

**EXPLANATORY MEMORANDUM TO THE
NATIONAL HEALTH SERVICE LIABILITIES SCHEMES AMENDMENT
REGULATIONS**

2005 No. 604

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument amends liabilities schemes operated by the National Health Service Litigation Authority (NHSLA) in order to expand the coverage of the schemes so that they may cover certain arrangements made for securing the the provision of services including the provision of services outside England and Wales . .

2.2 The schemes are further amended in order to include the Health Protection Agency (HPA) as an eligible body able to participate in the schemes and to omit references to the Public Health Laboratory Service Board from 1 April 2005.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The SI amends the National Health Service (Clinical Negligence Scheme) Regulations 1996 (CNS Regulations), the National Health Service (Existing Liabilities Scheme) Regulations 1996 (ELS Regulations), the National Health Service (Liabilities to Third Parties Scheme) Regulations 1999 (LTPS Regulations) and the National Health Service (Property Expenses Scheme) Regulations 1999 (PES Regulations). The Secretary of State is exercising powers under section 21 of the NHS and Community Care Act 1990 and section 126(4) of the NHS Act 1977.

4.2 The CNS Regulations are further amended and the LTPS Regulations and PES Regulations are amended to provide for additional coverage by the Schemes.

4.3 The definition of “relevant person” in the LTPS Regulations is amended to include an employee or agent of a person engaged by a member of the LTPS Scheme.

4.4 The CNS Regulations, ELS Regulations, LTPS Regulations and PES Regulations are each amended to include the Health Protection Agency as an eligible body able to participate in the Schemes.

4.5 The CNS Regulations and ELS Regulations are amended to remove references to the Public Health Laboratory Service Board which is dissolved from 1 April 2005.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 Not applicable

7. Policy background

7.1 The Department of Health has introduced initiatives to facilitate the treatment of NHS patients elsewhere in the European Union in certain cases where this is considered best to meet the patient's needs. This SI ensures that NHS bodies and NHS staff involved in these initiatives remain covered by the liabilities schemes, even where the treatment is provided elsewhere than in England and Wales.

7.2 The Health Protection Agency is changing status from a Special Health Authority to an Executive Non Departmental Public Body (ENDPB) from 1 April 2005. This SI allows the HPA ENDPB to maintain eligibility for the liabilities schemes operated by the NHSLA.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Margaret Stanton at the Department of Health Tel: 0113 2546429 or e-mail: Margaret.Stanton@dh.gsi.gov.uk can answer any queries regarding the instrument.