

2002 No. 2861

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service (Local Pharmaceutical Services Etc.) Regulations 2002

Made - - - - - 19th November 2002

Laid before Parliament 19th November 2002

Coming into force - - 12th December 2002

The Secretary of State for Health, in exercise of the powers conferred on him by sections 41, 42, 43, 45(1ZA) and 126(4) of the National Health Service Act 1977(a), section 39(2) of the National Health Service (Primary Care) Act 1997(b), sections 38, 41, 64(8) and 65(1) and (2) of the Health and Social Care Act 2001(c) and sections 38(5) and (7) and 39 of the National Health Service Reform and Health Care Professions Act 2002(d), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Local Pharmaceutical Services Etc.) Regulations 2002 and shall come into force on 12th December 2002.

(2) These Regulations apply to England only(e), except regulation 15, which applies to England and Wales.

(3) In these Regulations—

“the Act” means the National Health Service Act 1977; and

“the 2001 Act” means the Health and Social Care Act 2001.

(a) 1977 c. 49; see section 128(1), as amended by the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), section 26(2)(g) and (i); by the Health Act 1999 (c. 8) (“the 1999 Act”), Schedule 4, paragraph 38(2); and by the Health and Social Care Act 2001 (c. 15) (“the 2001 Act”), Schedule 5, paragraph 5(14), for the definitions of “prescribed” and “regulations”. Section 41 was substituted by the 2001 Act, section 42(1), and amended by the National Health Service Reform and Health Care Professions Act 2002 (c. 17) (“the 2002 Act”), Schedule 2, paragraph 13. Section 42 was substituted by the National Health Service (Amendment) Act 1986 (c. 66), section 3(1); extended by the Health and Medicines Act 1988 (c. 49), section 17; and amended by S.I. 1987/2202, article 4; by the 1990 Act, section 12(3); by the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), Schedule 1, paragraph 30; by the 2001 Act, section 43(2), (3) and (4); and by the 2002 Act, Schedule 2, paragraph 16. Section 43 was amended by the 1995 Act, Schedule 1, paragraph 31; by the Health Services Act 1980 (c. 53) (“the 1980 Act”), section 21(2); by the National Health Service (Primary Care) Act 1997 (c. 46) (“the 1997 Act”), section 29(1) and Schedule 2, paragraph 14; by the 1990 Act, Schedule 9, paragraph 18(2); by the 2001 Act, section 42(2) and 43(5); and by the 2002 Act, Schedule 2, paragraph 17. Section 45(1ZA) was inserted by the 2002 Act, section 5(9). Section 126(4) was amended by the 1990 Act, section 65(2); and by the 1999 Act, Schedule 4, paragraph 37(6).

(b) 1997 c. 46.

(c) 2001 c. 15.

(d) 2002 c. 17.

(e) As regards Wales, the functions of the Secretary of State under sections 41, 42, 43 and 45 of the National Health Service Act 1977 were transferred to the National Assembly for Wales under S.I. 1999/672, article 2 and Schedule 1, as amended by the 1999 Act, section 66.

PART I

AMENDMENT OF THE NATIONAL HEALTH SERVICE (PHARMACEUTICAL SERVICES) REGULATIONS 1992

Amendment of the National Health Service (Pharmaceutical Services) Regulations 1992

2. The National Health Service (Pharmaceutical Services) Regulations 1992(a), which in this Part are referred to as the principal Regulations, are amended in accordance with the following provisions of this Part.

Amendment of regulation 2

3. In regulation 2 (interpretation), in paragraph (1)—
- (a) in the definition of “chemist”, after ““chemist”” insert “(except in the expression “LPS chemist”)”;
 - (b) in the definition of “Local Dental Committee”, for “general dental services in a locality;” substitute “general dental services or personal dental services in an area; and in this definition, “personal dental services” has the meaning assigned to it in section 1(8) of the 1997 Act;”;
 - (c) in the definition of “Local Medical Committee”, after “general medical services” insert “or personal medical services”;
 - (d) in the definition of “Local Pharmaceutical Committee”, after “pharmaceutical services” insert “or local pharmaceutical services”;
 - (e) after the definition of “locality”, insert—
 - ““LPS chemist” means—
 - (a) a registered pharmacist,
 - (b) a person lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968(b), or
 - (c) a supplier of appliances,who provides local pharmaceutical services under a pharmacy pilot scheme;”;
 - (f) for the definition of “pharmacy” substitute—
 - ““pharmacy” means any premises where drugs are provided by a registered pharmacist—
 - (a) as part of pharmaceutical services under section 41 of the Act; or
 - (b) in accordance with a pharmacy pilot scheme—
 - (i) where the range of local pharmaceutical services provided under that scheme is the same or comparable to the range of pharmaceutical services provided by a pharmacy falling within paragraph (a) of this definition, and
 - (ii) where the local pharmaceutical services provided under that scheme are provided at the same or similar hours as pharmaceutical services provided by a pharmacy falling within paragraph (a) of this definition;”;
 - (g) in the definition of “pilot scheme”, after “pilot scheme” insert “(except in the expression “pharmacy pilot scheme”)”; and
 - (h) in the definition of “prescription form”, after “obtain pharmaceutical services” insert “or local pharmaceutical services”.

Amendment of regulation 2A

4. In regulation 2A(c) (electronic prescription forms), in paragraph (2)(c)(i) and (ii), after “the chemist” insert “or LPS chemist”.

(a) S.I. 1992/662; relevant amending instruments are S.I. 1993/2451, 1995/644, 1996/698, 1998/681, 1999/696, 2001/2888, 2002/888, 2002/2016 and 2002/2469.

(b) c. 67.

(c) Regulation 2A was inserted by S.I. 2001/2888.

Amendment of regulation 4

5. In regulation 4 (pharmaceutical lists), in paragraph (4), at the end insert “; and if, in the neighbourhood in which the premises named in the application are located, any local pharmaceutical services are provided under a pharmacy pilot scheme which are of the same description as any pharmaceutical services specified in the application, those local pharmaceutical services shall be treated, for the purposes of this paragraph, as if they were pharmaceutical services being provided by persons included in the pharmaceutical list.”.

Amendment of regulation 5

6. In regulation 5 (notification of applications)—
- (a) in paragraph (1), after sub-paragraph (c) insert—
 - “(ca) any LPS chemist whose interests might, in the opinion of the Primary Care Trust, be significantly affected if the application were granted;”;
 - (b) in paragraph (2), after paragraph (c) insert—
 - “and
 - (d) any LPS chemist whose interests might, in the opinion of that Primary Care Trust, be significantly affected if the application were granted.”.

Amendment of regulation 6

7. In regulation 6 (determination of applications)—
- (a) in paragraph (1), for sub-paragraph (a) substitute—
 - “(a) whether or not the following services are already provided by persons in the neighbourhood in which the premises named in the application are located—
 - (i) any pharmaceutical services specified in the application provided by persons included in a pharmaceutical list, or
 - (ii) any local pharmaceutical services provided under a pharmacy pilot scheme which are of the same description as any pharmaceutical services specified in the application;”;
 - (b) for paragraph (6) substitute—
 - “(6) No person—
 - (a) who provides or assists in providing general medical services or pharmaceutical services under Part II of the Act;
 - (b) who is a pilot scheme provider, or a director, officer or employee of a pilot scheme provider, or who performs or assists in performing personal medical services under a pilot scheme; or
 - (c) who is a party (other than a Primary Care Trust) to a pharmacy pilot scheme, or a director, officer or employee of such a person, or who provides or assists in providing local pharmaceutical services under a pharmacy pilot scheme, shall take part in any decision under this regulation.”.

Amendment of regulation 7

8. In regulation 7 (notification of decisions)—
- (a) in paragraph (1)(a), after head (ii) insert—
 - “(iia) any LPS chemist whose interests might, in the opinion of the Primary Care Trust, be significantly affected by the decision;”;
 - (b) in paragraph (2), after sub-paragraph (c) insert—
 - “and
 - (d) any LPS chemist whose interests might, in the opinion of that Primary Care Trust, be significantly affected by the decision.”.

Amendment of regulation 8

9. In regulation 8 (appeals)—
- (a) in paragraph (1), for “regulation 7(1)(a)(ii) or regulation 7(2)(c)” substitute “regulation 7(1)(a)(ii) or (iia) or regulation 7(2)(c) or (d)”;

- (b) in paragraph (2)(b)(i), for “regulation 5(1)(c) or regulation 5(2)(c)” substitute “regulation 5(1)(c) or (ca) or regulation 5(2)(c) or (d)”.

Amendment of regulation 9

- 10.** In regulation 9 (determination of controlled locality)—
- (a) in paragraph (5), after “doctor or chemist” insert “or LPS chemist”; and
 - (b) in paragraphs (6) and (7), for “or pharmaceutical services by any chemist” substitute “pharmaceutical services by any chemist, or local pharmaceutical services by any LPS chemist”.

Amendment of regulation 11

- 11.** In regulation 11 (applications for inclusion in pharmaceutical lists in respect of controlled localities)—
- (a) in paragraph (1)(b), after “pharmaceutical services”, insert “, local pharmaceutical services”; and
 - (b) in paragraph (2)(b), after “pharmaceutical services”, insert “, local pharmaceutical services”.

Amendment of regulation 12

- 12.** In regulation 12 (determination of applications in respect of controlled localities)—
- (a) in paragraph (1)(c), after “of the Health Authority or Primary Care Trust”, insert “, or who provides local pharmaceutical services under a pharmacy pilot scheme entered into by that Primary Care Trust,”;
 - (b) for paragraph (1)(d) substitute—
 - “(d) any other Primary Care Trust or Health Authority—
 - (i) in whose medical list or pharmaceutical list, or in Part 2 of whose dispensing doctor list, is included the name of a person who, in the opinion of the Primary Care Trust, might be so affected, or
 - (ii) which has entered into a pharmacy pilot scheme under which local pharmaceutical services are provided by a person who, in the opinion of the Primary Care Trust, might be so affected; and”;
 - (c) in paragraph (2)(c), after “dispensing doctor list”, insert “, or who provides local pharmaceutical services under a pharmacy pilot scheme entered into by that Primary Care Trust,”;
 - (d) after paragraph (4) insert—
 - “(4A) Subject to regulation 6A, in considering any application to which regulation 4(4) applies, a Primary Care Trust shall have regard in particular to—
 - (a) whether or not the following services are already provided by persons in the neighbourhood in which the premises named in the application are located—
 - (i) any pharmaceutical services specified in the application provided by persons included in a pharmaceutical list, or
 - (ii) any local pharmaceutical services provided under a pharmacy pilot scheme which are of the same description as any pharmaceutical services specified in the application;
 - (b) any information available to the Primary Care Trust which, in its opinion, is relevant to the consideration of the application; and
 - (c) any representations received by the Primary Care Trust under paragraph (3) or (4).”;
 - (e) for paragraph (10) substitute—
 - “(10) No person—
 - (a) who provides or assists in providing general medical services or pharmaceutical services under Part II of the Act;
 - (b) who is a pilot scheme provider, or a director, officer or employee of a pilot scheme provider, or who performs or assists in performing personal medical services under a pilot scheme; or

- (c) who is a party (other than a Primary Care Trust) to a pharmacy pilot scheme, or a director, officer or employee of such a person, or who provides or assists in providing local pharmaceutical services under a pharmacy pilot scheme, shall take part in any decision under this regulation.”;
- (f) in paragraph (13)(a), after “dispensing services” insert “, local pharmaceutical services”;
- (g) in paragraph (13)(c), after “dispensing services” insert “, local pharmaceutical services”;
- (h) in paragraph (14), for “pharmaceutical services by any chemist” substitute “pharmaceutical services by any chemist or local pharmaceutical services by any LPS chemist”; and
- (i) in paragraph (15), for “pharmaceutical services by any chemist” substitute “pharmaceutical services by any chemist or local pharmaceutical services by any LPS chemist”.

Amendment of regulation 13

13. In regulation 13 (appeals in connection with determinations under regulation 12), in paragraph (2), for sub-paragraph (a) substitute—

“(a) in the case of an appeal against a determination under regulation 12—

- (i) the applicant,
- (ii) any person whose name is included in the medical list, pharmaceutical list, or Part 2 of the dispensing doctor list of the Primary Care Trust or any other Primary Care Trust or Health Authority to which a copy of the application was sent under regulation 12(1)(d),
- (iii) any person to whom a copy of the application was sent under regulation 12(2A), or
- (iv) any person who provides local pharmaceutical services under a pharmacy pilot scheme entered into by the Primary Care Trust or any other Primary Care Trust to which a copy of the application was sent under regulation 12(1)(d),

but in the case of a person specified in heads (ii), (iii) or (iv) above, that person may make an appeal only if he has submitted evidence pursuant to regulation 12(3) in connection with the application; and”.

Amendment of Schedule 2

14. In Part II of Schedule 2 (terms of service for chemists), in paragraph 4—

(a) after sub-paragraph (2) insert—

“(2A) In this paragraph, where a Primary Care Trust must satisfy itself as to whether the needs of persons in the neighbourhood for pharmaceutical services are being met, a Primary Care Trust shall treat any local pharmaceutical services being provided in that neighbourhood at the days and times in question as if they were pharmaceutical services being so provided.”;

(b) in sub-paragraph (13), after head (b) insert—

“(c) at times when the premises are not open, a notice, where practicable legible from outside the premises, specifying the addresses of LPS chemists in the neighbourhood, the type of local pharmaceutical services which those LPS chemists provide, and the times at which their premises are open.”;

(c) in sub-paragraph (14)—

- (i) after “included in the pharmaceutical list” insert “or LPS chemists”,
- (ii) after “they are required” insert “(or, in the case of LPS chemists, have undertaken)”, and
- (iii) at the end insert “or local pharmaceutical services, and, in the case of LPS chemists, of the type of local pharmaceutical services which they provide.”; and

(d) in sub-paragraph (15)—

- (i) after “one or more chemists” insert “or LPS chemists”,
- (ii) after “pharmaceutical services” insert “or local pharmaceutical services”, and

- (iii) at the end insert “; but a chemist may make an arrangement with an LPS chemist under this sub-paragraph only where that LPS chemist provides local pharmaceutical services which are of a similar description and extent as the pharmaceutical services which he would ordinarily provide.”.

Further amendment of the principal Regulations

- 15. In the provisions of the principal Regulations specified in the Schedule—
 - (a) for “an Health Authority or Primary Care Trust”, in each place where it occurs, there is substituted “a Health Authority or Primary Care Trust”; and
 - (b) for “an Health Authority’s or Primary Care Trust’s”, in each place where it occurs, there is substituted “a Health Authority’s or Primary Care Trust’s”.

PART II

MODIFICATION OF THE NATIONAL HEALTH SERVICE ACT 1977 AND OTHER ENACTMENTS

Duty of Primary Care Trust in relation to local pharmaceutical services

- 16. In section 15(a) of the Act (duty of Primary Care Trust and Health Authority in relation to family health services), after subsection (1ZB) insert—

“(1ZC) It is the duty of each Primary Care Trust—

- (a) in making LPS arrangements to establish and operate, in accordance with directions given by the Secretary of State under section 17(b) by virtue of section 36(2) of the Health and Social Care Act 2001, procedures for dealing with complaints about the provision of local pharmaceutical services in accordance with those arrangements, and
- (b) in accordance with regulations, to perform such other functions in relation to those arrangements as may be prescribed.

(1ZD) Regulations under subsection (1ZC)(b) may, in particular, prescribe functions in relation to training.”.

Supply of goods and services by the Secretary of State

- 17. In section 26(c) of the Act (supply of goods and services by Secretary of State)—

- (a) in subsection (2), after paragraph (b) insert—

“or

- (c) providing, in accordance with LPS arrangements, local pharmaceutical services or other services of a kind that may be provided under this Part.”; and

- (b) in subsection (4)—

- (i) at the end of paragraph (aa), repeal “and”, and

- (ii) after paragraph (aa) insert—

“(ab) persons providing, in accordance with LPS arrangements, local pharmaceutical services or other services of a kind that may be provided under this Part, and”.

Use of accommodation

- 18. In section 28I(d) of the Act (use of accommodation), for the words from “the provision” to “he may”, substitute—

“(a) the provision of personal medical services or personal dental services in accordance with section 28C arrangements, or

(a) Section 15 was amended by the Health and Social Security Act 1984 (c. 48), sections 5(2) and 24; the 1990 Act, section 12(1)(b); the 1995 Act, Schedule 1, paragraph 6; the 1997 Act, section 41(10) and Schedule 2, paragraphs 3 and 4; the 1999 Act, section 65 and Schedule 4, paragraphs 4 and 8; and the 2002 Act, Schedule 2, paragraph 2 and Schedule 3, paragraph 11.

(b) Section 17 was substituted by the 1999 Act, section 12(1), and amended by the 2002 Act, Schedule 1, paragraph 7.

(c) Relevant amendments to section 26 were made by the 1980 Act, section 3(1); the 1995 Act, section 2 and Schedule 1, paragraph 14; the 1997 Act, section 41(10) and Schedule 2, paragraphs 3 and 5; the 1999 Act, section 65 and Schedule 4, paragraphs 4 and 11; and the 2002 Act, Schedule 1, paragraph 12.

(d) Section 28I was inserted by the 1997 Act, section 41(10), Schedule 2, paragraphs 3 and 7.

- (b) the provision of local pharmaceutical services in accordance with LPS arrangements, he may”.

Recognition of Local Pharmaceutical Committees

- 19.** In section 44(a) of the Act (recognition of local representative committees)—
- (a) in subsection (B2), for paragraph (b) substitute—
 - “(b) of—
 - (i) the persons providing pharmaceutical services from premises in the Primary Care Trust’s area, or
 - (ii) the persons mentioned in sub-paragraph (i) above and the persons providing local pharmaceutical services in the Primary Care Trust’s area,”; and
 - (b) in subsection (3), after paragraph (d) insert—
 - “(e) is a person providing local pharmaceutical services in the area of a Primary Care Trust if he provides such services in accordance with LPS arrangements made by the Primary Care Trust (whether with himself or another).”.

Functions of Local Pharmaceutical Committees

- 20.** In section 45(b) of the Act (functions of local representative committees)—
- (a) in subsection (1ZA), after paragraph (a) insert—
 - “or
 - (aa) Primary Care Trusts, in the exercise of any of their functions which relate to LPS arrangements, to consult committees recognised by them under section 44(B2)(b)(ii) above, or”;
 - (b) in subsection (1C)—
 - (i) for “or (B1)(b) or (c)”, substitute “, (B1)(b) or (c) or (B2)(b)(ii)”, and
 - (ii) after paragraph (d) insert—
 - “(e) in the case of a committee recognised under subsection (B2)(b)(ii) of that section, to the persons providing local pharmaceutical services in the Primary Care Trust’s area.”; and
 - (c) in subsection (4), for “or section 28C dental practitioners,”, substitute “, section 28C dental practitioners or persons providing local pharmaceutical services,”.

Default powers

21. In section 85(1)(c) of the Act, references to functions conferred or imposed by or under the Act are to be construed as including references to functions conferred or imposed by or under the 2001 Act in relation to pilot schemes established under section 28 of that Act; and references to regulations and directions are accordingly to be construed as including regulations or directions under the 2001 Act.

Emergency powers

22. In section 86(d) of the Act, the reference to a function conferred by virtue of the Act is to be construed as including a reference to a function conferred by virtue of the 2001 Act in relation to pilot schemes established under section 28 of that Act.

(a) In section 44, subsection (B2) was inserted by the 2002 Act, section 5(4); subsection (3) was inserted by the 1999 Act, section 11(1) and (4), and amended by the 2001 Act, Schedule 5, paragraph 5(7), and the 2002 Act, section 5(6).

(b) In section 45, subsection (1ZA) was inserted by the 2002 Act, section 5(9); subsection (1C) was inserted by the 1999 Act, section 11(6), and amended by the 2002 Act, section 5(11); subsection (4) was inserted by the 1999 Act, section 11(8).

(c) Section 85 was amended by the 1990 Act, section 66(1) and Schedule 9, paragraph 18(7); the 1995 Act, section 2(1) and Schedule 1, paragraph 41; the 1999 Act, section 65(1) and Schedule 4, paragraphs 4 and 25; S.I. 1999/2795, article 2; the 2001 Act, Schedule 5, paragraph 5(9); and the 2002 Act, Schedule 1, paragraph 23; and modified by the 1997 Act, Schedule 2, paragraph 20.

(d) Section 86 was amended by the 1990 Act, section 66(1) and Schedule 9, paragraph 18(8); and the 1999 Act, section 65 and Schedule 4, paragraphs 4 and 26; and modified by the 1997 Act, Schedule 2, paragraph 21.

Special arrangement as to payment of remuneration

23. In section 103(a) of the Act (special arrangement as to payment of remuneration), in subsection (1)(a), after “section 28C arrangements” insert “or LPS arrangements”.

Insertion of definitions of “local pharmaceutical services” and “LPS arrangements”

24. In section 128(1) of the Act (interpretation and construction), after the definition of “local education authority”, insert—

““local pharmaceutical services” means such services of a kind which may be provided under section 41 or by virtue of section 41A(b) (except the provision of drugs, medicines or listed appliances by a medical practitioner or dental practitioner to a patient of his pursuant to arrangements made by virtue of section 43(1)) as are prescribed by regulations under section 28 of the Health and Social Care Act 2001(c);

“LPS arrangements” means arrangements made under a pilot scheme established under section 28 of the Health and Social Care Act 2001;”.

Charges for the supply of drugs to treat venereal disease

25. In Schedule 12(d) to the Act (additional provisions as to regulations for the making and recovery of charges), in paragraph 1(1)(b), after “section 28C arrangements” insert “or LPS arrangements”.

Health Service Commissioner for England

26. In the Health Service Commissioners Act 1993(e), in section 2A(f), in subsection (1)—

(a) at the end of paragraph (b), repeal “or”; and

(b) after paragraph (c) insert—

“or

(d) individuals providing in England local pharmaceutical services in accordance with arrangements made under a pilot scheme established under section 28 of the Health and Social Care Act 2001 (except as employees of, or otherwise on behalf of, a health service body or an independent provider).”.

Commission for Health Improvement

27. In the Health Act 1999(g), in section 20(h) (functions of the Commission for Health Improvement), in subsection (7), in the definition of “service provider”, after paragraph (b) insert—

“or

(c) in accordance with arrangements under section 28 of the Health and Social Care Act 2001;”.

PART III

FURTHER CONSEQUENTIAL AMENDMENTS AND MISCELLANEOUS PROVISIONS

Amendment of the National Health Service (Payment of Remuneration—Special Arrangement) Order 1988

28. In the National Health Service (Payment of Remuneration—Special Arrangement) Order 1988(i), in article 2 (functions conferred on District and Special Health Authorities), after “pharmaceutical services” insert “or local pharmaceutical services”.

(a) Section 103(1) was amended by the 1997 Act, section 41(10) and Schedule 2, paragraphs 3 and 25.

(b) Section 41A was inserted by the 1997 Act, section 27(1), and amended by the 2002 Act, Schedule 2, paragraph 14.

(c) See regulation 2 of S.I. 2002/888.

(d) Schedule 12, paragraph 1(1)(b) was amended by the 1997 Act, section 41(10) and Schedule 2, paragraphs 3 and 31.

(e) c. 46.

(f) Section 2A was inserted by the Health Service Commissioners (Amendment) Act 1996 (c. 5), section 1; and amended by the 1997 Act, section 41(10) and Schedule 2, paragraph 68, and the Health Service Commissioners (Amendment) Act 2000 (c. 28), section 1.

(g) c. 8.

(h) Section 20 was amended by the 2002 Act, Schedule 1, paragraph 49.

(i) S.I. 1988/865, as amended by S.I. 1996/971 and 2002/2469.

Amendment of the Prescription Pricing Authority Constitution Order 1990

- 29.** In the Prescription Pricing Authority Constitution Order 1990(a)—
- (a) in article 4 (functions of the Pricing Authority), in paragraph (2), after “pharmaceutical services” insert “or local pharmaceutical services.”; and
 - (b) in article 5 (constitution of the Pricing Authority)—
 - (i) in paragraph (b), after “general medical services” insert “or personal medical services.”; and
 - (ii) in paragraph (c), after “pharmaceutical services” insert “or local pharmaceutical services.”.

Amendment of the National Health Service Trusts (Membership and Procedure) Regulations 1990

- 30.** In the National Health Service Trusts (Membership and Procedure) Regulations 1990(b), in regulation 1(2) (interpretation), in the definition of “health service body”, at the end of paragraph (a) insert—
- “or a PHS body as defined in section 33(6) of the Health and Social Care Act 2001;”.

Amendment of the National Health Service (General Medical Services) Regulations 1992

31.—(1) The National Health Service (General Medical Services) Regulations 1992(c) are amended as follows.

- (2) In regulation 2 (interpretation), for the definition of “chemist” substitute—
- “chemist” means—
- (a) a registered pharmacist;
 - (b) a person lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968; or
 - (c) a supplier of appliances,
who is included in the list of a Primary Care Trust or Health Authority under section 42 of the Act, or who provides local pharmaceutical services in accordance with LPS arrangements;”.
- (3) In regulation 36 (determination of question whether a substance is a drug, and recovery of cost), in paragraphs (1), (7)(b), (8) and (17), after “pharmaceutical services” insert “or local pharmaceutical services”.
- (4) In Schedule 2 (terms of service for doctors)—
- (a) in paragraph 1 (interpretation), in the definition of “prescription form”, after “pharmaceutical services” insert “or local pharmaceutical services”;
 - (b) in paragraph 44—
 - (i) in sub-paragraph (1), after “Schedule 10 to these Regulations” insert “(whether for supply as part of pharmaceutical services or local pharmaceutical services)”, and
 - (ii) in sub-paragraph (2), after “Schedule 11 to these Regulations” insert “(whether for supply as part of pharmaceutical services or local pharmaceutical services)”; and
 - (c) in paragraph 45(3), after “pharmaceutical services” insert “or local pharmaceutical services”.

Amendment of the National Health Service Litigation Authority Regulations 1995

- 32.** In the National Health Service Litigation Authority Regulations 1995(d), in regulation 1(2) (interpretation), in the definition of “health service body”, at the end insert—
- “or a PHS body as defined in section 33(6) of the Health and Social Care Act 2001;”.

(a) S.I. 1990/1718; relevant amending instruments are S.I. 1996/971 and 2002/2469.

(b) S.I. 1990/2024. Relevant amending instruments are S.I. 1996/1755, 1998/646, 2000/2434, 2001/3786 and 2002/2469.

(c) S.I. 1992/635; relevant amending instruments are S.I. 1995/3093, 1996/702, 1997/730, 1997/2468, 1998/682, 1998/2838, 1999/326, 2001/2890 and 2002/2469.

(d) S.I. 1995/2801; relevant amending instruments are S.I. 1998/646, 2000/696 and 2002/2469.

Amendment of the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000

33. In the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000(a)—

- (a) in regulation 1(2) (interpretation), in the definition of “health service body”, at the end of paragraph (a) insert—
 - “or a PHS body as defined in section 33(6) of the Health and Social Care Act 2001;”;and
- (b) in regulation 5 (disqualification for appointment: chairman and non-officer members), in paragraph (1)—
 - (i) in sub-paragraph (g), after paragraph (i) insert—
 - “(ia) providing, or assisting in the provision of, local pharmaceutical services in accordance with LPS arrangements;”, and
 - (ii) in sub-paragraph (i), after “pilot scheme health service body” insert “or a PHS body as defined in section 33(6) of the Health and Social Care Act 2001”.

Amendment of the Commission for Health Improvement (Functions) Regulations 2000

34. In the Commission for Health Improvement (Functions) Regulations 2000(b), in regulation 1(4) (interpretation), in the definition of “service provider”, after sub-paragraph (b) insert—

- “or
- (c) provides local pharmaceutical services in accordance with a pilot scheme established under section 28 of the Health and Social Care Act 2001.”.

Amendment of the Health Service Medicines (Control of Prices of Specified Generic Medicines) Regulations 2000

35. In the Health Service Medicines (Control of Prices of Specified Generic Medicines) Regulations 2000(c), in regulation 2 (interpretation), in paragraph (1), in the definition of “supply”, after sub-paragraph (c) insert—

“or to enable that person to provide local pharmaceutical services (services of a kind which may be provided under section 41 of the National Health Service Act 1977 or by virtue of section 41A of that Act, except such services provided by a medical practitioner or dental practitioner to a patient of his pursuant to arrangements made by virtue of section 43(1) of that Act), provided under a pilot scheme established under section 28 of the Health and Social Care Act 2001.”.

Amendment of the Health Service Medicines (Information on the Prices of Specified Generic Medicines) Regulations 2001

36. In the Health Service Medicines (Information on the Prices of Specified Generic Medicines) Regulations 2001(d), in regulation 2 (interpretation), in paragraph (1), in the definition of “supply”, after sub-paragraph (c) insert—

“or to enable that person to provide local pharmaceutical services (services of a kind which may be provided under section 41 of the National Health Service Act 1977 or by virtue of section 41A of that Act, except such services provided by a medical practitioner or dental practitioner to a patient of his pursuant to arrangements made by virtue of section 43(1) of that Act), provided under a pilot scheme established under section 28 of the Health and Social Care Act 2001.”.

(a) S.I. 2000/89; relevant amending instruments are S.I. 2001/3787, 2002/557 and 2002/2469.

(b) S.I. 2000/662, amended by S.I. 2002/2469.

(c) S.I. 2000/1763.

(d) S.I. 2001/3798.

Amendment of the National Health Service (Local Pharmaceutical Services and Pharmaceutical Services) Regulations 2002

37. In the National Health Service (Local Pharmaceutical Services and Pharmaceutical Services) Regulations 2002(a), after regulation 7 (requests to Health Authorities for preparation of proposals), insert—

“Consultation on proposals

7A. Where, pursuant to directions given by the Secretary of State under paragraph 2(4) of Schedule 2 to the Act, a Local Pharmaceutical Committee is, prior to submission of proposals for a pilot scheme, consulted by the Primary Care Trust for whose area the Committee was formed, it shall be a function of the Committee to—

- (a) consider the effect of the proposals on the provision of pharmaceutical services in that area; and
- (b) in the light of the conclusions which the Committee reaches as a result of that consideration, give advice to the Primary Care Trust about that effect.”.

Signed by authority of the Secretary of State for Health

David Lammy
Parliamentary Under-Secretary of State
Department of Health

19th November 2002

(a) S.I. 2002/888, amended by S.I. 2002/2469.

PROVISIONS OF THE NATIONAL HEALTH SERVICE (PHARMACEUTICAL SERVICES) REGULATIONS 1992 SPECIFIED FOR THE PURPOSES OF REGULATION 15

Regulation 2(1), in the definition of “chemist”
Regulation 2(1), in the definition of “controlled locality”
Regulation 2(1), in the definition of “locality”
Regulation 2(1), in the definition of “pharmacist”
Regulations 3 to 6
Regulations 7 and 8
Regulations 9 and 10
Regulations 12 to 14
Regulations 17, 18 and 20
Regulation 21(1)
Regulation 22(1)
Schedule 2, paragraphs 4, 11 and 12(1).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations (except regulation 15) make further provision in connection with the establishment of pilot schemes for the provision of local pharmaceutical services under Chapter I of Part 2 of the Health and Social Care Act 2001.

Part I of the Regulations contains amendments to the National Health Service (Pharmaceutical Services) Regulations 1992 (“the principal Regulations”). The key changes are as follows—

- insertion of a definition of “LPS chemist”, to mean a chemist who provides local pharmaceutical services under a pilot scheme (regulation 3(e));
- amendment of the definition of “pharmacy” to cover premises where local pharmaceutical services are provided (regulation 3(f));
- amendment of regulation 4(4) and 6(1) of the principal Regulations so that, when a Primary Care Trust considers whether it is necessary or desirable to grant an application for the provision of pharmaceutical services, it must take into account any local pharmaceutical services that are provided in that neighbourhood (regulation 5 and 7(a)); and
- amendment of regulation 12 of the principal Regulations so that a Primary Care Trust must take into account the impact of granting an application which falls to be determined under that regulation upon any local pharmaceutical services provided in the neighbourhood (regulation 12(f), (g), (h) and (i)).

Regulation 15 corrects an error in amendments to the principal Regulations made by the National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002, in connection with the substitution of references to “Health Authority or Primary Care Trust” in place of references to “FHSA”.

Part II of the Regulations makes modifications of certain provisions of primary legislation. Regulations 16 to 25 make modifications to the National Health Service Act 1977. In particular, regulation 16 amends section 15 of that Act so as to require a Primary Care Trust to operate procedures for dealing with complaints about the provision of local pharmaceutical services; and regulations 19 and 20 amend sections 44 and 45 of that Act so that a Primary Care Trust may recognise a Local Pharmaceutical Committee which represents both practitioners providing pharmaceutical services and those providing local pharmaceutical services.

Regulation 26 amends the Health Service Commissioners Act 1993 to provide that a person providing local pharmaceutical services may be investigated by the Health Service Commissioner for England, and regulation 27 amends the Health Act 1999 to provide that the Commission for Health Improvement has functions in relation to providers of local pharmaceutical services.

Part III of the Regulations contains amendments to secondary legislation which are consequential upon the implementation of pilot schemes for local pharmaceutical services. In particular, regulation 31 amends the National Health Service (General Medical Services) Regulations 1992, providing that the word “chemist” in those Regulations includes a chemist providing local pharmaceutical services, and making other minor changes.

Regulation 37 amends the National Health Service (Local Pharmaceutical Services and Pharmaceutical Services) Regulations 2002 to provide that a Local Pharmaceutical Committee must, if consulted regarding a proposal for a pilot scheme, consider the effect of the proposal on the provision of pharmaceutical services in their area and advise accordingly.

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