

EXPLANATORY MEMORANDUM TO
THE NATIONAL HEALTH SERVICE (GENERAL MEDICAL SERVICES
CONTRACTS AND PERSONAL MEDICAL SERVICES AGREEMENTS)
(AMENDMENT) REGULATIONS 2018

2018 No. 844

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department of Health and Social Care and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This Instrument amends the following sets of Regulations relating to the provision of primary medical services:-
- i. The National Health Service (General Medical Services Contracts) Regulations 2015 (SI 2015/1862) (GMS Contracts Regulations) which set out the framework for General Medical Services (GMS) contracts.
 - ii. The National Health Service (Personal Medical Services Agreements) Regulations 2015 (SI 2015/1879) (PMS Agreements Regulations) which set out the framework for Personal Medical Services (PMS) agreements.
- 2.2 The amendments implement the agreement between the National Health Service Commissioning Board (NHS Commissioning Board) and the General Practitioners Committee (GPC) of the British Medical Association on changes to primary medical services (GP) contracts from 1st October 2018.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Part 4 of the National Health Service Act 2006 requires the NHS Commissioning Board to secure the provision of primary medical services in England. It makes provision for regulations to be made to govern the terms of primary medical services contracts.
- 4.2 Agreement was reached between NHS Employers, on behalf of the NHS Commissioning Board, and the GPC on changes to be made to primary medical services contracts during 2018-19.
- 4.3 This instrument amends the GMS Contracts Regulations and the PMS Agreements Regulations which contain the mandatory contractual terms that must be contained in

primary medical services contracts and agreements made between the NHS Commissioning Board and primary medical services contractors (GPs).

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England.
- 5.2 The territorial application of this instrument is England.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

A requirement which aims to increase uptake of use of online services

- 7.1 GP practices are required to promote and offer to their registered patients the facility to book, view, amend, cancel and print appointments online; order repeat prescriptions for drugs, medicines or appliances online; and view and print a list of any drugs, medicines or appliances for which the patient has a repeat prescription.

Of those practices who have taken up the use of online services, 10% have fewer than 10% of their patients with access to online services. 43% of practices have fewer than 20% of their registered patients with access to online services.

The proposed amendment aims to secure an increase in the level of patient access to online services by requiring those practices, which have less than 10% of their registered patients using online services, to agree a plan with the NHS Commissioning Board to increase the number of patients using online services.

Clarification of the requirement to identify patients living with moderate to severe frailty

- 7.2 The contract agreement for 2017/18 introduced a contractual requirement on GP practices to identify patients aged 65 and over who are living with moderate or severe frailty. Where such patients are identified, GP practices are required to undertake a clinical review, provide an annual medication review and, where appropriate, discuss whether the patient has fallen in the last 12 months and provide relevant interventions as clinically appropriate.

Information on clinical interventions to this group of patients will be collected from GP practices. The NHS Commissioning Board will use this information to understand the nature of the interventions made and the prevalence of frailty by degree among practice populations and nationally.

The expectation is that the identification of such patients should take place on an annual basis although this is not currently specified in the Regulations.

The proposed amendment formalises the expectation to ensure that identification of patients living with frailty takes place on an annual basis.

A requirement in respect of use of the NHS Electronic Referral (e-RS) system

- 7.3 The NHS e-Referral Service (e-RS) combines electronic booking with a choice of place, date and time for first hospital or clinic appointments. It allows patients to

choose their initial hospital or clinic appointment, book it in the GP surgery at the point of referral, or later at home on the phone or online.

The proposed amendment will require GP contractors to use e-RS in their practice for all referrals of their registered patients to a first, consultant led, outpatient appointment from October 2018. This mirrors changes to the NHS Standard contract, whereby providers are no longer paid for referrals that they make outside e-RS. The NHS Standard contract is mandated by the NHS Commissioning Board for use by commissioners for all contracts for healthcare services other than primary care. There is a paper switch off programme (trust by trust) with all trusts compliant by 1 October 2018.

Where e-RS is not available for use by a practice when referring a patient to a particular service or services, or a practice is unable to use e-RS because of technical or other difficulties, the proposed amendments will require GP practices to agree a plan between the practice and the NHS Commissioning Board to resolve these issues as soon as possible.

Extended provisions on the removal of violent patients from a practice's list

- 7.4 The current regulations allow GP practices to remove patients who are violent from the GP practice list of registered patients, with immediate effect. The proposed amendments make some changes to provide greater protection against patients who are violent and improve the process for removing those patients from GP practice lists. . The NHS Commissioning Board has responsibility for ensuring all patients in England have access to primary medical services. For those patients removed from a GP practice list for being violent and are unable to register with another GP practice, the NHS Commissioning Board may allocate them to a special allocation scheme designed specifically to deal with the needs of this group of patients. These measures ensure that they continue to be provided with access to GP services.

Patients who have been assigned to a special allocation scheme may have a 'violent patient' flag added to their computerised medical records to allow staff in general practice to identify and plan for providing appropriate and safe levels of care. . The status of patients on a special allocation scheme will have their case reviewed by the provider of the scheme at 6 monthly intervals. If they are no longer considered to be a violent patient, the flag will be removed from their record.

However, the current system of registration allows patients on a special allocation scheme to register with another GP practice before the contractor becomes aware of the 'violent patient' flag. The proposed changes to the regulations will allow GP practices to remove a patient from its list of registered patients where the practice becomes aware, after accepting the patient onto that list, that the person has been allocated to a special allocation scheme and is still considered to be a violent patient. In such cases, the amendments allow the patient to be removed from the list using the existing provisions in the regulations regarding the removal of violent patients from a GP practice's list of registered patients.

The inclusion of paramedic prescribers in the list of those who may prescribe in a general practice setting.

- 7.5 The Human Medicine Regulations 2012 were amended from 1 April 2018 to include paramedics as a profession which could train to become independent prescribers.

Paramedics join other professions with independent prescribing responsibilities such as nurses, midwives, physiotherapists and pharmacists.

Education providers have therefore been allowed to admit paramedics to Health and Care Professions Council (HCPC) approved prescribing programmes from 1 April 2018.

Following successful completion of the training, a paramedic's entry on the HCPC Register will be annotated to show they are qualified as an independent or supplementary prescriber. Once qualified, prescribing paramedics will be able to be deployed in a variety of settings to support healthcare delivery. This could reduce the need for hospital admission for patients with long-term conditions and ensure that patients receiving palliative care can access medicines more easily out of hours. Deployment of paramedic independent prescribers will be a matter for local commissioning arrangements.

Consolidation

- 7.6 The NHS (General Medical Services Contracts) Regulations and the NHS (Personal Medical Services Agreements) Regulations were consolidated in December 2015. These are only the fourth set of amendments to those regulations since December 2015. The Department does not consider that there is a current need to further consolidate these regulations.

8. Consultation outcome

- 8.1 There is no statutory requirement to consult on proposals to amend the GP contract regulations. However, the Department has referred a draft of the proposed amendments to the British Medical Association (BMA), who are the recognised representatives of GPs for these purposes, and the NHS Commissioning Board for their consideration and comment.
- 8.2 The BMA have commented on the draft amendment regulations. We have responded to the comments received and made appropriate changes to the Regulations – although none of the comments received were particularly contentious.
- 8.3 The NHS Commissioning Board undertook two public consultation exercises regarding the GP contract changes for 18/19 before the formal negotiations with GPC began. These were run as webinars with members of the public. The NHS Commissioning Board discussed with them the potential items for inclusion in the negotiating remit and sought their views on the suitability of these as well as asking whether there was any key issues which were missing.
- 8.4 Participants were also asked for views on how to engage more widely on the GP contract going forward.

9. Guidance

- 9.1 NHS Employers have published guidance on implementing the contractual changes at <http://www.nhsemployers.org/-/media/Employers/Documents/Primary-care-contracts/V-and-I/2018-19-GMS-guidance.pdf>

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.

- 10.2 There is no impact on the public sector.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.
The GP practices are exempt from the Small Firm Impact Test as they are considered as part of the public sector due to their provision of primary medical services for the NHS. Public sector organisations are exempt from this test.

12. Monitoring & review

- 12.1 Monitoring of GMS Contracts and PMS Agreements is the responsibility of the NHS Commissioning Board. However the Secretary of State has responsibility for the terms of contracts contained in regulations and for the consolidation of those regulations.

13. Contact

- 13.1 Jenny Smith at the Department of Health and Social Care Tel: 0113 254 5020 or email: jenny.smith@dh.gsi.gov.uk can answer any queries regarding the instrument.