

To: Business Committee

From: Brian Gibbons AM
Minister for Health & Social Services

EXPLANATORY MEMORANDUM

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

THE NHS BUSINESS SERVICES AUTHORITY (AWDURDOD GWASANAETHAU BUSNES Y GIG) (AMENDMENT) REGULATIONS 2006

Summary

These Regulations amend the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) Regulations 2005. The principal Regulations made provision concerning the membership and procedure of the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG), a Special Health Authority established under the National Health Service Act 1977 by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Amendment) Regulations 2006, in accordance with Standing Order 25 (section 3).
2. A copy of the Instrument is submitted with this Memorandum.

Enabling Powers

3. The powers enabling this Instrument to be made are contained in section 126(4) of, and paragraph 12 of Schedule 5 to, the National Health Service Act 1977. The functions of the Secretary of State (in practice the Secretary of State for Health) under the above mentioned provisions of the 1977 Act have been transferred to the National Assembly for Wales by Article 2(a) of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999. As such the functions in relation to the NHSBSA will be exercised by both the Assembly and the Secretary of State on a combined basis. Responsibility for issues relating to the contents of the Regulations has been delegated to my portfolio as Minister for Health and Social Services. The decision to make these Regulations together with the Secretary of State is based on the fact that the amendments relate to the establishment and constitution of cross border Special Health Authorities, which also provide some services to Wales.

Effect

4. These Regulations will amend the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) Regulations 2005 as follows:

- Regulation 2 substitutes a new definition of the “NHS Pension Scheme” and inserts a related definition of the “NHS Injury Benefits Scheme”;
- Regulation 3 provides that if suspended from post, a Chief Executive of the Authority would also be suspended as a member of that Authority;
- Regulation 4 provides for the disqualification from appointment as Chair and from non-officer membership of the Authority of anyone convicted of certain specified offences within the previous 5 years; and
- Regulation 5 provides for the disqualification from appointment of anyone removed from the management of Scottish Charities – in line with England and Wales.

Target Implementation

5. It is intended that the proposed Instrument be made on 28 February 2006 and laid before Parliament, in order for it to come into force on 1 April 2006 when additional functions will transfer to the NHSBSA. Given the increased functions of the NHSBSA post 1 April 2006, the membership will need to be increased to take account of the BSA’s new role and therefore the two should coincide.

Financial Implications

6. There are no additional financial implications for the Assembly, or others as a result of these Regulations.

Regulatory Appraisal

7. As this Instrument falls outside the definition of Assembly general subordinate legislation in section 58 of the Government of Wales Act 1998 a Regulatory Appraisal is not required to be undertaken.

Consultation

With Stakeholders

8. The legislation is as a result of proposals contained within the Arm’s Length Bodies (ALB) review and implementation framework, which has previously been subject to consultation in England (see Annex A). However, discussions on the impact of the changes were carried out by both Ministers and officials and key stakeholders, including those in Wales and the NHSBSA and its predecessor organisations, have been involved throughout the discussion of the changes proposed and the development of these Regulations.

With Subject Committee

9. These Regulations were notified to the Health and Social Services Committee, via the list of forthcoming legislation, on 19 January 2006 (HSS(2)-01-06(p.3a), item no: HSS6(06)), but were not identified for detailed scrutiny.

Recommended Procedure

10. Subject to the views of the Business Committee, I recommend that these Regulations proceed to Plenary under the Accelerated procedure, because this is combined England and Wales legislation, which is seeking to merge the role and function of the existing bodies into one new organisation.

Compliance

11. The proposed legislation will (as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 section 120);
- be compatible with the Assembly's scheme for sustainable development (section 121);
- be compatible with Community law (section 106);
- be compatible with the Assembly's human rights legislation (section 107); and
- be compatible with any international obligations binding the UK Government and the Assembly (section 108).

12. The information in this Memorandum has been cleared by the Directorate of Legal Services and by the Assembly Compliance Office (ACO).

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BRIAN GIBBONS AM
MINISTER FOR HEALTH AND SOCIAL SERVICES

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Department of Health Reconfiguration of ALBs

“Arm’s length bodies” (ALBs) are stand-alone national organisations sponsored by the Department of Health undertaking executive functions. The work they undertake ranges from back office administrative functions to complex ethical or clinical-related work. Examples of their long list of functions are: paying dentists; countering fraud; blood collection and processing; ensuring the ethical conduct of embryology research and infertility treatment; maintaining surveillance to detect emergence of new diseases like SARS; improving the safety of care; and reducing the number of mistakes that can prove fatal to patients.

ALBs range widely in size but normally have boards, employ staff and publish accounts. ALBs are accountable to DH and sometimes directly to Parliament. Most of the ALBs receive substantial funding from DH.

The wider network of ALBs built up over the years was viewed as too cumbersome in the context of the devolution of power away from the centre. To remain relevant, the ALB sector was to reflect the shifting balance of power towards frontline staff and patients. It needed to be coherent and fit for purpose in this context. This thinking was the basis of the first thorough-going review of ALBs for many years.

The Department of Health’s ALB Implementation Framework built on *Reconfiguring the Department of Health’s Arm’s Length Bodies*, the report of the ALB Review published on 22 July 2004. It was developed in discussion with ALBs, staff interest groups, devolved administrations and other stakeholders

A robust change management programme was put in place to deliver the 5 key drivers behind the Review:

- Devolution to the frontline
- Appropriate impact for minimal burden
- The Gershon Efficiency Review
- The Lyons Review of public sector re-location
- Taking an overview of ALBs across the health and social care system

The streamlined ALB sector of the future will continue to work on behalf of DH (and often the Devolved Administrations) in support of frontline health and social care services.

The July Report concluded that there was an opportunity to cut the number of ALBs from 38 to 20 by 1 April 2008, including:

NHS Business Services Authority

This Authority will provide the main processing facility and centre of excellence for payment, reimbursement, remuneration and reconciliation for NHS patients, employees and other affiliated parties