EXPLANATORY MEMORANDUM TO

THE NHS BUSINESS SERVICES AUTHORITY (AWDURDOD GWASANAETHAU BUSNES Y GIG) (ESTABLISHMENT AND CONSTITUTION) (AMENDMENT) ORDER 2006

2006 No. 632

and

THE NHS BUSINESS SERVICES AUTHORITY (AWDURDOD GWASANAETHAU BUSNES Y GIG) (AMENDMENT) REGULATIONS 2006

2006 No. 633

and

THE NHS PENSIONS AGENCY (ASIANTAETH PENSIYNAU'R GIG) ABOLITION ORDER 2006

2006 No. 634

and

THE SPECIAL HEALTH AUTHORITIES ABOLITION ORDER 2006

2006 No. 635

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 NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) (Amendment) Order 2006

The Establishment and Constitution Amendment Order provides for the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) ("the BSA"), established 1 October 2005, to exercise the functions of five Special Health Authorities and one statutory body that will themselves be abolished and merged into this new Authority.

2.2 The NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Amendment) Regulations 2006

These regulations amend the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) Regulations 2005 S.I. 2005/2415 ("the principal, regulations") primarily to amend the provisions for the membership and procedures of the BSA to strengthen its procedures for appointment of officers so as to:

- protect its ability to perform its counter-fraud function without conflicts of interest; and
- address the concerns raised by the JCSI in their 9th report of 2005/6 that there is no provision in the principal regulations to exempt from disqualification a person whose sentence has been reduced on appeal. This amendment also changes the policy by removing the requirement for the sentence of imprisonment to be for not less than three months without the option of a fine before the provision on disqualification would apply.

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

The NHS Pensions Agency (Asiantaeth Pensiynau'r GIG) Abolition Order 2006, 2006 No. [YYYY] will abolish the NHS Pensions Agency on 1 April 2006 and transfer its functions ,rights, assets and liabilities to the BSA.

2.4 The Special Health Authorities Abolition Order 2006

The Special Health Authorities Abolition Order 2006, 2006 No. [yyyy] will abolish the Counter Fraud and Security Management Service, the Dental Vocational Training Authority, NHS Logistics and the Prescription Pricing Authority on 1 April 2006 and transfer their functions ,rights, assets and liabilities to the BSA.

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

3.1 In their 9th report of 2005/6, the JCSI raised concerns that there is no provision in the principal regulations to exempt from disqualification a person whose sentence has been reduced on appeal. The Regulations amendment addresses this concern.

4. Legislative Background

4.1 The BSA was established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005, SI 2005/2414 on 1 October 2005.

4.2 The functions of the BSA were limited to the planning, development and coordination of business and regulatory services associated with the functions of the Arm's Length Bodies ("ALBs") that were to be abolished and merged into it in April 2006.

4.3 On 1 April 2006, functions of five SpHAs, the Prescription Pricing Authority; National Health Service Logistics; the NHS Pensions Agency; the Counter Fraud and Security Management Service and the Dental Vocational Training Authority and of the statutory body, the Dental Practice Board will transfer to the BSA and those bodies will be abolished. This will be achieved by the Health and Social Care (Community Health and Standards) Act 2003 Commencement (No 8) Order 2005 SI 2005/2925 plus these proposed Amendment and Abolition Orders that will be made and laid so as to come into force on 1 April 2006 .

5. Extent

5.1 The Special Health Authorities Abolition Order 2006 applies to England, the other instruments apply to England and Wales .

6. European Convention on Human Rights

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

7. Policy background

7.1 A review of the ALB sector within the Department of Health sought to rationalise this sector by creation of a number of new SpHAs through abolition and consolidation of existing ALBs. One such newly created SpHA was the BSA

7.2 The BSA was established in October 2005 to perform functions relating to setting up appropriate governance arrangements and policies for itself, recruiting its officers, setting up business management processes and developing its business plan and preparing for the transfer of the functions of other ALBs in April 2006.

7.3 From the 1 April 2006, functions of the NHS Pensions Agency, Prescription Pricing Authority, Dental Practice Board, NHS Logistics and the NHS Counter Fraud and Security Management Service will be transferred to the BSA and those bodies abolished. A sixth ALB, the Dental Vocational Training Agency, will be abolished with an administrative element of its function being consolidated into the BSA and the remainder of its function being transferred outside the ALB sector

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 BSA is expected to reduce the costs of operating the constituent ALBs functions by at least £37m by March ’08. Additionally, the NHS BSA plans to remove at least 25% of its current staff posts out of the Public Sector by March ’08 and aims 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 these instrument.