



Health Act 2009

2009 CHAPTER 21

PART 3

MISCELLANEOUS

Pharmaceutical services in England

25 Pharmaceutical needs assessments

After section 128 of the National Health Service Act 2006 (c. 41) insert—

“128A Pharmaceutical needs assessments

- (1) Each Primary Care Trust must in accordance with regulations—
 - (a) assess needs for pharmaceutical services in its area, and
 - (b) publish a statement of its first assessment and of any revised assessment.
- (2) The regulations must make provision—
 - (a) as to information which must be contained in a statement;
 - (b) as to the extent to which an assessment must take account of likely future needs;
 - (c) specifying the date by which a Primary Care Trust must publish the statement of its first assessment;
 - (d) as to the circumstances in which a Primary Care Trust must make a new assessment.
- (3) The regulations may in particular make provision—
 - (a) as to the pharmaceutical services to which an assessment must relate;
 - (b) requiring a Primary Care Trust to consult specified persons about specified matters when making an assessment;
 - (c) as to the manner in which an assessment is to be made;

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- (d) as to matters to which a Primary Care Trust must have regard when making an assessment.”

Commencement Information

- I1** S. 25 in force at 18.3.2010 for specified purposes by [S.I. 2010/779](#), [art. 2](#)
I2 S. 25 in force at 24.5.2010 in so far as not already in force by [S.I. 2010/779](#), [art. 2](#)

26 New arrangements for entry to pharmaceutical list

- (1) Section 129 of the National Health Service Act 2006 (regulations as to pharmaceutical services) is amended as follows.

- (2) In subsection (2)(c), for the words from “may be granted” to “specified in the application,” substitute “ must be granted if the Primary Care Trust is satisfied as mentioned in subsection (2A), and may otherwise be granted only if the Primary Care Trust is satisfied as mentioned in subsection (2B), ”.

- (3) After subsection (2) insert—

“(2A) The Primary Care Trust is satisfied as mentioned in this subsection if, having regard to its needs statement and to any matters prescribed by the Secretary of State in the regulations, it is satisfied that it is necessary to grant the application in order to meet a need in its area for the services or some of the services specified in the application.

(2B) The Primary Care Trust is satisfied as mentioned in this subsection if, having regard to its needs statement and to any matters prescribed by the Secretary of State in the regulations, it is satisfied that to grant the application would secure improvements, or better access, to pharmaceutical services in its area.

(2C) In relation to cases where the Primary Care Trust is satisfied as mentioned in subsection (2B), the regulations may make provision as to—

- (a) the manner in which the Primary Care Trust is to determine whether to grant the application,
(b) matters which the Primary Care Trust must or must not take into account for the purpose of determining whether to grant the application.”

- (4) After subsection (3) insert—

“(3A) The regulations may prescribe circumstances in which two or more applications referred to in subsection (2)(c)(i) or (ii) may be considered together by the Primary Care Trust.”

- (5) In subsection (4)—

- (a) for the words from “include” to “subsection (5) for” substitute “ make provision for the Primary Care Trust to take into account prescribed matters in ”;
(b) omit paragraph (a);
(c) in paragraph (b), for “they” substitute “ two or more applications referred to in subsection (2)(c)(i) or (ii) ”;
(d) in paragraph (c), for “subsection (2)(c)” substitute “ subsection (2A) or (2B) ”.

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(6) After subsection (4) insert—

“(4A) Regulations under subsection (4) may in particular make the provision mentioned in subsection (5), with or without modifications.”

(7) In subsection (6), before paragraph (a) insert—

“(za) for the circumstances and manner in which a Primary Care Trust may invite applications for inclusion in a pharmaceutical list,”.

(8) After subsection (10) insert—

“(10A) Primary Care Trusts must give reasons for decisions made by virtue of this section.

(10B) In this section a “needs statement” means the statement required by section 128A(1)(b) as most recently published by the relevant Primary Care Trust.”

Commencement Information

I3 S. 26 in force at 1.9.2012 by S.I. 2012/1902, art. 2(a)

27 Pharmaceutical lists: minor amendment

In section 129(6) of the National Health Service Act 2006 (c. 41) (regulations as to pharmaceutical services), in paragraph (d), for “such an application” substitute “an application to a Primary Care Trust”.

Commencement Information

I4 S. 27 in force at 1.9.2012 by S.I. 2012/1902, art. 2(b)

28 Breach of terms of arrangements: notices and penalties

In Part 7 of the National Health Service Act 2006, before Chapter 6 (disqualification) insert—

“CHAPTER 5A

NOTICES AND PENALTIES

150A Notices and penalties

- (1) The Secretary of State may by regulations provide that where a practitioner who provides pharmaceutical services under arrangements with a Primary Care Trust breaches a term of those arrangements, the Primary Care Trust may—
 - (a) by a notice require the practitioner to do, or not do, specified things or things of a specified description within a specified period, or
 - (b) in prescribed circumstances or for a prescribed period, withhold all or part of a payment due to the practitioner under the arrangements.

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- (2) Regulations under this section must include provision conferring on such persons as may be prescribed rights of appeal from decisions of Primary Care Trusts made by virtue of this section.
- (3) In this section—
 - “practitioner” means a person included in a pharmaceutical list, and
 - “specified” means specified in a notice under paragraph (a) of subsection (1).”

Commencement Information
I5 S. 28 in force at 1.9.2012 by S.I. 2012/1902, art. 2(c)

29 LPS schemes: powers of Primary Care Trusts and Strategic Health Authorities

- (1) The National Health Service Act 2006 is amended as follows.
- (2) In section 15 (Strategic Health Authorities' directions), in subsection (2), after “section 107 arrangements” insert “ or LPS schemes ”.
- (3) In section 16 (section 92 arrangements and section 107 arrangements)—
 - (a) in subsection (1), after “section 107 arrangements” insert “ and LPS schemes ”;
 - (b) in the heading, after “section 107 arrangements” insert “ and LPS schemes ”.
- ^{F1}(4)
- (5) Schedule 12 (LPS schemes) is amended as follows.
- (6) Paragraph 1 is amended as follows.
- ^{F2}(7)
- (8) In sub-paragraph (2)—
 - ^{F3}(a)
 - (b) in paragraph (b), for “Primary Care Trust),” substitute “ commissioning body). ”;
 - ^{F4}(c)
- (9) After sub-paragraph (2) insert—
 - “(2A) A Strategic Health Authority may establish an LPS scheme only where the only other parties are Primary Care Trusts.
 - (2B) A Primary Care Trust may provide local pharmaceutical services under an LPS scheme (where it is not the commissioning body), but only in prescribed circumstances.”
- ^{F5}(10)
- (11) In sub-paragraph (6), for “and an NHS foundation trust” substitute “ , an NHS foundation trust and a Primary Care Trust ”.
- ^{F6}(12)

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(13) Paragraph 3 is amended as follows.

(14) In sub-paragraph (2), for “Primary Care Trusts” substitute “the commissioning body”.

^{F7}(15)

Textual Amendments

- F1** S. 29(4) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 76(2)** (with Sch. 4 para. 93(6)); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F2** S. 29(7) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 93(5)** (with Sch. 4 para. 93(6)); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F3** S. 29(8)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 93(5)** (with Sch. 4 para. 93(6)); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F4** S. 29(8)(c) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 93(5)** (with Sch. 4 para. 93(6)); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F5** S. 29(10) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 93(5)** (with Sch. 4 para. 93(6)); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F6** S. 29(12) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 93(5)** (with Sch. 4 para. 93(6)); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F7** S. 29(15) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 4 para. 93(5)** (with Sch. 4 para. 93(6)); S.I. 2013/160, art. 2(2) (with arts. 7-9)

Commencement Information

- I6** S. 29 in force at 1.9.2012 by S.I. 2012/1902, **art. 2(d)**

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