

2001 No. 2888

NATIONAL HEALTH SERVICE, ENGLAND

**The National Health Service (Pharmaceutical Services)
and (Misuse of Drugs) (Electronic Communications)
Order 2001**

Made - - - - - *20th August 2001*

Laid before Parliament *21st August 2001*

Coming into force - - *11th September 2001*

The Secretary of State for Health, considering that the authorisation of the use of electronic communications by this Order for any purpose is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases, in exercise of the powers conferred on him by sections 8 and 9 of the Electronic Communications Act 2000(a), hereby makes the following Order:—

Citation, commencement and extent

1.—(1) This Order may be cited as the National Health Service (Pharmaceutical Services) and (Misuse of Drugs) (Electronic Communications) Order 2001 and shall come into force on 11th September 2001:

(2) This Order extends to England only(b).

Amendment of the National Health Service (Pharmaceutical Services) Regulations 1992

2.—(1) The National Health Service (Pharmaceutical Services) Regulations 1992(c) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) in the appropriate alphabetical position, insert—

“the 2000 Act” means the Electronic Communications Act 2000;”,

“electronic communication” has the same meaning as in section 15 of the 2000 Act;”,

“electronic signature” has the same meaning as in section 7 of the 2000 Act;”;

(b) in the definition of “prescription form”(d), after “means” insert “, subject to regulation 2A,”.

(3) After regulation 2, insert—

“2A.—(1) In these Regulations, where the conditions set out in paragraph (2) are met—

(a) the term “prescription form” includes data that—

(i) are created in an electronic form and signed with an electronic signature and are transmitted as an electronic communication;

(a) 2000 c. 7. For the definition of “the appropriate Minister” see sections 9(1) and 10(1).

(b) For the application of section 8 of the Electronic Communications Act 2000 to Wales, see section 10 of that Act.

(c) S.I. 1992/662. Relevant amending instruments are S.I. 1998/681, 1999/696 and 2000/593.

(d) The definition of a “prescription form” was substituted by S.I. 1999/696 and amended by S.I. 2000/593.

- (ii) are created in an electronic form and signed with an electronic signature, where both the data and the signature are entered on the prescription form in a non-legible manner;
 - (iii) are created in writing and signed with an electronic signature which is entered on the prescription form in a non-legible manner; or
 - (iv) are created in an electronic form and entered on the prescription form in a non-legible manner, and signed in ink;
- (b) any reference to presentation of a prescription form includes transmission of data created in an electronic form as an electronic communication.
- (2) The conditions are—
- (a) that the prescription is an order for a drug or appliance and is issued by a doctor in connection with the provision of general medical services or personal medical services;
 - (b) that the order is not for an oxygen concentrator; and
 - (c) that the Secretary of State is satisfied that—
 - (i) the use of electronic means in order to create, sign and transmit prescriptions (or whichever of those purposes is applicable) is appropriate for the purposes of a pilot scheme on the use of electronic prescribing in relation to the doctor and, where relevant, the chemist and the premises at which the prescription is dispensed; and
 - (ii) the particular electronic means used by the doctor and, where relevant, the chemist concerned are suitable for the purposes of such a pilot scheme.”.
3. In regulation 20(8) (arrangements for provision of pharmaceutical services by doctors)(a), after “issuing”, insert “a prescription form by electronic means or by issuing”.
- 4.—(1) Part II of Schedule 2 (terms of service for chemists) is amended as follows.
- (2) In sub-paragraph (1C)(b) of paragraph 3—
- (a) in paragraph (a), omit the words “on the prescription form”; and
 - (b) in paragraph (b), for “the prescription form”, substitute “the form on which the declaration is made”.
- (3) In sub-paragraph (2)(a) of paragraph 5, for “who presents a prescription”, substitute “named on a prescription form”.
5. In Part III of Schedule 2 (terms of service for doctors who provide pharmaceutical services), in paragraph 11B(c)—
- (a) in paragraph (a), omit the words “on the prescription form”; and
 - (b) in paragraph (b), for “the prescription form”, substitute “the form on which the declaration is made”.

Amendment of the Misuse of Drugs Regulation 1985

- 6.—(1) The Misuse of Drugs Regulations 1985(d) are amended as follows.
- (2) In regulation 16(2), for “paragraph (3)” substitute “paragraphs (2A) and (3)”.
- (3) After regulation 16(2), insert—
- “(2A) A person supplying temazepam on prescription in accordance with a prescription form of a kind specified in regulation 2A(1)(a)(i) of the National Health Service (Pharmaceutical Services) Regulations 1992 shall, at the time of the supply, enter on the form by electronic means the date on which the drug is supplied.”

Signed by authority of the Secretary of State for Health

Hazel Blears
Parliamentary Under-Secretary of State,
Department of Health

20th August 2001

(a) Regulation 20(8) was amended by S.I. 1998/681.
 (b) Paragraph 3(1C) was inserted by S.I. 1999/696.
 (c) Paragraph 11B was inserted by S.I. 1999/696.
 (d) S.I. 1985/2066.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under sections 8 and 9 of the Electronic Communications Act 2000, which enable an Order under that Act to amend subordinate legislation for specified purposes. In this case, the Order amends the National Health Service (Pharmaceutical Services) Regulations 1992 to allow for the creation and transmission of prescriptions by electronic means in cases where specified conditions are met.

The Order also amends regulation 16 of the Misuse of Drugs Regulations 1985 to allow persons supplying temazepam in accordance with an electronic prescription to enter the date of supply electronically on the prescription form.

As a result of the transfer of certain functions of the Secretary of State in relation to Wales to the National Assembly for Wales, these amendments apply to England only.

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