

2006 No. 633

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

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

<i>Made</i> - - - -	<i>8th March 2006</i>
<i>Laid before Parliament</i>	<i>10th March 2006</i>
<i>Coming into force</i> - -	<i>1st April 2006</i>

The Secretary of State for Health in relation to England, and the National Assembly for Wales in relation to Wales, make the following Regulations in exercise of the powers conferred by section 126(4) of, and paragraph 12 of Schedule 5 to the National Health Service Act 1977(a) and now vested in them.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Amendment) Regulations 2006 and shall come into force on 1st April 2006.

(2) In these Regulations “the principal Regulations” means the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) Regulations 2005(b).

Amendment of regulation 1 of the principal Regulations

2. In regulation 1(2) of the principal Regulations (citation, commencement, and interpretation),—

(a) at the appropriate place insert—

““NHS Injury Benefits Scheme” means any scheme making provision for benefits for health staff in respect of injury or disease and established pursuant to section 10 of the Superannuation Act 1972(c), but excluding any scheme making provision for the early payment of a pension, allowance or gratuity in respect of ill-health;”;

““sentence of imprisonment” does not include a committal—

(a) 1977 c.49; section 126(4) was amended by section 65(2) of the National Health Service and Community Care Act 1990 (c.19) (“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 2002 Act and section 184 of, and paragraphs 7 and 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”); paragraph 12 of Schedule 5 was amended by article 7 of S.I. 1985/39, section 1 of, and paragraph 9 of Schedule 1 to, the 1990 Act, sections 2(1) and 5(1) of, and paragraph 60(e) of Schedule 1 and Schedule 3 to, the 1995 Act and section 65(1) of, and paragraphs 4, 39(1) and (4) of Schedule 4 to, the 1999 Act. See section 128(1), as amended by section 26(2)(g) and (i) of the 1990 Act, for the definitions of “prescribed” and “regulations”. 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 (“the 1999 Order”); for the reference to the National Health Service Act 1977, see the entry in Schedule 1 of the 1999 Order, 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 on a date to be appointed .

(b) S.I. 2005/2415.

(c) 1972. c. 11

- (a) in default of payment of any sum of money,
- (b) for want of sufficient distress to satisfy any sum of money, or
- (c) for failure to do or abstain from doing anything required to be done or left undone.”;

and

- (b) for the definition of “NHS Pension Scheme” substitute

““NHS Pension Scheme” means any scheme making provision for pensions, allowances, gratuities or compensation for premature retirement for health staff and established pursuant to section 10 or section 24 of the Superannuation Act 1972, but excluding the NHS Injury Benefits Scheme;”.

Amendment of regulation 2 of the principal Regulations

3. In regulation 2 of the principal Regulations (appointment and tenure of office of chairman and members), after paragraph (4) insert—

“(4A) Where for any period the chief executive is suspended from his duties as a chief executive of the Authority—

- (a) he shall also be suspended for that period from performing his functions as a member, and
- (b) any person appointed to act in his place as chief executive shall also be appointed to perform his functions as a member of the Authority for that period.”.

Amendment of regulation 3 of the principal Regulations

4. In regulation 3(1) of the principal Regulations (disqualification for appointment),—

- (a) for paragraph (a) substitute—

“he has within the preceding five years—

- (i) been convicted in the United Kingdom of any offence or been convicted elsewhere of any offence which, if committed in any part of the United Kingdom would constitute a criminal offence; and
- (ii) he has been sentenced to a sentence of imprisonment (whether suspended or not); and
- (iii) neither the conviction has been quashed nor the sentence reduced to a sentence other than a sentence of imprisonment (whether suspended or not) on appeal.”; and

- (b) after paragraph (i) add—

“(j) he is the chairman, chief executive or a non-officer member of—

- (i) a Strategic Health Authority,
- (ii) a Special Health Authority,
- (iii) an NHS trust,
- (iv) a Primary Care Trust, or
- (v) a Local Health Board. ”.

Amendment of regulation 4 of the principal Regulations (cessation of disqualification)

5. In regulation 4(1) of the principal Regulations (cessation of disqualification),—

- (a) omit “(i)”; and
- (b) after “dismissed” insert “or, as the case may be, removed”.

Signed by authority of the Secretary of State for Health

8th March 2006

Liam Byrne
Parliamentary Under Secretary of State,
Department of Health

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

8th March 2006

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

(a) 1998 c.38.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) Regulations 2005 S.I. 2005/2415 (“the principal Regulations”). The principal Regulations make provision concerning the membership and procedure of the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (“the Authority”), a Special Health Authority established under the National Health Service Act 1977 by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005 S.I. 2005/2414.

Regulation 2 amends regulation 1 of the principal Regulations to substitute a new definition of the “NHS Pension Scheme” and insert a related definition of the “NHS Injury Benefits Scheme”. A definition of “sentence” is also inserted in connection with regulation 4

Regulation 3 amends regulation 2 of the principal Regulations to provide that where a person is suspended from his appointment as the chief executive of the Authority he is also suspended from performing his duties as a member of the Authority.

Regulation 4 amends regulation 3 of the principal Regulations to provide that a person is disqualified from appointment as the chairman or as a non-officer member of the Authority if he has within the previous 5 years been convicted of an offence in any jurisdiction which if committed in the United Kingdom would constitute a criminal offence and he has received a sentence for that offence of a period of imprisonment (whether suspended or not), and the conviction has not been quashed or the sentence reduced to a sentence other than a sentence of imprisonment (whether suspended or not), on appeal.

Regulation 5 amends regulation 4 of the principal Regulations to apply the easement to disqualifications under regulation 3(1)(g)(i) of the principal Regulations to persons who fall within regulation 3(1)(g)(ii) of the principal Regulations.

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