

**EXPLANATORY MEMORANDUM TO**  
**THE NATIONAL HEALTH SERVICE (GENERAL MEDICAL SERVICES**  
**CONTRACTS AND PERSONAL MEDICAL SERVICES AGREEMENTS)**  
**(AMENDMENT) REGULATIONS 2016**

**2016 No. 875**

**1. Introduction**

1.1 This explanatory memorandum has been prepared by the Department of Health 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 contracts from 3<sup>rd</sup> October 2016.

**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 the negative 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 currently 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 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 care contracts during 2016-17.

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.

## 5. **Extent and Territorial Application**

5.1 This instrument extends to England only.

5.2 This instrument applies to England only

## 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*

#### **Patients' records – Transfer of patients' medical records**

7.1 Regulations currently require a GP practice to send a patient's medical records to the NHS Commissioning Board where that patient dies or is no longer registered with a GP practice. Practices are required to send the records in written form or, with the approval of NHS Commissioning Board, in any other form.

7.2 Since the introduction of the GP2GP system – which provides for the electronic transfer of medical records between practices – it is considered overly bureaucratic to require practices to send a copy of medical records to the Board in addition to a new practice with whom the patient has registered.

7.3 The regulations are, therefore, being amended to require that, where a patient dies or is removed from the contractor's list without registering with another provider, that patient's records must be sent to the Board. Where a patient transfers to another provider, those patient's records need only be sent to the Board if they are in paper form or there is a technical error in the transfer of electronic records.

7.4 The requirement to seek the consent of the NHS Commissioning Board to send patient records to it, in a form other than in writing, is also being removed.

#### **Summary Care Record**

7.5 Provisions introduced in 2015 require practices to ensure that the summary care record is updated at least on a daily basis where there is a change to the information contained in that record.

7.6 The amendment provides clarity to practices as it requires a patient's summary care record to be updated as changes occur, rather than on a daily basis.

#### **Data Collection**

7.7 In order to support the Government's priority on increasing access to GP services for patients, the amendment regulations introduce a requirement for contractors, with the necessary computer systems, to collect and submit to the NHS Commissioning Board such information about patient access to primary medical services as the Board may require.

### ***Consolidation***

- 7.8 In response to JCSI concerns, consolidated NHS (General Medical Services Contracts) Regulations and consolidated NHS (Personal Medical Services Agreements) Regulations came into force on 7<sup>th</sup> December 2015. Consequential amendments were made to these regulations by the Electronic Identification and Trust Services For Electronic Transactions (EIDAS) Regulations 2016 (SI 2016/696). These are the second set of amending regulations since December 2015.

### **8. Consultation outcome**

- 8.1 The Department of Health has consulted the British Medical Association (BMA), the National Association of Primary Care, the NHS Alliance and the NHS Commissioning Board on the proposed changes to the regulations.
- 8.2 No comments were raised on the content of the proposed amendments.

### **9. Guidance**

- 9.1 As holders of the contract, the NHS Commissioning Board propose to issue guidance to their areas teams on implementing the contractual changes.

### **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 Equality Impact Assessment is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the [legislation.gov.uk](http://legislation.gov.uk) website.

### **11. Regulating small business**

- 11.1 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 Tel: 0113 254 5020 or email: [jenny.smith@dh.gsi.gov.uk](mailto:jenny.smith@dh.gsi.gov.uk) can answer any queries regarding the instrument.