

**EXPLANATORY MEMORANDUM TO THE**  
**NHS (PHARMACEUTICAL SERVICES) AMENDMENT No 2 REGULATIONS 2005**  
**2005 No. 1501**

1. This explanatory memorandum has been prepared by the Secretary of State of Health and is laid before Parliament by Command of Her Majesty. It should be read in conjunction with the explanatory memorandum which accompanied the National Health Service (Pharmaceutical Services) Regulations 2005 (SI 2005/641) and the National Health Service (Pharmaceutical Services) Amendment Regulations 2005 (SI 2005/1015).

**2. Description**

2.1 This Statutory Instrument amends the National Health Service (Pharmaceutical Services) Regulations 2005 (SI 2005/641) as amended.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Background**

4.1 The Instrument is being made under Sections 16B, 41, 42, 43, 49I, 49Q and 126(4) of the National Health Service Act 1977 as amended.

4.2 The Instrument is being made to ensure clarity and efficiency in the working of the new regulatory regime. The changes effected sought by these amendments will:

- enable pharmacists to dispense prescriptions written by suitably accredited optometrists;
- close a loophole so that an applicant gaining approval to run a pharmacy in an exempted shopping development cannot then take subsequent advantage of another regulatory reform to gain automatic approval to relocate outside that shopping development;
- allow, in respect of exempt pharmacy applications for new one-stop primary care centres, that where a group of primary medical services contractors come together on the site but do not formally merge their practices, the exemption can continue to apply;
- rural dispensing: clarify the working of the Regulations concerning services in rural areas so that an application by a dispensing doctor for consent to dispense will be refused wherever the premises are within 1.6km of a pharmacy. This will not prevent doctors moving their existing dispensing premises when they need to do so;

- fitness to practise: enable Primary Care Trusts to suspend much more quickly a contractor e.g. where there is a risk to public safety. In addition, these amendments will allow that where companies send declarations to the PCT where their registered office is located, that "home" PCT shall carry out the relevant enquiries and checks on behalf of all PCTs for which the company is included in a pharmaceutical list in England. PCTs will have a discretionary ability to carry out their own checks if they wish to do so; and
- make various miscellaneous corrections to the Regulations.

## **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 Royal Pharmaceutical Society of Great Britain, the Pharmaceutical Services Negotiating Committee, the General Practitioners' Committee of the British Medical Association, the Dispensing Doctors' Association and the British Healthcare Trades Association of these amendments on 18 May 2005. It was not possible to consult them formally prior to this. The Royal Pharmaceutical Society of Great Britain, the Pharmaceutical Services Negotiating Committee and the Dispensing Doctors' Association have indicated they are content with the amendments.

## **8. Impact**

- 8.1 The amendments allow pharmacists to dispense prescriptions written by suitably accredited optometrists, close a loophole and make technical corrections to the operation of the Regulations.
- 8.2 No additional burdens to business or the public sector have been identified as a result.
- 8.3 The amendments to the fitness to practice requirements, by enabling one PCT to undertake the checks on fitness to practise for all PCTs where a company is listed, will help reduce the costs, paperwork and bureaucracy for the NHS and for business. Patients prescribed medicines by suitably accredited optometrists will be able to have these dispensed at their local pharmacy.

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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