

**EXPLANATORY MEMORANDUM TO THE
HEALTH SERVICE COMMISSIONER FOR ENGLAND (SPECIAL HEALTH
AUTHORITIES) ORDER 2006**

2006 No. 305

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 attached order in council has been prepared to bring the NHS Business Services Authority ("the BSA"), a Special Health Authority within the jurisdiction of the Health Service Commissioner for England.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.

4. **Legislative Background**
 - 4.1 This statutory instrument is made under the powers in section 2(5)(b) and (6)(b) of the Health Service Commissioners Act 1993.

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

 - 4.3 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 that were to be abolished and merged into it in April 2006.

 - 4.4 On 1st April 2006, functions of five Special Health Authorities, 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 and the following proposed Orders that will be made and laid so as to commence on 1st April 2006:

- ❖ the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) (Amendment) Order 2006;
- ❖ the NHS Pensions Agency (Asiantaeth Pensiynau'r GIG) Abolition Order 2006; and
- ❖ the Special Health Authorities Abolition Order 2006

5. Extent

5.1 This instrument applies to England¹

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 A review of the Arm's Length Body sector within the Department of Health sought to rationalise this sector by creation of a number of new Special Health Authorities through abolition and consolidation of existing ALBs. One such newly created SpHA was the BSA. From the 1st 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.

7.2 The NHS Logistics; the NHS Pensions Agency and the Counter Fraud and Security Management Service are designated under section 2(1)(c) of the Health Service Commissioners Act 1993 ("the 1993 Act"), as Special Health Authorities to which section 2(1) of the 1993 Act applies (see the Health Service Commissioner for England (Special Health Authorities) Order 2004, SI 2004/1119, the Health Service Commissioner for England (Special Health Authorities) Order 2005, SI 2005/251 and Health Service Commissioner for England (Special Health Authorities) (No 2) Order 2005, SI 2005/3428). The 1993 Act applies to the Dental Practice Board by virtue of section 2(1)(f) of the 1993 Act).

¹ The NHS Business Services Authority was established to carry out some of its functions both in England and Wales. Therefore, while the extent of this instrument is England only, it does bring a body that may carry out some functions in Wales within the jurisdiction of the Health Service Commissioner for England.

7.3 Therefore, the BSA is to be designated within the Health Service Commissioners Act 1993 (bodies subject to investigation by the Health Service Commissioner for England) (c) to ensure equivalent accountabilities are maintained.

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 There is no impact on the public sector as complaints that could have been lodged with the Health Service Commissioner prior to abolition of the six Arm's Length Bodies will, under the transitional arrangements put in place in connection with the abolition of those bodies be eligible to be lodged with the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG).

9. Contact

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can answer any queries regarding the instrument.