

HEALTH ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

PART 4 CHAPTER 1

Pharmaceutical Services

Section 36: Arrangements for dispensing of medicines

177. **Section 36** of the Act amends section 43 of the National Health Service Act 1977, which concerns the persons who may be authorised to provide NHS pharmaceutical services in England and Wales. Section 36 makes provision in relation to the supervision of transactions by pharmacists, in addition to those in section 26 of the Act (requirements about supervision in the Medicines Act).
178. The existing section 43(2) of the 1977 Act provides that, except as may be provided for by or under regulations, arrangements for the dispensing of medicines shall be made only with persons who are registered pharmacists, or are persons lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act, and who undertake that all medicines supplied by them under arrangements for the provision of pharmaceutical services shall be dispensed by or under the direct supervision of a registered pharmacist. Section 36(1) substitutes a new subsection (2), to clarify that regulations made by the Secretary of State under section 43(2) may provide for exemptions from the second requirement; i.e. that the registered pharmacist, or the person lawfully conducting a retail pharmacy business, undertakes that medicines will be dispensed by or under the supervision of a pharmacist. The policy intention is that the regulations would allow arrangements under which medicines are to be dispensed by registered and suitably trained pharmacy staff, without the supervision of a pharmacist.
179. **Section 36(2)** relates to NHS legislation in Scotland concerning the eligibility to be a contractor under a pharmaceutical care services contract. Amendment of section 17S of the NHS (Scotland) Act 1978 will allow regulations to be made in Scotland which will bring NHS legislation in Scotland into line with the proposed changes to the Medicines Act 1968 implemented by Part 2 of the Health Act. This will allow arrangements under which medicines are to be dispensed by registered and suitably trained pharmacy staff, without the supervision of a pharmacist.