STATUTORY INSTRUMENTS

2006 No. 634

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The NHS Pensions Agency (Asiantaeth Pensiynau'r GIG) Abolition Order 2006

Made - - - -	*8th March 2006*
Laid before Parliament	*10th March 2006*
Coming into force - -	*1st April 2006*

The Secretary of State for Health in relation to England, and the National Assembly for Wales in relation to Wales, make the following Order in exercise of the powers conferred by sections 11(1), (2) and (4) and 126(3) and (4) of the National Health Service Act 1977(**a**) and now vested in them.

In accordance with section 11(5) of the National Health Service Act 1977 Act they have consulted with such bodies as they recognise represent officers who in their opinion are likely to be transferred or affected by transfers in pursuance of the Order.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the NHS Pensions Agency (Asiantaeth Pensiynau'r GIG) Abolition Order 2006 and shall come into force on 1st April 2006.

(2) In this Order—

"the NHSPA" means the NHS Pensions Agency (Asiantaeth Pensiynau'r GIG) established by the NHS Pensions Agency (Asiantaeth Pensiynau'r GIG) (Establishment and Constitution) Order 2004(**b**); and

"the NHS BSA" means the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005(**c**).

(**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) and section 65 of, and paragraphs 4 and 6 of Schedule 4 to, the Health Act 1999 (c.8) ("the 1999 Act"); section 126(3) was amended by section 41(10) of, and paragraph 27 of Schedule 2 to, the National Health Service (Primary Care) Act 1997 (c.46) and section 65(2) of the National Health Service and Community Care Act 1990 (c.19) ("the 1990 Act"); section 126(4) was amended by section 65(2) of 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) 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"). 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, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672 ; see the entry in Schedule 1 for the National Health Service Act 1977 as amended by section 66(4) and (5)(a) of the 1999 Act, section 67(1) of, and paragraph 12(1) and (3) of Schedule 5 to, the 2001 Act and section 196 of, and Part 4 of Schedule 14 to, the 2003 Act . This Order is made by the Secretary of State and the National Assembly for Wales acting together.

(**b**) S.I. 2004/667.

(**c**) S.I.2005/2414 amended by[ ].

Abolition of NHSPA

2. The NHSPA is abolished and accordingly the Order and Regulations in Schedule 1 are revoked.

Consequential amendment of Orders and Regulations

3. The amendments in Schedule 2 are made in consequence of the abolition of the NHSPA.

Investigation of complaints by the Health Service Commissioner

4.—(1) A complaint made under the Health Service Commissioners Act 1993(**a**) to the Health Service Commissioner for England in relation to the NHSPA whether made before, on or after the coming into force of this Order, may be investigated by the Commissioner notwithstanding the abolition of the NHSPA.

(2) The Health Service Commissioner for England, where she conducts such an investigation, shall send a report of the result of her investigation to the Secretary of State for Health.

Investigation of complaints by the Pensions Ombudsman

5. A complaint made under the Pensions Schemes Act 1993(**b**) to the Pensions Ombudsman in relation to the NHSPA whether made before, on or after the coming into force of this Order, may be investigated by the Ombudsman notwithstanding the abolition of the NHSPA.

Enforceability of rights and transfer of liabilities of the NHSPA

6.—(1) Any right that was, immediately before 1st April 2006, enforceable by or against the NHSPA shall, on or after that date, be enforceable by or against the NHS BSA .

(2) All liabilities of the NHSPA shall on 1st April 2006 be transferred to the NHS BSA.

Transfer of property from the NHSPA

7. All property of the NHSPA is transferred to the NHS BSA on 1st April 2006.

Transfer of officers of the NHSPA

8.—(1) This paragraph applies in relation to an officer of the NHSPA who on 31st March 2006 is wholly or mainly engaged in the performance of the functions of the NHSPA.

(2) Any officer to whom paragraph (1) applies shall, on 1st April 2006, be transferred to the employment of the NHS BSA.

(3) The contract of employment of an officer transferred under paragraph (2)—

(a) is not terminated by the transfer; and

(b) has effect from the time of the transfer as if originally made between the officer and the NHS BSA.

(4) Without prejudice to paragraph (3)—

(a) all the rights, powers, duties and liabilities of the NHSPA, under or in connection with its contract of employment with an officer transferred under paragraph (2), shall by virtue of this paragraph be transferred to the NHS BSA; and

(b) anything done before the date of the transfer by or in relation to the NHSPA, in respect of the officer or his contract of employment, shall be deemed to have been done by or in relation to the NHS BSA.

(**a**) 1993 c.46 as amended by the Health Service Commissioners (Amendment) Act 1996 (c.5).
(**b**) 1993 c.48.

(5) Paragraphs (2) to (4) do not transfer an officer's contract of employment, or the rights, powers, duties and liabilities under or in connection with it, if that officer has objected to the transfer to the NHS BSA and had informed the NHSPA of that objection by 31st March 2006.

(6) Where an officer has objected as mentioned in paragraph (5), his contract of employment with the NHSPA shall be terminated immediately before the date on which the transfer would occur, but he shall not be treated, for any purpose, as having been dismissed from the NHSPA.

(7) This article is without prejudice to any right of an officer to terminate his contract of employment if a substantial change is made to his detriment in his working conditions; but no such right shall arise by reason only that, under this article, the identity of his employer changes unless the officer shows that, in all the circumstances, the change is a significant change and is to his detriment.

Provision for continuity in the exercise of functions

9.—(1) Anything done on or before 31st March 2006 by or in relation to the NHSPA shall be deemed to have been done by or in relation to the NHS BSA.

(2) Any appeal or other matter which on 31st March 2006 was being considered by the NHSPA shall be considered by the NHS BSA in accordance with any directions made by the Secretary of State in relation to England or the National Assembly for Wales in relation to Wales.

Winding up of affairs of the Special Health Authorities

10. It shall be the duty of the NHS BSA to take such action as may be necessary for the winding up of the affairs of the NHSPA, including the preparation of the outstanding accounts of the NHSPA and the performance of all statutory duties relating to those accounts.

Signed by authority of the Secretary of State for Health

Liam Byrne
Parliamentary Under Secretary of State,
Department of Health

8th March 2006

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

D. Elis-Thomas
The Presiding Officer of the National Assembly
National Assembly for Wales

8th March 2006

SCHEDULE 1

Article 2

INSTRUMENTS REVOKED

The NHS Pensions Agency (Asiantaeth Pensiynau'r GIG) (Establishment and Constitution) Order 2004

The NHS Pensions Agency (Asiantaeth Pensiynau'r GIG) Regulations 2004(**b**)

(**a**) 1998 c.38.
(**b**) S.I. 2004/668 as amended by S.I. 2005/1622 and S.I. 2005/2114.

SCHEDULE 2

Article 3

AMENDMENTS CONSEQUENTIAL ON THE ABOLITION OF THE NHSPA

The Health Service Commissioner for England (Special Health Authorities) Order 2005

1. In the Schedule to the Health Service Commissioner for England (Special Health Authorities) Order 2004(**a**) (Special Health Authorities designated as subject to investigation) "NHS Pensions Agency (Asiantaeth Pensiynau'r GIG)" is omitted.

The Government Resources and Accounts Act 2000 (Audit of Health Service Bodies) Order 2005

2. In Schedule 1 to the Government Resources and Accounts Act 2000 (Audit of Health Service Bodies) Order 2004(**b**) "NHS Pensions Agency" is omitted.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order abolishes on 1st April 2006, the NHS Pensions Agency (Asiantaeth Pensiynau'r GIG) a Special Health Authority established under section 11 of the National Health Service Act 1977.

The Order revokes the Order and Regulations specified in Schedule 1 (article 2) and makes the consequential amendments referred to in Schedule 2 (article 3).

The Order also makes provision for the transfer of staff, rights, liabilities and property of the abolished NHS Pensions Agency (Asiantaeth Pensiynau'r GIG) to another Special Health Authority, the NHS Business Services Authority.

(**a**) S.I. 2005/251
(b) S.I. 2004/1714

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