EXPLANATORY MEMORANDUM

This Explanatory Memorandum is laid before Parliament by Command of Her Majesty.

Government Resources and Accounts Act 2000 (Summarised Accounts of Special Health Authorities) Order 2004 No.1416

[This Order is subject to Negative Resolution]

POWERS

The above instruments are made in exercise of powers conferred upon HM Treasury by sections 25(6), 25(7) and 25(10) and section 14 of the Government Resources and Accounts Act 2000.

COMPATIBILITY WITH CONVENTION RIGHTS

The Financial Secretary to the Treasury states that, in her view, the provisions of the Government Resources and Accounts Act 2000 (Audit of Health Service Bodies) Order 2004 and the Government Resources and Accounts Act 2000 (Summarised Accounts of Special Health Authorities) Order 2004 are compatible with the Convention Rights.

REASON FOR THE ORDERS

Until 2002-2003, individual Special Health Authorities prepared their own annual accounts, which were subject to audit by auditors appointed by the Audit Commission. They were then submitted to the Department of Health who prepared separate NHS Summarised Accounts for each of the Special Health Authorities from the underlying accounts. Following any changes that the Department might have made to ensure consistency across NHS bodies and to take account of recent events, the Comptroller and Auditor General (C&AG) examined and certified the Summarised Accounts and laid them before Parliament together with his report on the accounts. Those arrangements thus required two sets of accounts to be prepared for each Special Health Authority, and in effect for each Authority to be audited twice.

In order to remove the dual audit burden, in 2003, the Government legislated to make the Comptroller and Auditor General the auditor of the accounts of those Special Health

Authorities then in existence[1]. It also legislated to provide that they did not need to prepare summarized accounts[2].

Four new Special Health Authorities have since been created – listed in the Annex - and the intention of the 2004 Orders is to avoid a similar situation of dual audit arrangements. Thus these Orders will provide for the C&AG to become the statutory auditor of all the individual Special Health Authorities and for these accounts to be laid before Parliament, together with his report on those accounts. Also, there will be no requirement for the new bodies to prepare summarised accounts by section 98(4) of the National Health Act 1977, with the exception of two Special Health Authorities which, due to the nature of their financing, will remain outside the scope of the relevant Order-making power until Whole of Government Accounting is introduced in due course.

These arrangements are proposed to take effect from the 2003-2004 financial year for the NHSU (which was established on 1 December 2003) and NHS Professionals (which was established on 1 January 2004) and 2004-2005 and subsequent financial years for the other bodies that were established on 1 April 2004.

REGULATORY IMPACTS AND COSTS

A Regulatory Impact Assessment (RIA) setting out the impact that the 2003 Orders were expected to have on bodies and individuals potentially affected by them was deposited in the Libraries of both Houses on 3 April 2003.

The RIA acknowledged a concern on the part of some Special Health Authorities about a potential loss of continuity of audit experience and a potential increase in costs for the bodies themselves. But it noted that the C&AG was already familiar with this area, and that the level of audit fees charged to the bodies should not increase, as there will be no increase in their audit burden. The RIA also noted that there would be a reduction in costs for the Department of Health, as the summarised Accounts would no longer need to be prepared for all but two of the Special Health Authorities.

The RIA concluded that the 2003 arrangements would result in clear and continuing net benefits to the stakeholders in terms of a simplified auditing framework, reduced audit burdens and the maintenance of full accountability to Parliament.

We believe that the conclusions reached in the 2003 RIA hold good, and do not propose to carry out a separate RIA for the 2004 Orders.

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[1] The Government Resources and Accounts Act 2000 (Audit of Health Service Bodies) Order 2003 (SI/2003/1324)

[2] The Government Resources and Accounts Act 2000 (Summarised Accounts of Special Health Authorities) Order 2003 (SI/2003/983)

APPLICABILITY

The Orders will apply throughout the UK. They do not, however, affect the powers of the Auditors General for Scotland or Wales or of the Comptroller and Auditor General of Northern Ireland.

POINT OF CONTACT

The point of contact for questions on the Orders is: David Barton, Treasury Officer of Accounts Team - Tel No. 020 7270 5365.

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24 May 2004

ANNEX TO EXPLANATORY MEMORANDUM

List of Special Health Authorities

NHSU

*NHS Direct

*NHS Professionals Special Health Authority

NHS Pensions Agency

* Summarised accounts will continue to be prepared for these SpHAs.