

## **EXECUTIVE NOTE**

### **The National Health Service (Pharmaceutical Services) (Scotland) Amendment Regulations 2006 S.S.I. 2006/143**

The above instrument was made in exercise of powers conferred on Scottish Ministers by sections 27(1) and (2), 105(7) and 108(1) of the National Health Service (Scotland) Act 1978 and section 39 of the Smoking, Health and Social Care (Scotland) Act 2005.

The primary regulations, made in 1995, will be repealed in July 2006 and replaced with regulations which provide for the introduction of a new pharmaceutical care services contract. For this reason, there is no intention to consolidate these regulations.

#### **Policy Objectives**

The purpose of this instrument is to amend the NHS (Pharmaceutical Services) (Scotland) Regulations 1995 (SI 1995/414) (“the 1995 regulations”) in respect of the provisions set out below:-

#### **NHS Tribunal Arrangements**

Consequential amendments are made arising from amendments to the 1978 Act made in the Smoking, Health and Social Care (Scotland) Act 2005.

Currently an NHS Board may only refer a list applicant to the Tribunal on the grounds of suspected fraud or prejudice to the efficiency of the services. The provisions in the Smoking, Health and Social Care (Scotland) Act will enable an NHS Board to refer to the Tribunal, where relevant, a person applying to join its pharmaceutical list, on grounds of fraud, prejudice to efficiency or unsuitability by reason of professional or personal misconduct. Regulations 5(1) and 6(1) are amended accordingly.

A new regulation 5 (A) (Effect to be given to corresponding decisions in England, Wales and Northern Ireland) is inserted to:

- Require an NHS Board to refuse entry or remove a person from its pharmaceutical list where that person has already been the subject of a similar decision in England, Wales or Northern Ireland; and
- Enable a Board to impose conditions on the provision of pharmaceutical services in cases where a person wishes to be included on its pharmaceutical list and he or she has had conditions relating to his or her inclusion on an equivalent list imposed already in England, Wales or Northern Ireland.

The Board may modify the conditions as required to suit Scottish circumstances, provided the person concerned has been given an opportunity to make representations about these.

#### **Optometrist Supplementary Prescribers**

This instrument amends the definition of “supplementary prescriber” in the principal regulations to include optometrists in the list of health care professionals who may prescribe as supplementary prescribers, subject to their obtaining appropriate qualifications and

annotation in their professional register signifying that they are qualified to order drugs, medicines and appliances as a supplementary prescriber.

The effect of the amendment is to make provision for pharmaceutical services to be provided to patients who present to an NHS community pharmacist a prescription written by an optometrist supplementary prescriber.

### **Prescriptions for Domiciliary Oxygen**

This instrument amends the definition of “prescription form” to provide for pharmaceutical services to be provided to patients normally resident in England or Wales, who present for dispensing an order for domiciliary oxygen written by a prescriber in England or Wales. The need to add English and Welsh oxygen order forms to the definition of “prescription form” arises from the new arrangements for domiciliary oxygen services in England and Wales, where oxygen is now prescribed only by hospital doctors on an order form which is presented by the patient to the oxygen supplier for his or her region.

This amendment enables community pharmacists in Scotland to provide oxygen as ordered (patients will be referred to National Services Scotland if an oxygen concentrator has been ordered) and to submit the oxygen order form to NSS for processing, together with the patient’s declaration that oxygen has been supplied and that either the prescription charge has been paid or the patient is exempt from payment of the charge.

### **Consultation**

There has been no consultation on the preparation of this instrument. However, amendments to the NHS Tribunal regime were proposed in the consultation paper “Measures to Improve the Provision of Primary Care Services” (<http://www.scotland.gov.uk/consultations/health/fmippc-00.asp>) which was issued in March 2004 to a wide range of interests. The major proportion of respondees supported the proposals.

### **Financial Effects**

#### **NHS Tribunal**

It is anticipated that there may be a small increase in the number of cases being referred to the NHS Tribunal as a result of the changes to the Tribunal regime provided for in the Smoking, Health and Social Care (Scotland) Act 2005. Referrals to the Tribunal will, however, remain rare events. Boards will pay the costs of referral from their existing allocations and the Executive will pay the costs of the Tribunal members and Chair.

#### **Optometrist Supplementary Prescribers**

No significant costs are expected to arise as a result of the new prescribing provisions. The overall number of prescription written should not increase.

## **Prescriptions for Domiciliary Oxygen**

No additional costs are expected to arise from the acceptance for dispensing of oxygen order forms written in England or Wales. This effect of this amendment is to ensure continuation of the reciprocal cross-border services which have always been available to NHS patients.

Scottish Executive Health Department  
March 2006