PROVISIONS RELATING TO NHS TRUSTS

Borrowing

- 1 (1) Subject to the provisions of this paragraph and to any limit imposed under the following provisions of this Schedule, for the purpose of its functions an NHS trust may borrow (both temporarily, by way of overdraft, and longer term) from the Secretary of State or from any other person.
- (2) An NHS trust may not mortgage or charge any of its assets or in any other way use any of its assets as security for a loan.
- (3) Except with the consent of the Secretary of State, an NHS trust may not borrow in any currency other than sterling; and the Secretary of State shall not give his consent to any such borrowing except with the approval of the Treasury.
- (4) Interest on any sums borrowed from the Secretary of State by an NHS trust shall be paid at such variable or fixed rates and at such times as the Treasury may determine.
- (5) A rate of interest under sub-paragraph (4) above shall be determined as if section 5 of the ^{M1}National Loans Act 1968 had effect in respect of it and subsections (5) to (5B) of that section shall apply accordingly.
- (6) Subject to sub-paragraphs (4) and (5) above, the terms on which any sums are borrowed from the Secretary of State by an NHS trust shall be such as he may determine; and, in the event of the early repayment of any sums so borrowed, such terms may require the payment of a premium or allow a discount.

Modifications etc. (not altering text)

C1 [Sch. 3 para. 1\(3\)](#): Treasury approval requirement continued (W.) (1.7.1999) by [S.I. 1999/672](#), arts. 1(2), 2, [Sch. 1](#)

Marginal Citations

M1 [1968 c. 13](#).

Guarantees of borrowing

- 2 (1) The Secretary of State may guarantee, in such manner and on such conditions as, with the approval of the Treasury, he considers appropriate, the repayments of the

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principal of and the payment of interest on any sums which an NHS trust borrows from a person other than the Secretary of State.

- (2) Immediately after a guarantee is given under this paragraph, the Secretary of State shall lay a statement of the guarantee before each House of Parliament.
- (3) Where any sum is issued for fulfilling a guarantee so given, the Secretary of State shall lay before each House of Parliament a statement relating to that sum as soon as possible after the end of each financial year beginning with that in which the sum is issued and ending with that in which all liability in respect of the principal of the sum and in respect of interest on it is finally discharged.
- (4) If any sums are issued in fulfilment of a guarantee given under this paragraph, the NHS trust concerned shall make to the Secretary of State, at such times and in such manner as the Secretary of State may from time to time direct,—
 - (a) payments of such amounts as the Secretary of State with the consent of the Treasury so directs in or towards repayment of the sums so issued; and
 - (b) payments of interest, at such rates as the Secretary of State with the consent of the Treasury so directs, on what is outstanding for the time being in respect of sums so issued.

Limits on indebtedness

- 3 (1) The aggregate of all sums borrowed by NHS trusts [^{F1}which are required to provide services at or from], hospitals or other establishments or facilities which are situated in England shall not exceed £5,000 million or such other sum not exceeding £10,000 million as may be specified by order made by the Secretary of State with the consent of the Treasury.
- (2) The aggregate of all sums borrowed by NHS trusts [^{F1}which are required to provide services at or from], hospitals or other establishments or facilities which are situated in Wales shall not exceed £300 million or such other sum not exceeding £600 million as may be specified by order made by the Secretary of State with the consent of the Treasury.
- (3) The references in sub-paragraphs (1) and (2) above to sums borrowed do not include a reference to NHS trusts' initial loans.

Textual Amendments

F1 Words in Sch. 3 para. 3(1)(2) substituted (*retrospectively*) by 1999 c. 8, s. 13(9)(10); S.I. 1999/2540, art. 2(1)(a), Sch. 1; S.I. 1999/3184, art. 2(1), Sch. 1

- 3 (1) The aggregate of all sums borrowed by NHS trusts established to assume responsibility for the ownership and management of, or to provide and manage, hospitals or other establishments or facilities which are situated in England shall not exceed £5,000 million or such other sum not exceeding £10,000 million as may be specified by order made by the Secretary of State with the consent of the Treasury.
- (2) The aggregate of all sums borrowed by NHS trusts established to assume responsibility for the ownership and management of, or to provide and manage,

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hospitals or other establishments or facilities which are situated in Wales shall not exceed £300 million or such other sum not exceeding £600 million as may be specified by order made by the Secretary of State with the consent of the Treasury.

- (3) The references in sub-paragraphs (1) and (2) above to sums borrowed do not include a reference to NHS trusts' initial loans.

- 4 Any power to make an order under paragraph 3 above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

Additional public dividend capital

- 5 (1) If the Secretary of State, with the consent of the Treasury, considers it appropriate to do so, he may, instead of making a loan to an NHS trust under paragraph 1 above, pay an amount to the trust as public dividend capital.
- (2) Section 9 of this Act shall apply to public dividend capital paid to an NHS trust under this paragraph as it applies to public dividend capital forming part of the trust's originating capital debt.

Modifications etc. (not altering text)

- C2** [Sch. 3 para. 5](#): Treasury consent requirement continued (W.) (1.7.1999) by [S.I. 1999/672](#), [arts. 1\(2\), 2](#), [Sch. 1](#)

VALID FROM 01/08/2001

Supplementary payments

[^{F2}5A (1) If the Secretary of State considers it appropriate to do so, he may make a payment to the trust.

- (2) The payment may be subject to such conditions as he thinks fit to impose, including conditions as to repayment.]

Textual Amendments

- F2** [Sch. 3 para. 5A](#) inserted (1.8.2001 for E. and 1.7.2002 for W.) by [2001 c. 15, s. 3\(1\)](#), (with ss. 64(9), 65(4)); [S.I. 2001/2804](#), [art. 2\(1\)\(a\)](#); [S.I. 2002/1475](#), [art. 2\(1\)](#), [Sch. Pt. 1](#)

Surplus funds

- 6 If it appears to the Secretary of State that any amount standing in the reserves of an NHS trust is surplus to its foreseeable requirements, the trust shall, if the Secretary

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of State with the approval of the Treasury and after consultation with the trust so directs, pay that amount into the Consolidated Fund.

Modifications etc. (not altering text)

C3 Sch. 3 para. 6 modified (W.) (1.7.1999) by S.I. 1999/672, arts. 1(2), 2, Sch. 1

Investment

7 An NHS trust may not invest any money held by it except in securities of the Government of the United Kingdom or in such other manner as the Secretary of State may with the consent of the Treasury approve.

Modifications etc. (not altering text)

C4 Sch. 3 para. 7: Treasury consent requirement continued (W.) (1.7.1999) by S.I. 1999/672, arts. 1(2), 2, Sch. 1

VALID FROM 01/09/1999

[^{F38} Any direction under section 17 of the principal Act with respect to—
 (a) the power conferred on an NHS trust by paragraph 1 above; or
 (b) the maximum amount which an NHS trust may invest in any investments or class of investments,
 may be given only with the consent of the Treasury.]

Textual Amendments

F3 Sch. 3 para. 8 inserted (1.9.1999 for E. and 1.4.2000 for W.) by 1999 c. 8, s. 65(1), Sch. 4 paras. 74, 84(4); S.I. 1999/2342, art. 2(1), Sch. 1; S.I. 2000/1026, art. 2(1), Sch.

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