EXPLANATORY MEMORANDUM TO THE

NHS BUSINESS SERVICES AUTHORITY (AWDURDOD GWASANAETHAU BUSNES Y GIG) (ESTABLISHMENT AND CONSTITUTION) ORDER 2005

2005 No. 2414

AND THE

NHS BUSINESS SERVICES AUTHORITY (AWDURDOD GWASANAETHAU BUSNES Y GIG) REGULATIONS 2005

2005 No. 2415

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 The Establishment and Constitution Order establishes a new Special Health Authority named the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG). The Establishment Order also makes provision for the constitution and functions of the Authority.

2.2 The regulations make provision for the membership and procedures of the new body.

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

3.1 None.

4. Legislative Background

4.1 The Establishment Order and the regulations have been made jointly by the Secretary of State and the National Assembly for Wales.

4.2 The Secretary of State for Health is exercising powers under section 11(1),(2) and (4) of and paragraph 9(7)(b) of Schedule 5 to the NHS Act 1977 to establish a new Special Health Authority.

4.3 The Regulations relating to the membership and procedures of the new Authority are made by the Secretary of State under her powers in sections 16(4) and 126(4) of and paragraphs 10,12 and 16 of Schedule 5 to the NHS Act 1977.

5. Extent

5.1 This instrument applies to England and Wales

6. European Convention on Human Rights

Not applicable

7. Policy background

7.1 The then Secretary of State for Health, John Reid, announced his intention to carry out a review of the Department's arm's length bodies (ALBs) at the Health Select Committee on 30 October 2003. He announced overall parameters for the review on 20 May 2004:

- a 50 per cent reduction in the number of arm's length bodies;
- savings in expenditure of £0.5bn;
- a reduction in posts of 25 per cent.

On 22 July 2004 the report "Reconfiguring the Department of Health's Arm's Length Bodies" was published, which set out the Government's conclusions based on the analysis of the review and the input of the ALBs. The Implementation Framework document, published on 30 November 2004, set out the principles, processes and timescales by which we will implement the ALB change programme.

The review and rationalisation of the ALBs is the first phase of a programme to overhaul the way the Department works with all the stakeholders in the health and social care system. Stakeholder bodies and some of the formally-sponsored arm's length organisations in particular will have an increasingly significant role in protecting health and regulating healthcare in this country, and Ministers want to ensure that these roles reflect current expectations while at the same time reducing the burden of oversight and bureaucracy on front-line services in health and social care. The department's review of its ALBs will lead to a rationalisation of their numbers and remits in order to deliver:

- appropriate impact for minimal burden;
- public sector efficiency and minimisation of the bureaucratic overhead;
- devolution;
- closer working between health and social care;
- re-location.

The review and rationalisation of the ALB sector will create a number of new Special Health Authorities ("SpHAs") through dissolution and consolidation of existing ALBs. One such SpHA is the NHS Business Services Authority ("BSA") that will be created

through the dissolution and merging of functions from the NHS Pensions Agency, Prescription Pricing Authority (PPA), Dental Practice Board (DPB) and the NHS Counter Fraud and Security Management Service (CFSMS).

7.2 Although the BSA will be established in October 2005, the four transferring ALBs will not be abolished nor transfer their staff, assets and functions across to the BSA until April 2006. Therefore, between October 2005 and April 2006, the BSA will not perform those operations currently undertaken by the four ALBs. It shall however perform functions relating to setting up appropriate governance arrangements and policies for the BSA, recruiting officers to the BSA, setting up business management processes such as consolidated accounts reporting and developing the business plan for the BSA. During this period, the BSA will be entitled to coordinate decisions with each of the ALBs with respect to operational decisions that will have material impact on the business of the ALB beyond the 31st March '06. The functions of the BSA will expand in April '06 to accommodate the operations of the four ALBs that, at the same time, will be abolished and their functions transferred.

7.3 This approach will ensure that the BSA can perform the operations of the four ALBs efficiently from April 2006 without undue risk to public monies, business continuity and service levels.

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 that consolidation of the constituent ALBs into the NHS BSA is expected to reduce the costs of operating the constituent ALBs functions by at least £25m by March '08. Additionally, the NHS BSA will remove at least 25% of its current staff posts out of the Public Sector by March '08 and will aim to relocate its business operations from Eastbourne in line with the Lyons review recommendations.

9. Contact

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can answer any queries regarding the instrument.