
STATUTORY INSTRUMENTS

2014 No. 413

NATIONAL HEALTH SERVICE, ENGLAND

**The NHS Business Services Authority (Awdurdod
Gwasanaethau Busnes y GIG) (Transfer of Staff to the National
Health Service Commissioning Board) Regulations 2014**

Made - - - - *25th February 2014*
Laid before Parliament *4th March 2014*
Coming into force - - *1st April 2014*

The Secretary of State for Health in exercise of the powers conferred by sections 28(8), 272(7) and (8) of, and paragraph 3(8) of Schedule 6 to the National Health Service Act 2006(1), makes the following Regulations.

In accordance with paragraph 4(1) of Schedule 6 to that Act, the Secretary of State has consulted such bodies as the Secretary of State has recognised as representing persons who, in his opinion, are likely to be affected by the regulations.

Citation, commencement and interpretation

1. (1) These Regulations may be cited as the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Transfer of Staff to the National Health Service Commissioning Board) Regulations 2014 and come into force on 1st April 2014.

(2) In these Regulations—

“the Authority” means the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG)(2); and

“the transfer date” means the date these Regulations come into force.

Transfer of officers from the Authority to the Board

2. (1) This regulation applies to any person who—

(1) [2006 c. 41](#). Paragraph 3(8) of Schedule 6 to the National Health Service Act 2006 (“the 2006 Act”) was amended by section 55(1) of, and paragraph 23 of Schedule 4 to, the Health and Social Care Act [2012 \(c.7\)](#). By virtue of section 271(1) of the 2006 Act these powers are exercisable by the Secretary of State only in relation to England.

(2) The NHS Business Services Authority is a Special Health Authority established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005 ([S.I. 2005/2414](#), as amended by [S.I. 2006/632](#), [2007/1201](#) and [2013/235](#)).

- (a) immediately before the transfer date is employed by the Authority; and
 - (b) has been notified in writing by the Authority before the transfer date that they are to be transferred to the employment of the Board⁽³⁾ on the transfer date.
- (2) Any person to whom paragraph (1) applies is, on the transfer date, transferred to the employment of the Board.
- (3) The contract of employment of a person whose employment transfers to the Board under paragraph (2)—
- (a) is not terminated by the transfer; and
 - (b) has effect from the transfer date as if originally made between that person and the Board.
- (4) Without prejudice to paragraph (3)—
- (a) all the rights, powers, duties and liabilities of the Authority under, or in connection with, the contract of employment of any person whose employment transfers under paragraph (2), are to transfer to the Board on the transfer date; and
 - (b) any act or omission before the transfer date of or in relation to the Authority, in respect of that person or that person's contract of employment, is deemed to have been an act or omission of or in relation to the Board.
- (5) Paragraphs (2) to (4) do not operate to transfer the contract of employment of a person to whom paragraph (1) applies, or any rights, powers, duties and liabilities under, or in connection with that contract, if, before the transfer date, that person informs the Board or the Authority that they object to becoming employed by the Board.
- (6) Where a person to whom paragraph (1) applies has objected to the transfer of that person's contract of employment to the Board as described in paragraph (5), the transfer operates so as to terminate that person's contract of employment with the Authority.
- (7) Subject to paragraph (8), a person whose contract of employment is terminated in accordance with paragraph (6) is not to be treated, for any purpose, as having been dismissed by the Authority.
- (8) Where the transfer involves or would involve a substantial change in the working conditions to the material detriment of a person whose employment is or would have transferred under paragraph (2), that person may treat the contract of employment as having been terminated, and that person shall be treated for any purpose as having been dismissed by the employer.
- (9) No damages are to be payable by an employer as a result of a dismissal falling within paragraph (8) in respect of any failure by the employer to pay wages to a person in respect of a notice period which the person has failed to work.
- (10) Paragraphs (2), (3) and (5) to (8) are without prejudice to any right of a person arising apart from this regulation to terminate that person's contract of employment without notice in acceptance of a repudiatory breach of contract by the employer.

(3) The National Health Service Commissioning Board is established by section 1H of the 2006 Act. Section 1H is inserted by section 9(1) of the Health and Social Care Act 2012.

Signed by the authority of the Secretary of State for Health.

25th February 2014

Earl Howe
Parliamentary Under-Secretary of State,
Department of Health

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the transfer of staff from the NHS Business Services Authority (which is a Special Health Authority) to the National Health Service Commissioning Board. The staff transferred are those associated with the Children and Young Person's Improving Access to Psychological Therapies (IAPT) programme, and the Adult IAPT programme, and certain staff who are being re-deployed.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.