

2005 No. []

**NATIONAL HEALTH SERVICE, ENGLAND AND
WALES**

**NHS Blood and Transplant (Gwaed a Thrawsblaniadau'r GIG)
(Establishment and Constitution) Order 2005**

Made - - - - 2005
Laid before Parliament 2005
Coming into force - - 1st October 2005

The Secretary of State for Health in relation to England, and the National Assembly for Wales in relation to Wales, in exercise of the powers conferred by sections 11(1), (2) and (4) and 126(4) of, and paragraph 9(7)(b) of Schedule 5 to, the National Health Service Act 1977(a), and now vested in them and of all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as NHS Blood and Transplant (Gwaed a Thrawsblaniadau'r GIG) (Establishment and Constitution) Order 2005 and shall come into force on 1st October 2005.

(2) In this Order—

“the Act” means the National Health Service Act 1977;

“the appropriate authority” means—

(a) in relation to England, the Secretary of State; and

(b) in relation to Wales, the National Assembly for Wales; and

“the Authority” means NHS Blood and Transplant (Gwaed a Thrawsblaniadau'r GIG) established by this Order.

(a) 1977 c.49; section 11 was amended by section 2(1) of, and paragraph 2 of Schedule 1 to, the Health Authorities Act 1995 (c.17) (“the 1995 Act”) and section 65 of, and paragraphs 4 and 6 of Schedule 4 to, the Health Act 1999 (c.8) (“the 1999 Act”); section 126(4) was amended by section 65(2) of the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), section 65(1) of, and paragraphs 4 and 37(1) and (6) of Schedule 4 to, the 1999 Act, section 67(1) of, and paragraphs 5(1) and (13)(b) of Schedule 5 to, the Health and Social Care Act 2001 (c.15) (“the 2001 Act”), sections 6(3)(c) and 37(1) of, and paragraphs 1 and 10(a) of Schedule 8 to, the National Health Service Reform and Health Care Professions Act 2002 (c.17) (“the 2002 Act”), and section 184 of, and paragraph 38 of Schedule 11 and Part 4 of Schedule 14 to, the Health and Social Care (Community Health and Standards) Act 2003 (c.43) (“the 2003 Act”); sub-paragraph (7) was inserted in paragraph 9 of Schedule 5 by section 1 of, and paragraph 7(2) of Schedule 1 to, the 1990 Act and amended by section 2(1) of, and paragraph 60(b) of Schedule 1 to, the 1995 Act and section 1(3) of, and paragraphs 1, 34(1) and (3)(b) of Schedule 1 to the 2002 Act The functions of the Secretary of State under these provisions are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(4) and (5)(a) of the 1999 Act, section 67(a) of, and paragraph 12(1) and (3) of Schedule 5 to, the Health and Social Care Act 2001 (c.15) (“the 2001 Act”) and section 196 of, and Part 4 of Schedule 14 to, the Health and Social Care (Community Health and Standards) Act 2003 (c.43) on a date to be appointed.

Establishment of the Authority

2. There is hereby established a Special Health Authority which shall be known as NHS Blood and Transplant (Gwaed a Thrawsblaniadau'r GIG).

Functions of the Authority

3.—(1) Subject to and in accordance with such directions as the appropriate authority may give to the Authority(a), the Authority shall so as to promote or secure the effective provision of services under the Act perform such functions in connection with —

- (a) collecting, screening, analysing, processing and supplying blood, blood products, plasma, stem cells and other tissues to the health service;
- (b) the preparation of blood components and reagents;
- (c) facilitating, providing and securing the provision of services to assist tissue and organ transplantation;
- (d) such other functions,

as the appropriate authority may direct.

Constitution of the Authority

4.—(1) The Authority shall consist of—

- (a) a chairman;
- (b) not more than eight members who are not officers of the Authority in addition to the chairman;
- (c) not more than eight members who are officers of the Authority including the persons who for the time being hold the office of chief executive, director of finance and medical director.

(2) The members mentioned in paragraph (1)(b) above shall include a person with particular experience suited to the interests of Wales.

Remuneration of members

5. The Authority is hereby specified for the purposes of paragraph 9(7)(b) of Schedule 5 to the Act (definition of “relevant authority” for the purposes of paying remuneration to members of certain Special Health Authorities).

Public meetings

6. The Public Bodies (Admission to Meetings) Act 1960(b) shall apply to the Authority.

Consequential Amendment Regulations

7. The amendments in the Schedule are made in consequence of the establishment of the Authority.

Signed by authority of the Secretary of State for Health

(a) See, in particular, sections 16D, 17 and 18 of the National Health Service Act 1977 (c.49); section 16D was inserted by section 12(1) of the 1999 Act and amended by sections 1(3), 3(1) and (2) of, and paragraphs 1 and 6(a) of Schedule 1 to, the 2002 Act; section 17 was inserted by section 12(1) of the 1999 Act and amended by section 67(1) of, and paragraph 5(1) and (3) of Schedule 5 to, the 2001 Act and section 1(3) of, and paragraphs 1 and 7 of Schedule 1 to, the 2002 Act; section 18 was amended by sections 2(1), 5(1) and 3(8) of, and paragraph 9(b) and (c)(ii) of Schedule 1 and Schedule 3 to, the 1995 Act, section 12(3) and (4) of the 1999 Act and sections 1(3), 3(1), (5)(a) and (b) and 37(2) of, and paragraphs 1 and 9 of Schedule 1 and Part 1 of Schedule 9 to, the 2002 Act.

(b) 1960 c.67; see paragraph 1(g) of the Schedule to the Act, which was inserted by paragraph 91 of Schedule 1 to the 1995 Act.

Date

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(a)

The Presiding Officer of the National Assembly

Date

SCHEDULE

Article 7

AMENDMENTS CONSEQUENTIAL ON THE ESTABLISHMENT OF THE NHS BLOOD AND TRANSPLANT (GWAED A THRAWSBLANIADAU'R GIG)

The National Health Service Trusts (Membership and Procedure) Regulations 1990

1. In regulation 11(5) of the National Health Service Trusts (Membership and Procedure) Regulations 1990(b) (disqualification for appointment of chairman and non-executive directors) after sub-paragraph (g), insert –

“(h) the NHS Blood and Transplant (Gwaed a Thrawsblaniadau'r GIG).”.

The Health Authorities (Membership and Procedure) Regulations 1996

2. In Schedule 2 to the Health Authorities (Membership and Procedure) Regulations 1996(c) (Special Health Authorities of which the chairman and members are not disqualified under regulation 10(1)(g)) insert in the appropriate alphabetical place “NHS Blood and Transplant (Gwaed a Thrawsblaniadau'r GIG).”.

The Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000

3. In Schedule 1 to the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000(d) (Special Health Authorities of which the chairman and members are not disqualified under regulation 5(1)(e)) insert in the appropriate alphabetical place “NHS Blood and Transplant (Gwaed a Thrawsblaniadau'r GIG).”.

(a) 1998 c.38.

(b) S.I. 1990/2024; relevant amending statutory instruments are S.I. 1997/2990, S.I. 2000/2434 and S.I. 2001/2629.

(c) S.I. 1996/707; relevant amending statutory instruments are S.I. 1999/946 and S.I. 2000/696.

(d) S.I. 2000/89; relevant amending statutory instrument is S.I. 2002/38.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the establishment and constitution of a Special Health Authority, to be known as NHS Blood and Transplant (Gwaed a Thrawsblaniadau'r GIG) ("the Authority"), to exercise functions in connection with the collecting, screening, processing and supplying and analysing of blood, blood products, plasma, stem cells and other tissues, the preparation of blood components and reagents and facilitating, providing and securing the provision of services to assist tissue and organ transplantation and such other functions as the Secretary of State and the National Assembly for Wales may direct it to perform.

Article 2 of the Order establishes the Authority, the functions of which are described in article 3 and are to be specified more particularly in directions given by the Secretary of State and the National Assembly for Wales. Provision is also made for the constitution of the Authority (article 4), for the remuneration of its members (article 5), and for the admission of the public to meetings (article 6). Article 7 and the Schedule make provision to ensure that a member of the Authority is not disqualified from membership of certain other NHS bodies.