

# HEALTH AND SOCIAL CARE ACT 2001

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2: Pharmaceutical Services**

#### **Chapter 2: Changes to existing arrangements**

#### *England and Wales*

#### ***Section 42: Dispensing of NHS prescriptions and provision of pharmaceutical services***

201. *Subsection (1)* of [section 42](#) substitutes a revised section 41 in the 1977 Act relating to the arrangements for pharmaceutical services.
202. *Subsection (1)(a)* of new section 41 requires Health Authorities, in accordance with regulations, to make arrangements for the supply to persons who are in their area, of drugs, medicines and listed appliances to those people for whom they have been prescribed by medical practitioners under the national health service (including the Scottish and Northern Ireland health services).
203. *Subsections (1)(b) and (c)* require Health Authorities similarly, in accordance with regulations, to make arrangements for the supply to persons who are in their area, of drugs and medicines to those people for whom they have been prescribed by dental practitioners.
204. *Subsection (1)(d)* makes provision for items prescribed by certain other categories of prescriber also to be dispensed as part of NHS pharmaceutical services. This subsection gives the Secretary of State powers to specify in regulations the categories of person whose prescriptions will be dispensed and any conditions in accordance with which they must prescribe. It also provides the Secretary of State with powers to determine the particular drugs, medicines and appliances which each of them may prescribe for NHS dispensing. In relation to prescription only medicines, this subsection needs to be read in conjunction with [section 63](#), which deals with the related issue of extension of the right to prescribe such medicines.
205. *Subsection (1)(e)* allows the Secretary of State to make regulations extending the scope of the services for which Health Authorities are required to make arrangements.
206. *Subsection (2)* of new section 41 defines these services together with the additional pharmaceutical services provided for under section 41A as “pharmaceutical services”.
207. *Subsection (3)* of new section 41 provides that the categories of persons under subsection (1)(d) whose prescriptions may be dispensed must be professionals regulated by law. It includes provision to ensure that prescriptions written by health professionals regulated under Scottish and Northern Irish legislation can be dispensed in England and Wales. *Subsection (4)* of new section 41 relates to the Secretary of State’s powers to determine the particular drugs, medicines and appliances which each category of prescriber may prescribe for NHS dispensing. It provides that a determination may

*These notes refer to the Health and Social Care Act 2001  
(c.15) which received Royal Assent on 11 May 2001*

make different provision for different cases; specify the circumstances or cases in which a drug, medicine or appliance may be prescribed and allow for the dispensing of such items as the prescriber thinks necessary, in the exercise of their discretion.

208. *Subsection (5)* of new section 41 provides that the arrangements made by a Health Authority can include arrangements for the provision of a service by 'remote' means, so that the person receiving the service does so otherwise than at the premises from which it is provided. *Subsection (6)* of new section 41 makes provision to the effect that (subject to any limitations imposed by the Secretary of State in regulations) people with whom a Health Authority has made arrangements may also provide pharmaceutical services to people who are outside the Authority's area. This might happen, for example, where patients send their prescriptions by post to the pharmacy of their choice, or where a pharmacy collects a prescription from a GP's surgery on a patient's behalf and then delivers the dispensed medicine to the patient's home. The intention is to facilitate, and provide a means to control, the development of internet, mail order, home delivery and other arrangements. This will provide patients with greater flexibility in the way they can present their prescriptions and obtain the drugs or appliances that have been ordered for them.