

HEALTH AND SOCIAL CARE ACT 2008

EXPLANATORY NOTES

BACKGROUND AND SUMMARY

Part 5 – Miscellaneous

Indemnity schemes in connection with provision of health services

44. Schemes can be set up through regulations made under section 71 of the NHS Act 2006 for meeting losses and liabilities of NHS bodies. These schemes can meet:
 - expenses arising from any loss or damage to their property; or
 - liabilities to third parties for loss, damage or injury arising out of the carrying out of the functions of the bodies concerned.
45. The NHS Act 2006 limits the membership of the schemes to specified individual NHS bodies or groups of NHS bodies. Current schemes cover clinical negligence, liabilities to third parties, and property expenses.
46. When these liability schemes were first established, the vast majority of NHS care was provided directly by NHS bodies. However, in recent years, non-NHS bodies have started to deliver NHS care, and the Secretary of State for Health also procures some health services directly. Section 142 will enable the regulations that establish the Clinical Negligence Scheme for Trusts to be amended to take account of these recent developments in the delivery of NHS care, so that the Secretary of State and non-NHS bodies treating NHS patients can benefit from the same cover that is available to NHS bodies in the unfortunate event that a liability arises.