

EXPLANATORY NOTE

(This note is not part of the Regulations)

The NHS Existing Liabilities Scheme covers clinical negligence claims made against NHS bodies in England in respect of clinical negligence liabilities arising from an act or omission that took place prior to 1st April 1995. It was established by the National Health Service (Existing Liabilities Scheme) Regulations 1996 (“the 1996 Regulations”).

This instrument consolidates the 1996 Regulations and the instruments which amended them, in respect of their application to England. Regulation 11 revokes those instruments but regulation 11(2) saves the 1996 Regulations to a certain extent: where a claim in respect of liability is made before the coming into force of these Regulations but the payment falls to be made on or after that time, the 1996 Regulations apply in relation to both the determination as to whether the Scheme applies, and whether a payment is to be made, in respect of that liability.

Regulation 12(1) provides that where a period of time specified in the 1996 Regulations is current, and the corresponding provision in these Regulations also states a period of time, these Regulations apply as if the corresponding provision of these Regulations had been in effect at the start of the period.

Regulation 12(2) provides that these Regulations rather than the 1996 Regulations apply in relation to certain circumstances despite those circumstances arising before the coming into force of these Regulations.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.