

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) (ESTABLISHMENT AND CONSTITUTION) (AMENDMENT) ORDER 2006

Summary

This Order amends the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005 by extending the functions of the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) and by increasing and widening the membership of the Authority.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) (Amendment) Order 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 sections 11(1), (2) and (4) and 126(3) & (4) of 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 Order has been delegated to my portfolio as Minister for Health and Social Services. The decision to make this Order 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. The Order makes the following amendments to the NHS Business Services Authority (NHSBSA) Establishment Order:

- Article 3 confers on the NHSBSA functions previously carried out by the NHS Pensions Agency, the Prescription Pricing Authority, the Dental Vocational Training Authority, the National Health Service Logistics Authority and the Counter and Security Management Service and the Dental Practice Board. All of these Arms Length Bodies are to be abolished on 1 April 2006 by Order of the Secretary of State, apart from the Dental Practice Board, which is to be abolished by virtue of section 181 of the Health and Social Care (Community Health and Standards) Act 2003 and the NHS Pensions Authority, which is to be abolished by the NHS Pensions Agency (Asiantaeth Pensiynau'r Gig) Abolition Order 2006; and
- Article 4 amends the constitution of the Authority by increasing the membership and providing that the non-officer members of the Authority must include a person with particular experience suited to the interests of Wales.

Target Implementation

5. It is intended that the proposed Instrument be made on 28 February 2006 and then laid before Parliament, in order for it to come into force on 1 April 2006. Any delay in making this Order would mean that the functions of the various bodies that are being abolished could not be transferred to the Business Services Authority, resulting in a loss of service provision and regulation in Wales.

Financial Implications

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

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 this Amendment Order.

With Subject Committee

9. The Order was 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: HSS5(06)), but was not identified for detailed scrutiny.

Recommended Procedure

10. Subject to the views of the Business Committee, I recommend that this Order proceeds 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

FEBRUARY 2006

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