

EXPLANATORY MEMORANDUM TO
THE FUNCTIONS OF PRIMARY CARE TRUSTS AND STRATEGIC HEALTH
AUTHORITIES AND THE BUSINESS SERVICES AUTHORITY (AWDURDOD
GWASANAETHAU BUSNES Y GIG) (PRIMARY DENTAL SERVICES)
(ENGLAND) REGULATIONS 2006

2006 No. 596

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. Functions of Primary Care Trusts and Strategic Health Authorities and the Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Primary Dental services) (England) Regulations 2006 (“the Functions Regulations”) are an operational part of the legislative reform programme for NHS dentistry. These Regulations provide for the functions of Primary Care Trusts and Strategic Health Authorities in England to be exercised by the NHS Business Services Authority (“the Authority”).

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

None

4. Legislative Background

4.1 The NHS Business Services Authority was established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005. From April 2006 the Authority will absorb the functions of the Dental Practice Board for England and Wales (DPB) established under section 37 of the NHS Act 1977. The DPB will be abolished with effect from 31 March 2006.

5. Extent

This instrument applies to England only.

6. European Convention on Human Rights

As the instrument is subject to negative resolution, no statement is required.

7. Policy background

7.1 The Health and Social Care (Community Health and Standards) Act 2003 (“the 2003 Act”) inserts new section 16CA into the National Health Service Act 1977 (“the 1977 Act”) which gives Primary Care Trusts (PCTs) new responsibilities for the provision of NHS dental services in their area and also provides the legislative framework for

the establishment of primary dental services to meet those responsibilities.

- 7.2 The National Health Service (General Dental Services Contracts) Regulations 2005 S.I No. 2005/3361 (“the GDS Regulations”) came into force on 1 January 2006 for the purpose of making contracts for the provision of dental services (GDS contracts). They replaced the NHS (General Dental Services) Regulations 1992 (SI 1992/661) which provided for general dental services under section 35 of the 1977 Act.
- 7.3 The National Health Service (Personal Dental Services Agreements) Regulations 2005 S.I. No. 2005/3373 (“the PDS Regulations”) also came into force for making agreements on 1 January 2006 and will replace the PDS piloting regime under the National Health Service (Primary Care) Act 1997. The policy intention is to “mainstream” the successful piloting of local contracts as a permanent part of NHS contracting.
- 7.4 From 1 April 2006 GDS contracts and PDS agreements will be established for high street dentists to provide primary dental services. The new contractual arrangements move away from the general dental services item of service remuneration to an annual payment no longer directly related to the dentists activity. This will enable dentists to spend more time with their patients and adopt a more preventive approach to oral healthcare.
- 7.5 Alongside the new contracting arrangements The National Health Service (Dental Charges) Regulations 2005 S.I. NO. 2005/3477 (“the Dental Charges Regulations”), made on 19 December 2005, introduce a new system of charging for dental services based mainly on a 3 banded system, where treatment provided or appliances supplied will attract one of the 3 set charges depending on the complexity of the treatment provided.
- 7.6 PCTs have obligations under the GDS Regulations and PDS Regulations to make payments to contractors and monitor performance under the contracts and agreements. The functions of Primary Care Trusts (including their functions as a Relevant Body or employing authority) and Strategic Health Authorities (as Relevant Bodies) in England are to be exercised by the Authority.
- 7.7 The Functions Regulations have been prepared in consultation with the Dental Practice Board/the Authority and NHS Counter Fraud Service.

8. Impact

- 8.1. The Functions Regulations impose no additional costs on the public sector, small businesses, charities or the voluntary sector and do not require a Regulatory Impact Assessment. A full Regulatory Impact Assessment has been prepared in relation to the GDS Regulations and PDS Regulations and the Dental Charges Regulations. The Regulatory Impact Assessments are available at www.dh.gov.uk/ria .
- 8.2 The Dental Practice Board (DPB) is currently responsible for all payments to, and monitoring of, dentists providing services under the current general dental services and Personal Dental Services pilots. The DPB is to be replaced by the NHS Business Services Authority from 1 April 2006. The intention is that the Authority will be used

in the same way in the new regime as the DPB in the old i.e. to pay and monitor providers of primary dental services. This will significantly reduce the impact on the public sector.

- 8.3 The Functions Regulations delegate PCTs' administrative functions in relation to GDS Contracts and PDS Agreements to the Authority . The Authority will make payments to contractors on the instruction of the relevant PCT, verify dental charges in relation to the appropriate treatment band specified in the Dental Charges Regulations and provide the PCT with regular monitoring information. PCTs' administrative costs should not increase. As it will be easier to track patient charge levels. The Authority will also gain from the reduced bureaucracy of the new contracting arrangements and patient charging regime.
- 8.4 For patient charge verification under the current system, it is necessary for dentists to record and transmit to the DPB information on each of the items of service provided. The move to a banded charging system will significantly reduce the information burden on dental practices and their staff. The Department is preparing training material to familiarise dentists and their staff with new forms and reporting requirements.

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