



National Health Service and Community Care Act 1990

1990 CHAPTER 19

PART I

THE NATIONAL HEALTH SERVICE: ENGLAND AND WALES

National Health Service trusts

- 9 Originating capital debt of, and other financial provisions relating to NHS trusts**
- (1) Each NHS trust shall have an originating capital debt of an amount specified in an order made by the Secretary of State, being an amount representing, subject to subsection (2) below, the excess of the valuation of the assets which, on or in connection with the establishment of the trust, are or are to be transferred to it (whether before, on or after its operational date) over the amounts of the liabilities which are or are to be so transferred.
 - (2) In determining the originating capital debt of an NHS trust, there shall be left out of account such assets or, as the case may be, liabilities as are, or are of a class, determined for the purposes of this section by the Secretary of State, with the consent of the Treasury.
 - (3) An NHS trust's originating capital debt shall be deemed to have been issued out of moneys provided by Parliament and shall constitute an asset of the Consolidated Fund.
 - (4) In accordance with an order under subsection (1) above, an NHS trust's originating capital debt shall be divided between—
 - (a) a loan on which interest shall be paid at such variable or fixed rates and at such times as the Treasury may determine; and
 - (b) public dividend capital.
 - (5) The loan specified in subsection (4)(a) above is in this Part of this Act referred to as an NHS trust's "initial loan" and a rate of interest on the initial loan shall be determined as

Status: This is the original version (as it was originally enacted).

if section 5 of the National Loans Act 1968 had effect in respect of it and subsections (5) to (5B) of that section shall apply accordingly.

- (6) Subject to subsections (4)(a) and (5) above, the terms of the initial loan shall be such as the Secretary of State, with the consent of the Treasury, may determine; and, in the event of the early repayment of the initial loan, the terms may require the payment of a premium or allow a discount.
- (7) With the consent of the Treasury, the Secretary of State may determine the terms on which any public dividend capital forming part of an NHS trust's originating capital debt is to be treated as having been issued, and, in particular, may determine the dividend which is to be payable at any time on any public dividend capital.
- (8) An order under subsection (1) above shall be made—
 - (a) with the consent of the Treasury; and
 - (b) by statutory instrument.
- (9) Schedule 3 to this Act shall have effect with respect to—
 - (a) borrowing by NHS trusts;
 - (b) the limits on their indebtedness;
 - (c) the payment of additional public dividend capital to them; and
 - (d) the application of any surplus funds of NHS trusts.