
STATUTORY INSTRUMENTS

2002 No. 2861

**The National Health Service (Local
Pharmaceutical Services Etc.) Regulations 2002**

PART I

**AMENDMENT OF THE NATIONAL HEALTH SERVICE
(PHARMACEUTICAL SERVICES) REGULATIONS 1992**

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

2. The National Health Service (Pharmaceutical Services) Regulations 1992(1), which in this Part are referred to as the principal Regulations, are amended in accordance with the following provisions of this Part.

Amendment of regulation 2

3. In regulation 2 (interpretation), in paragraph (1)—
- (a) in the definition of “chemist”, after ““chemist”” insert “(except in the expression “LPS chemist””);
 - (b) in the definition of “Local Dental Committee”, for “general dental services in a locality;” substitute “general dental services or personal dental services in an area; and in this definition, “personal dental services” has the meaning assigned to it in section 1(8) of the 1997 Act;”;
 - (c) in the definition of “Local Medical Committee”, after “general medical services” insert “or personal medical services”;
 - (d) in the definition of “Local Pharmaceutical Committee”, after “pharmaceutical services” insert “or local pharmaceutical services”;
 - (e) after the definition of “locality”, insert—
 - ““LPS chemist” means—
 - (a) a registered pharmacist,
 - (b) a person lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968(2), or
 - (c) a supplier of appliances,
who provides local pharmaceutical services under a pharmacy pilot scheme;”;
 - (f) for the definition of “pharmacy” substitute—

(1) S.I. 1992/662; relevant amending instruments are S.I. 1993/2451, 1995/644, 1996/698, 1998/681, 1999/696, 2001/2888, 2002/888, 2002/2016 and 2002/2469.

(2) c. 67.

““pharmacy” means any premises where drugs are provided by a registered pharmacist—

- (a) as part of pharmaceutical services under section 41 of the Act; or
- (b) in accordance with a pharmacy pilot scheme—
 - (i) where the range of local pharmaceutical services provided under that scheme is the same or comparable to the range of pharmaceutical services provided by a pharmacy falling within paragraph (a) of this definition, and
 - (ii) where the local pharmaceutical services provided under that scheme are provided at the same or similar hours as pharmaceutical services provided by a pharmacy falling within paragraph (a) of this definition;”;
- (g) in the definition of “pilot scheme”, after “pilot scheme” insert “(except in the expression “pharmacy pilot scheme”); and
- (h) in the definition of “prescription form”, after “obtain pharmaceutical services” insert “or local pharmaceutical services”.

Amendment of regulation 2A

4. In regulation 2A(3) (electronic prescription forms), in paragraph (2)(c)(i) and (ii), after “the chemist” insert “or LPS chemist”.

Amendment of regulation 4

5. In regulation 4 (pharmaceutical lists), in paragraph (4), at the end insert “; and if, in the neighbourhood in which the premises named in the application are located, any local pharmaceutical services are provided under a pharmacy pilot scheme which are of the same description as any pharmaceutical services specified in the application, those local pharmaceutical services shall be treated, for the purposes of this paragraph, as if they were pharmaceutical services being provided by persons included in the pharmaceutical list.”.

Amendment of regulation 5

6. In regulation 5 (notification of applications)—
- (a) in paragraph (1), after sub-paragraph (c) insert—
 - “(ca) any LPS chemist whose interests might, in the opinion of the Primary Care Trust, be significantly affected if the application were granted;”;
 - (b) in paragraph (2), after paragraph (c) insert—
 - “and
 - (d) any LPS chemist whose interests might, in the opinion of that Primary Care Trust, be significantly affected if the application were granted,”.

Amendment of regulation 6

7. In regulation 6 (determination of applications)—
- (a) in paragraph (1), for sub-paragraph (a) substitute—

- “(a) whether or not the following services are already provided by persons in the neighbourhood in which the premises named in the application are located—
 - (i) any pharmaceutical services specified in the application provided by persons included in a pharmaceutical list, or
 - (ii) any local pharmaceutical services provided under a pharmacy pilot scheme which are of the same description as any pharmaceutical services specified in the application;”;
- (b) for paragraph (6) substitute—
 - “(6) No person—
 - (a) who provides or assists in providing general medical services or pharmaceutical services under Part II of the Act;
 - (b) who is a pilot scheme provider, or a director, officer or employee of a pilot scheme provider, or who performs or assists in performing personal medical services under a pilot scheme; or
 - (c) who is a party (other than a Primary Care Trust) to a pharmacy pilot scheme, or a director, officer or employee of such a person, or who provides or assists in providing local pharmaceutical services under a pharmacy pilot scheme, shall take part in any decision under this regulation.”.

Amendment of regulation 7

- 8.** In regulation 7 (notification of decisions)—
 - (a) in paragraph (1)(a), after head (ii) insert—
 - “(iia) any LPS chemist whose interests might, in the opinion of the Primary Care Trust, be significantly affected by the decision,”;
 - and
 - (b) in paragraph (2), after sub-paragraph (c) insert—
 - “and
 - (d) any LPS chemist whose interests might, in the opinion of that Primary Care Trust, be significantly affected by the decision,”.

Amendment of regulation 8

- 9.** In regulation 8 (appeals)—
 - (a) in paragraph (1), for “regulation 7(1)(a)(ii) or regulation 7(2)(c)” substitute “regulation 7(1)(a)(ii) or (iia) or regulation 7(2)(c) or (d)”;
 - (b) in paragraph (2)(b)(i), for “regulation 5(1)(c) or regulation 5(2)(c)” substitute “regulation 5(1)(c) or (ca) or regulation 5(2)(c) or (d)”.

Amendment of regulation 9

- 10.** In regulation 9 (determination of controlled locality)—
 - (a) in paragraph (5), after “doctor or chemist” insert “or LPS chemist”; and
 - (b) in paragraphs (6) and (7), for “or pharmaceutical services by any chemist” substitute “pharmaceutical services by any chemist, or local pharmaceutical services by any LPS chemist”.

Amendment of regulation 11

11. In regulation 11 (applications for inclusion in pharmaceutical lists in respect of controlled localities)—

- (a) in paragraph (1)(b), after “pharmaceutical services”, insert “, local pharmaceutical services”; and
- (b) in paragraph (2)(b), after “pharmaceutical services”, insert “, local pharmaceutical services”.

Amendment of regulation 12

12. In regulation 12 (determination of applications in respect of controlled localities)—

- (a) in paragraph (1)(c), after “of the Health Authority or Primary Care Trust”, insert “, or who provides local pharmaceutical services under a pharmacy pilot scheme entered into by that Primary Care Trust,”;
- (b) for paragraph (1)(d) substitute—
 - “(d) any other Primary Care Trust or Health Authority—
 - (i) in whose medical list or pharmaceutical list, or in Part 2 of whose dispensing doctor list, is included the name of a person who, in the opinion of the Primary Care Trust, might be so affected, or
 - (ii) which has entered into a pharmacy pilot scheme under which local pharmaceutical services are provided by a person who, in the opinion of the Primary Care Trust, might be so affected; and”;
- (c) in paragraph (2)(c), after “dispensing doctor list”, insert “, or who provides local pharmaceutical services under a pharmacy pilot scheme entered into by that Primary Care Trust,”;
- (d) after paragraph (4) insert—
 - “(4A) Subject to regulation 6A, in considering any application to which regulation 4(4) applies, a Primary Care Trust shall have regard in particular to—
 - (a) whether or not the following services are already provided by persons in the neighbourhood in which the premises named in the application are located—
 - (i) any pharmaceutical services specified in the application provided by persons included in a pharmaceutical list, or
 - (ii) any local pharmaceutical services provided under a pharmacy pilot scheme which are of the same description as any pharmaceutical services specified in the application;
 - (b) any information available to the Primary Care Trust which, in its opinion, is relevant to the consideration of the application; and
 - (c) any representations received by the Primary Care Trust under paragraph (3) or (4).”;
- (e) for paragraph (10) substitute—
 - “(10) No person—
 - (a) who provides or assists in providing general medical services or pharmaceutical services under Part II of the Act;
 - (b) who is a pilot scheme provider, or a director, officer or employee of a pilot scheme provider, or who performs or assists in performing personal medical services under a pilot scheme; or

- (c) who is a party (other than a Primary Care Trust) to a pharmacy pilot scheme, or a director, officer or employee of such a person, or who provides or assists in providing local pharmaceutical services under a pharmacy pilot scheme, shall take part in any decision under this regulation.”;
- (f) in paragraph (13)(a), after “dispensing services” insert “, local pharmaceutical services”;
- (g) in paragraph (13)(c), after “dispensing services” insert “, local pharmaceutical services”;
- (h) in paragraph (14), for “pharmaceutical services by any chemist” substitute “pharmaceutical services by any chemist or local pharmaceutical services by any LPS chemist”; and
- (i) in paragraph (15), for “pharmaceutical services by any chemist” substitute “pharmaceutical services by any chemist or local pharmaceutical services by any LPS chemist”.

Amendment of regulation 13

13. In regulation 13 (appeals in connection with determinations under regulation 12), in paragraph (2), for sub-paragraph (a) substitute—

- “(a) in the case of an appeal against a determination under regulation 12—
 - (i) the applicant,
 - (ii) any person whose name is included in the medical list, pharmaceutical list, or Part 2 of the dispensing doctor list of the Primary Care Trust or any other Primary Care Trust or Health Authority to which a copy of the application was sent under regulation 12(1)(d),
 - (iii) any person to whom a copy of the application was sent under regulation 12(2A), or
 - (iv) any person who provides local pharmaceutical services under a pharmacy pilot scheme entered into by the Primary Care Trust or any other Primary Care Trust to which a copy of the application was sent under regulation 12(1)(d),but in the case of a person specified in heads (ii), (iii) or (iv) above, that person may make an appeal only if he has submitted evidence pursuant to regulation 12(3) in connection with the application; and”.

Amendment of Schedule 2

14. In Part II of Schedule 2 (terms of service for chemists), in paragraph 4—

- (a) after sub-paragraph (2) insert—
 - “(2A) In this paragraph, where a Primary Care Trust must satisfy itself as to whether the needs of persons in the neighbourhood for pharmaceutical services are being met, a Primary Care Trust shall treat any local pharmaceutical services being provided in that neighbourhood at the days and times in question as if they were pharmaceutical services being so provided.”;
- (b) in sub-paragraph (13), after head (b) insert—
 - “(c) at times when the premises are not open, a notice, where practicable legible from outside the premises, specifying the addresses of LPS chemists in the neighbourhood, the type of local pharmaceutical services which those LPS chemists provide, and the times at which their premises are open.”;
- (c) in sub-paragraph (14)—

- (i) after “included in the pharmaceutical list” insert “or LPS chemists”,
 - (ii) after “they are required” insert “(or, in the case of LPS chemists, have undertaken)”,
and
 - (iii) at the end insert “or local pharmaceutical services, and, in the case of LPS chemists,
of the type of local pharmaceutical services which they provide.”; and
- (d) in sub-paragraph (15)—
- (i) after “one or more chemists” insert “or LPS chemists”,
 - (ii) after “pharmaceutical services” insert “or local pharmaceutical services”, and
 - (iii) at the end insert “; but a chemist may make an arrangement with an LPS chemist
under this sub-paragraph only where that LPS chemist provides local pharmaceutical
services which are of a similar description and extent as the pharmaceutical services
which he would ordinarily provide.”.

Further amendment of the principal Regulations

- 15.** In the provisions of the principal Regulations specified in the Schedule—
- (a) for “an Health Authority or Primary Care Trust”, in each place where it occurs, there is substituted “a Health Authority or Primary Care Trust”; and
 - (b) for “an Health Authority’s or Primary Care Trust's”, in each place where it occurs, there is substituted “a Health Authority’s or Primary Care Trust's”.