

**EXPLANATORY MEMORANDUM TO THE
NHS (PHARMACEUTICAL SERVICES) AMENDMENT REGULATIONS 2005**

2005 No. 1015

1. This explanatory memorandum has been prepared by the Secretary of State of Health and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments. It should be read in conjunction with the explanatory memorandum which accompanied the National Health Service (Pharmaceutical Services) Regulations 2005 (SI 2005/641).
2. **Description**
 - 2.1 This Statutory Instrument amends the National Health Service (Pharmaceutical Services) Regulations 2005 (SI 2005/641).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 This Statutory Instrument corrects three errors that have come to light in the National Health Service (Pharmaceutical Services) Regulations 2005. These errors are such that they need to be corrected immediately, so the amending Regulations need to come into force on 1st April, when the principle Regulations come into force. As a result it is necessary for these Regulations to come into force in breach of the 21 day rule.
 - 3.2 The Department has taken steps to ensure that the contents of these Regulations are known to those most directly affected by them.
 - 3.3 The Department regrets any inconvenience caused by the breach of the 21 day rule..
4. **Legislative Background**
 - 4.1 The Instrument is being made under Sections 41, 42, 43 and 126(4) of the National Health Service Act 1977 as amended.
 - 4.2 The Instrument is being made to achieve three small but important changes from 1 April 2005:
 - In finalising arrangements for issuing directions to Primary Care Trusts and a determination of remuneration for the payment arrangements to accompany the new contractual framework for community pharmacy, a critical error within SI 2005/641 was discovered which would not permit Secretary of State to determine pharmacists' remuneration in respect of the directed services which contractors will be providing under that framework. The amendments to Regulation 56 of the principle Regulations achieve this.
 - This led to the discovery of a further consequential error within SI 2005/641 concerning the application of the revised control of entry test. Primary Care

Trusts, when assessing new applications for pharmacies, will need to be able to take account not only of the range and choice of essential services available locally under the framework but also of directed services as well. The amendments to Regulation 12 of the principle Regulations achieve this.

- A further technical error in respect of Regulation 60 of the principle Regulations was noted in that doctors who dispense to patients who would have serious difficulty getting to a local pharmacy do not have to have premises approval, so will not have listed premises. The amendment makes it clear that arrangements will be made for doctors to dispense to such patients from their practice premises rather than from listed premises which the regulations currently require.

5. Extent

- 5.1 This Instrument applies to England. Responsibility for the provision of NHS pharmaceutical services is devolved to the administrations in Scotland, Wales and Northern Ireland.

6. European Convention on Human Rights

- 6.1 Not applicable

7. Policy background

- 7.1 The policy background is set out in the explanatory memorandum which accompanied the NHS (Pharmaceutical Services) Regulations 2005 (SI 2005/641).

Consultation

- 7.2 The Department advised the Pharmaceutical Services Negotiating Committee, the General Practitioners' Committee of the British Medical Association and the Dispensing Doctors' Association of these amendments on 29 March 2005. It was not possible to consult them formally prior to this. The Pharmaceutical Services Negotiating Committee indicated the amendments were acceptable.

8. Impact

- 8.1 The amendments correct errors in the previous Regulations.
- 8.2 No additional burdens to business or the public sector have been identified as a result.
- 8.3 The amendments will enable community pharmacy contractors to be paid for the complete range of essential, advanced and local enhanced services they will provide from 1 April 2005 under the new contractual framework. The amendments enable Primary Care Trusts when assessing applications to provide pharmaceutical services, to take into account the same full range of services.
- 8.4 A Regulatory Impact Assessment accompanied the NHS (Pharmaceutical Services) Regulations 2005 (SI 2005/641).

8.4 The Minister of State has concluded that the benefits of these amendments outweigh any potential costs.

9. Contact

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