EXPLANATORY MEMORANDUM TO

THE NHS BUSINESS SERVICES AUTHORITY (AWDURDOD GWASANAETHAU BUSNES Y GIG) (ESTABLISHMENT AND CONSTITUTION) AMENDMENT ORDER 2007

2007 No. 1201

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument amends the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005 to give the NHS Business Services Authority ("the BSA") the new function, previously carried out by the General Social Care Council ("GSCC"), of administering in England the Social Care Bursary Scheme.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The BSA, a Special Health Authority, was established jointly by the Secretary of State and the Assembly for Wales on 1 October 2005 (by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005 (S.I. 2005/2414)). The 2005 Order was amended jointly by the Secretary of State and the Assembly for Wales to confer new functions upon the BSA in April 2006 (by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) (Amendment) Order 2006 (S.I. 2006/632)).

4.2 This Order has been made by the Secretary of State, exercising powers under section 28(2) and 273(1) of the National Health Service Act 2006 to confer a further function upon the BSA in relation to England only.

5. Territorial Extent and Application

5.1 This instrument applies to England only.

5.2 This amendment applies to the administration of the Social Care Bursary Scheme in England only. The Care Council for Wales administers the Social Care Bursary Scheme in Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 An Arm's Length Bodies Review, published in July 2004, considered the organisation and functions of the Department's Arm's Length Bodies (stand-alone national organisations sponsored by the Department of Health). The Review recommended that the administration of the Social Care Bursary Scheme, delegated by the Secretary of State to the GSCC, be transferred to the students grant unit of the NHS Pensions Agency. The students' grants unit manages the NHS Bursary Scheme in England. The BSA took on the functions of the NHS Pensions Agency, when that Agency was abolished, from April 2006. The function of administering the Social Care Bursary Scheme is therefore being transferred to the BSA.

7.2 This is simply a change of administrator for this administrative scheme.

7.3 A project board was set up to oversee the transfer of this administrative scheme. The project board was governed by DH and consisted of representatives from DH social work education and Arms Length Bodies policies, the General Social Care Council and the NHS Business Service Authority. Although GSCC staff affected by the transfer had been aware of the transfer for some time and regularly informed of progress, the project board tasked the GSCC (who as the employer were the best placed body) to carry out, on behalf of the Secretary of State, a formal consultation, in liaison with NHS BSA, with those staff and their representative bodies in accordance with section 28(7) of the NHS Act 2006.

7.4 The consultation took place over a two week period and involved representatives from GSCC, NHS BSA, directly employed staff, agency staff and trade union representatives. During the consultation the GSCC responded to questions from stakeholders relating to the nature of the opportunities with NHS BSA and with general information relating to the organisation, its operations and location.

Clarification was given about the transfer process and the protection of terms and conditions of employment, including specific information relating to pension scheme provision. There were also questions raised about redundancy and redeployment opportunities within the GSCC and wider Government networks and staff were provided with information about this. Further questions were raised in relation to career transition training offered by the GSCC and in response the training provision was extended to include longer serving agency workers. Other issues covered were the support for relocation that would be made available should staff chose to relocate from the GSCC offices in London to the NHS BSA offices in Newcastle.

The consultation process was successful in enabling staff to make decisions about their future and the transfer to NHS BSA and the outcome was that staff and their representative bodies were content.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is nil.

9. Contact

Lindsey Proctor at the Department of Health Tel:0113 2545803 or email: Lindsey.Proctor@dh.gsi'gov.uk can answer any queries regarding the instrument.