

2006 No. 1501

NATIONAL HEALTH SERVICE, ENGLAND

**The National Health Service (Primary Medical Services and
Pharmaceutical Services) (Miscellaneous Amendments)
Regulations 2006**

<i>Made</i>	- - - -	<i>5th June 2006</i>
<i>Laid before Parliament</i>		<i>16th June 2006</i>
<i>Coming into force</i>	- -	<i>24th July 2006</i>

The Secretary of State for Health makes these Regulations in exercise of the powers conferred by sections 28E, 28V, 42, 43 and 126(4) of the National Health Service Act 1977(a):

PART 1
GENERAL

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Primary Medical Services and Pharmaceutical Services) (Miscellaneous Amendments) Regulations 2006 and shall come into force on 24th July 2006.

(2) These Regulations apply in relation to England only.

(3) In these Regulations—

“GMS Contracts Regulations” means the National Health Service (General Medical Services Contracts) Regulations 2004(b);

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- (a) 1977 c.49; section 28E was inserted by section 22(1) of the National Health Service (Primary Care) Act 1997 (c.46) (“the 1997 Act”) and was amended by the Health Act 1999 (c.8) (“the 1999 Act”), section 65(2) and Schedule 5, the Health and Social Care Act 2001 (c.15) (“the 2001 Act”), section 27(5)(a), the National Health Service Reform and Health Care Professions Act 2002 (c.17) (“the 2002 Act”), section 4(3), Schedule 3, paragraph 8 and the Health and Social Care (Community Health and Standards) Act 2003 (c.43) (“the 2003 Act”), section 177(7) to (11); section 28V was inserted by section 175(1) of the 2003 Act; 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 National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), section 12(3); by the Health Authorities Act 1995 (c.17) (“the 1995 Act”), Schedule 1, paragraph 30; by the Pharmacists (Fitness to Practice) Act 1997 (c.19), Schedule, paragraph 6; by the 2001 Act, sections 20(6), 43(2), (3) and (4) and by Schedule 6 Part 1; 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), section 21(2); by the 1997 Act, section 29(1) and Schedule 2, paragraphs 3 and 14; by the 1990 Act, Schedule 9, paragraph 18(2); by the 2001 Act, sections 20(7), 42(2) and 43(5); and by the 2002 Act, Schedule 2, paragraph 17. Section 126(4) was amended by the 1990 Act, section 65(2), the 1999 Act, Schedule 4, paragraph 37(6) and the 2001 Act, Schedule 5, paragraph 5(13)(b).
- (b) S.I. 2004/291, as amended by S.I. 2004/906 and 2694 and 2005/28, 893 and 3315.

“PMS Agreements Regulations” means the National Health Service (Personal Medical Services Agreements) Regulations 2004(a); and

“Pharmaceutical Regulations” means the National Health Service (Pharmaceutical Services) Regulations 2005(b).

PART 2

AMENDMENT OF THE GMS CONTRACTS REGULATIONS

Amendment of regulation 2 of the GMS Contracts Regulations

2. In regulation 2(1) (interpretation) of the GMS Contracts Regulations—

(a) in the definition of “independent nurse prescriber”, for sub-paragraph (c) substitute the following sub-paragraph—

“(c) against whose name in that register is recorded an annotation signifying that he is qualified to order drugs, medicines and appliances as a community practitioner nurse prescriber, a nurse independent prescriber or as a nurse independent/supplementary prescriber;”;

(b) insert the following definition at the appropriate place in the alphabetical order—

““pharmacist independent prescriber” means a person—

(a) who is either engaged or employed by the contractor or is party to the contract,

(b) who is registered in the Register of Pharmaceutical Chemists maintained in pursuance of section 2(1) of the Pharmacy Act 1954(c) or the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976(d), and

(c) against whose name in that register is recorded an annotation signifying that he is qualified to order drugs, medicines and appliances as a pharmacist independent prescriber;”;

(c) in the definition of “prescriber”, after sub-paragraph (a) insert the following sub-paragraph—

“(aa) a pharmacist independent prescriber;” and

(d) in the definition of “supplementary prescriber”, in sub-paragraph (c), after “prescriber” insert “or, in the case of the Nursing and Midwifery Register, a nurse independent/supplementary prescriber”.

Amendment of Schedule 6 to the GMS Contracts Regulations

3. In Schedule 6 (other contractual terms) to the GMS Contracts Regulations—

(a) in paragraph 50(3) and (4) (terms relating to the provision of dispensing services), after “independent nurse prescriber” at each place where it occurs (four times), insert “or a pharmacist independent prescriber”;

(b) in paragraph 53(2) (qualifications of performers)—

(i) omit the final “or” in paragraph (b);

(ii) in paragraph (c) for “began.” substitute “began; or”; and

(iii) after paragraph (c), add the following paragraph—

(a) S.I. 2004/627, as amended by S.I. 2004/906 and 2694 and 2005/28, 893 and 3315.

(b) S.I. 2005/641 as amended by S.I. 2005/1015 and 1501 and by S.I. 2006/552.

(c) 1954 c.61.

(d) S.I. 1976/1213 (N.I. 22).

- “(d) a medical practitioner, who—
- (i) is not a GP Registrar;
 - (ii) is undertaking a programme of post-registration supervised clinical practice supervised by the Postgraduate Medical Education and Training Board (“a post-registration programme”);
 - (iii) has notified the Primary Care Trust that he will be undertaking part or all of a post-registration programme in its area at least 24 hours before commencing any part of that programme taking place in the Primary Care Trust’s area; and
 - (iv) has, with that notification, provided the Primary Care Trust with evidence sufficient for it to satisfy itself that he is undergoing a post-registration programme,
- but only in so far as any medical services that the medical practitioner performs constitute part of a post-registration programme.”;
- (c) in paragraph 59(1) (which relates to conditions for employment and engagement), after the word “contract”, insert “, other than a medical practitioner falling within paragraph 53(2)(d),”;
 - (d) in paragraphs 65(1) and (2) (which relate to independent nurse prescribers and supplementary prescribers), after “independent nurse prescriber”, at each place where it occurs (seven times), insert “, a pharmacist independent prescriber”; and
 - (e) in the heading for paragraph 65, after “independent nurse prescribers” insert “, pharmacist independent prescribers”.

PART 3

AMENDMENT OF THE PMS AGREEMENTS REGULATIONS

Amendment of regulation 2 of the PMS Agreements Regulations

4. In regulation 2(1) (interpretation) of the PMS Agreements Regulations—
- (a) in the definition of “independent nurse prescriber”, for sub-paragraph (c) substitute the following sub-paragraph—
 - “(c) against whose name in that register is recorded an annotation signifying that he is qualified to order drugs, medicines and appliances as a community practitioner nurse prescriber, a nurse independent prescriber or as a nurse independent/supplementary prescriber;”;
 - (b) insert the following definition at the appropriate place in the alphabetical order—
 - ““pharmacist independent prescriber” means a person—
 - (a) who is either engaged or employed by the contractor or is party to the agreement,
 - (b) who is registered in the Register of Pharmaceutical Chemists maintained in pursuance of section 2(1) of the Pharmacy Act 1954^(a) or the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976^(b), and
 - (c) against whose name in that register is recorded an annotation signifying that he is qualified to order drugs, medicines and appliances as a pharmacist independent prescriber;”;
 - (c) in the definition of “prescriber”, after sub-paragraph (a) insert the following sub-paragraph—

^(a) 1954 c.61.

^(b) S.I. 1976/1213 (N.I. 22).

- “(aa) a pharmacist independent prescriber,”; and
- (d) in the definition of “supplementary prescriber”, in sub-paragraph (c), after “prescriber” insert “or, in the case of the Nursing and Midwifery Register, a nurse independent/supplementary prescriber”.

Amendment of Schedule 5 to the PMS Agreements Regulations

5. In Schedule 5 (other contractual terms) to the PMS Agreements Regulations—
- (a) in paragraph 50(3) and (4) (terms relating to the provision of dispensing services), after “independent nurse prescriber” at each place where it occurs (four times), insert “or a pharmacist independent prescriber”;
- (b) in paragraph 53(2) (qualifications of performers)—
- (i) omit the final “or” in paragraph (b);
- (ii) in paragraph (c) for “began.” substitute “began; or”; and
- (iii) after paragraph (c), add the following paragraph—
- “(d) a medical practitioner, who—
- (i) is not a GP Registrar;
- (ii) is undertaking a programme of post-registration supervised clinical practice supervised by the Postgraduate Medical Education and Training Board (“a post-registration programme”);
- (iii) has notified the Primary Care Trust that he will be undertaking part or all of a post-registration programme in its area at least 24 hours before commencing any part of that programme taking place in that the Primary Care Trust’s area; and
- (iv) has, with that notification, provided the Primary Care Trust with evidence sufficient for it to satisfy itself that he is undertaking a post-registration programme,
- but only in so far as any medical services that the medical practitioner performs constitute part of a post-registration programme.”;
- (c) in paragraph 59(1) (which relates to conditions for employment and engagement), after the word “agreement”, insert “, other than a medical practitioner falling within paragraph 53(2)(d),”;
- (d) in paragraphs 65(2) and (3) (which relate to independent nurse prescribers and supplementary prescribers), after “independent nurse prescriber”, at each place where it occurs (seven times), insert “, a pharmacist independent prescriber”; and
- (e) in the heading for paragraph 65, after “independent nurse prescribers” insert “, pharmacist independent prescribers”.

PART 4

AMENDMENT OF THE PHARMACEUTICAL REGULATIONS

Amendment of regulation 2 of the Pharmaceutical Regulations

6. In regulation 2 (1) (interpretation) of the Pharmaceutical Regulations—
- (a) in the definition of “PMS contractor”, for “Primary Care Trust or a Strategic Health Authority” substitute “relevant body”, and
- (b) insert the following definition in the appropriate place in the alphabetical order—
- ““relevant body”, in relation to the definition of a PMS contractor, means—

- (a) in a case where a Primary Care Trust is providing services under a PMS agreement with a Strategic Health Authority, that Strategic Health Authority, and
- (b) in all other cases, a Primary Care Trust;”.

Amendment of Schedule 2 to the Pharmaceutical Regulations

7. In Schedule 2 (terms of service of dispensing doctors) to the Pharmaceutical Regulations, in paragraph 8 (fees and charges), for paragraph 8(2) substitute—

“(2) Where a dispensing doctor provides a drug or appliance under pharmaceutical services or provides any additional service associated with the dispensing of such drugs and appliances in accordance with an agreement with the Primary Care Trust—

- (a) in accordance with this Schedule or an agreement with the Primary Care Trust; and
 - (b) had the drug, appliance or additional service been provided by a contractor providing dispensing services under a GMS contract, the contractor would have been entitled, by virtue of directions given by the Secretary of State under section 28T of the Act, to a payment—
 - (i) in respect of the drug or appliance; or
 - (ii) in respect of the additional service provision,
- the Primary Care Trust shall credit him with the payment.”.

Signed on behalf of the Secretary of State

5th June 2006

Warner
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to certain Regulations relating to primary medical services.

Part 2 amends the National Health Service (General Medical Services Contracts) Regulations 2004 (“the GMS Contracts Regulations”). In particular, it:

- (a) makes amendments to reflect changes to the arrangements for independent prescribing by pharmacists and nurses. There is to be a new category of prescriber known as a Pharmacist Independent Prescriber, and new arrangements for independent prescribing by nurses – which require consequential amendments to the titles of nurses who have trained to prescribe;
- (b) makes provision in respect of a new category of post graduate medical training to provide that doctors undergoing such a programme may perform medical services even though they are not on a PCT’s Performers List and have not provided two clinical references.

Part 3 makes amendments to the National Health Service (Personal Medical Services Agreements) Regulations 2004 (“the PMS Agreements Regulations”) which mirror those made in the GMS Contracts Regulations.

Part 4 makes certain amendments to the National Health Service (Pharmaceutical Services) Regulations 2005 (“the Pharmaceutical Regulations”) to clarify the definition of “PMS contractor” and to make further provision in respect of fees and charges payable to a dispensing doctor.

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