

*Status: Point in time view as at 21/05/2010.*

**Changes to legislation:** National Health Service (Wales) Act 2006, SCHEDULE 4 is up to date with all changes known to be in force on or before 18 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)

## SCHEDULES

### SCHEDULE 4

Section 21

#### FINANCIAL PROVISION ABOUT NHS TRUSTS ESTABLISHED UNDER SECTION 18

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

- C1** Sch. 4 modified (temp.) (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 5, 8(2), **Sch. 3 para. 10(6)** (with Sch. 3 Pt. 1)

##### *Originating capital of NHS trusts*

- 1 (1) Each NHS trust has an originating capital of an amount specified in an order made by the Welsh Ministers.
- (2) The originating capital of an NHS trust is an amount representing the excess of the valuation of its assets over the amounts of its liabilities.
- (3) In determining the originating capital of an NHS trust, there must be left out of account such assets or liabilities as are, or are of a class, determined for the purposes of this paragraph by the Welsh Ministers with the consent of the Treasury.
- (4) An NHS trust's originating capital is deemed to have been issued out of moneys paid out of the Welsh Consolidated Fund and is an asset of the Welsh Consolidated Fund.
- (5) An NHS trust's originating capital is public dividend capital.
- (6) With the consent of the Treasury, the Welsh Ministers may determine—
- (a) the dividend which is payable at any time on any public dividend capital issued, or treated as issued, to an NHS trust under this Act,
  - (b) the amount of any such public dividend capital which must be repaid at any time,
  - (c) any other terms on which any public dividend capital is so issued, or treated as issued.
- (7) An order under sub-paragraph (1) may be made only with the consent of the Treasury.
- (8) In this paragraph—
- “assets” means the assets which, on or in connection with the establishment of the NHS trust, are or will be transferred to it (whether before, on or after its operational date), and
  - “liabilities” means the liabilities which are or will be so transferred.

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### *Financial obligations of NHS trusts*

- 2
- (1) Each NHS trust must ensure that its revenue is not less than sufficient, taking one financial year with another, to meet outgoings properly chargeable to revenue account.
  - (2) Each NHS trust must achieve such financial objectives as may from time to time be set by the Welsh Ministers with the consent of the Treasury and as are applicable to it.
  - (3) Any such objectives may be made applicable to NHS trusts generally, or to a particular NHS trust or to NHS trusts of a particular description.

### *Borrowing*

- 3
- (1) For the purpose of its functions an NHS trust may borrow (both temporarily, by way of overdraft, and longer term) from the Welsh Ministers or from any other person.
  - (2) Sub-paragraph (1) is subject to any direction given by the Welsh Ministers under section 19, to the provisions of this paragraph and to any limit imposed under this Schedule.
  - (3) 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.
  - (4) The Welsh Ministers must determine the terms of any loan made by them to an NHS trust (including terms as to the payment of interest, if any).

### *Guarantees of borrowing*

- 4
- (1) The Welsh Ministers may guarantee, in such manner and on such conditions as they consider appropriate the repayments of the principal of, and the payment of interest on, any sums which an NHS trust borrows from a person other than the Welsh Ministers.
  - (2) Immediately after a guarantee is given under this paragraph, a statement of the guarantee must be laid before the National Assembly for Wales.
  - (3) Where any sum is issued for fulfilling a guarantee so given, a statement relating to that sum must be laid before the National Assembly for Wales 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 must make to the Welsh Ministers, at such times and in such manner as they may from time to time direct—
    - (a) payments of such amounts as the Welsh Ministers so direct in or towards repayment of the sums so issued, and
    - (b) payments of interest, at such rates as the Welsh Ministers so direct, on what is outstanding for the time being in respect of sums so issued.

### *Limits on indebtedness*

- 5
- The aggregate of all sums borrowed by NHS trusts which are required to provide or manage services at or from hospitals or other establishments or facilities which are

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situated in Wales must not exceed £300 million or such other sum not exceeding £600 million as may be specified by order made by the Welsh Ministers.

*Additional public dividend capital*

- 6 The Welsh Ministers may, with the consent of the Treasury, instead of making a loan to an NHS trust under paragraph 3, pay an amount to the NHS trust as public dividend capital.

*Supplementary payments*

- 7 (1) The Welsh Ministers may make a payment to an NHS trust.  
(2) The payment may be subject to such conditions as they consider appropriate, including conditions as to repayment.

*Surplus funds*

- 8 (1) If it appears to the Welsh Ministers that any sum held by an NHS trust otherwise than as trustee is surplus to its foreseeable requirements, the trust must, if the Welsh Ministers after consultation with the NHS trust so direct, pay that sum to the Welsh Ministers.  
(2) Sub-paragraph (1) applies only where the NHS trust is established to assume responsibility for the ownership and management of, or to provide and manage, hospitals or other establishments or other facilities which are situated in Wales; otherwise, the payment must be made to the Consolidated Fund.

*Investment*

- 9 (1) An NHS trust has power to invest money held by it in any investments, including investments which do not produce income, specified in directions under section 19.  
(2) Sub-paragraph (1) does not apply in relation to money held by an NHS trust as trustee.
- 10 Any direction under section 19 with respect to 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.

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