

SCHEDULE 3

Regulation 20

Amendments to secondary legislation

PART 1

Amendment of the Pharmaceutical Services Regulations

Amendment of the Pharmaceutical Services Regulations

1. The Pharmaceutical Services Regulations are amended in accordance with this Part.

Amendment of regulation 2

2. In regulation 2(1) (interpretation), in paragraph (1)—
 - (a) in the definition of “batch issue” for from “set out” to “June 2004,” substitute “required by the NHS Business Services Authority,”;
 - (b) after the definition of “equivalent lists”, insert the following definition—

““ESP pilot scheme” means an Essential Small Pharmacies Local Pharmaceutical Services pilot scheme;”;
 - (c) for the definition of “local pharmaceutical services”, substitute the following definition—

““local pharmaceutical services” means local pharmaceutical services under—

 - (a) an LPS scheme established under paragraph 1(1) of Schedule 8A to the Act; or
 - (b) an ESP pilot scheme;”;
 - (d) in the definition of “LPS chemist”, after “a pharmacy pilot scheme”, insert “or an LPS scheme”;
 - (e) after the definition of “LPS chemist”, insert the following definition—

““LPS scheme” has the same meaning as in paragraph 1(2) of Schedule 8A of the Act;”;
 - (f) in the definition of “National Health Service Counter Fraud and Security Management Service”, after “in the National Health Service” add “, which was replaced on 1st April 2006 by the NHS Business Services Authority”;
 - (g) after the definition of “National Health Service Counter Fraud and Security Management Service” insert the following definition—

““NHS Business Services Authority” means the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005(2);”;
 - (h) in the definition of “pharmacy”, at the end of paragraph (a) omit “or” and after paragraph (b)(ii) add—

“; or

 - (c) in accordance with an LPS scheme.”;
 - (i) in the definition of “repeatable prescription” for from “set out” to “June 2004,” substitute “required by the NHS Business Services Authority,”; and

(1) Amended by S.I. 2005/1051 and 3315.

(2) S.I. 2005/2414.

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- (j) in the definition of “supplementary prescriber”—
 - (i) substitute a comma for “. or” at the end of paragraph (a)(iii),
 - (ii) substitute “, or” for “; and” at the end of paragraph (a)(iv)(cc), and
 - (iii) in paragraph (a), after sub-paragraph (iv) add the following sub-paragraph—
 - “(v) the register of optometrists maintained by the General Optical Council in pursuance of section 7 of the Opticians Act 1989⁽³⁾; and”.

Amendment of regulation 5

3. In regulation 5 (applications in respect of pharmaceutical lists), in paragraph (3)(a) omit “or” and after sub-paragraph (a) insert the following sub-paragraph—

- “(aa) pursuant to a determination made by the Secretary of State under regulation 15 of the National Health Service (Local Pharmaceutical Services etc.) Regulations 2006; or”.

Amendment of regulation 10

4. In regulation 10(4) (right to return)—

- (a) for paragraph (1), substitute the following paragraph—

“(1) Subject to regulation 69A, this regulation applies if the Secretary of State makes a determination—

- (a) under regulation 4 of the National Health Service (Local Pharmaceutical Services) (No. 2) Regulations 2002; or
- (b) under regulation 15 of the National Health Service (Local Pharmaceutical Services etc.) Regulations 2006,

that a person is to be given the right of return to a Primary Care Trust’s pharmaceutical list on making an application for his name to be included in that list after ceasing to provide local pharmaceutical services, subject to the conditions referred to in paragraph (2) being satisfied.”; and

- (b) in paragraph (3), after “a pharmacy pilot scheme” insert “or an LPS scheme”.

Amendment of regulation 12

5. In regulation 12(5) (necessary or desirable test), in paragraph (2)(a)(ii), after “a pharmacy pilot scheme” insert “or an LPS scheme”.

Amendment of Regulation 19

6. In regulation 19 (refusal: fitness to practise grounds), after “Security Management Service” insert “or the NHS Business Services Authority”.

Amendment of regulation 20

7. In regulation 20 (imposition of conditions), in paragraph (3), after “a pharmacy pilot scheme” insert “or an LPS scheme”.

(3) 1989 c. 44.

(4) As amended by S.I. 2005/1015.

(5) As amended by S.I. 2005/1015.

Amendment of regulation 24

8. In regulation 24 (determination of applications)—
- (a) in paragraph (2)(b), for “National Health Service Counter Fraud and Security Management Service” substitute “NHS Business Services Authority”; and
 - (b) in paragraph (6), in sub-paragraph (f) omit “or” and after sub-paragraph (g) insert—
“; or
 - (h) who is a party (other than a Primary Care Trust) to an LPS scheme, or an officer or an employee of such a person who provides or assists in providing local pharmaceutical services under an LPS scheme,”.

Amendment of regulation 25

9. In regulation 25 (deferral of applications), at the end of paragraph (5) insert “or under regulation 4 of the National Health Service (Local Pharmaceutical Services etc.) Regulations 2006”.

Amendment of regulation 26

10. In regulation 26 (deferral of consideration of applications on fitness to practise grounds), in paragraph (1)(h) and (i), for “National Health Service Counter Fraud and Security Management Service” substitute “NHS Business Services Authority”.

Amendment of regulation 28

11. In regulation 28 (notifications by Primary Care Trusts to other persons), in paragraph (2)(i), for “National Health Service Counter Fraud and Security Management Service” substitute “NHS Business Services Authority”.

Amendment of regulation 36

12. In regulation 36 (determination of applications in respect of controlled localities)—
- (a) in paragraph (3)(b), for “National Health Service Counter Fraud and Security Management Service” substitute “NHS Business Services Authority”; and
 - (b) in paragraph (8), in sub-paragraph (f) omit “or” and after sub-paragraph (g) insert—
“; or
 - (h) who is a party (other than a Primary Care Trust) to an LPS scheme, or an officer or an employee of such a person who assists in providing local pharmaceutical services under an LPS scheme,”.

Amendment of regulation 38

13. In regulation 38 (appeals in connection with determinations of controlled localities), in paragraph (3)(a)(iii), after “a pharmacy pilot scheme” insert “or an LPS scheme”.

Amendment of regulation 45

14. In regulation 45 (removal from pharmaceutical lists), in paragraph (3), after “a pharmacy pilot scheme” insert “or an LPS scheme”.

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Amendment of regulation 54

15. In regulation 54 (temporary provision of services during a period of suspension), in paragraph (7)(b), after “Security Management Service” insert “or the NHS Business Services Authority”.

Amendment of Schedule 1

16. In Schedule 1 (terms of service of pharmacists), in paragraph 30 (duty to provide information about fitness to practise matters as they arise), in paragraphs (1)(k) and (2)(f), for “National Health Service Counter Fraud and Security Management Service” substitute “NHS Business Services Authority”.

Amendment of Schedule 3

17. In Schedule 3 (terms of service of suppliers of appliances), in paragraph 17 (duty to provide information about fitness to practise matters as they arise), in paragraphs (1)(k) and (2)(f), for “National Health Service Counter Fraud and Security Management Service” substitute “NHS Business Services Authority”.

Amendment of Schedule 4

18. In paragraph 4 of Part 3 of Schedule 4 (which relates to the information to be provided by applicants for inclusion, or temporary inclusion, in a pharmaceutical list), after “Security Management Service” insert “or the NHS Business Services Authority”.

PART 2

Amendments to other secondary legislation

Amendment of the National Health Service Trusts (Membership and Procedure) Regulations 1990

19. In the National Health Service Trusts (Membership and Procedure) Regulations 1990(6), in regulation 1(2) (interpretation), in paragraph (a) of the definition of “health service body”, after “Care Act 2001” insert “or a contractor which is treated as a health service body pursuant to regulation 10 of the National Health Service (Local Pharmaceutical Services etc.) Regulations 2006”.

Amendment of the National Health Service Litigation Authority Regulations 1995

20. In the National Health Service Litigation Authority Regulations 1995(7), in regulation 1(2) (interpretation), in the definition of “health service body”, after “Care Act 2001” insert “or a contractor which is treated as a health service body pursuant to regulation 10 of the National Health Service (Local Pharmaceutical Services etc.) Regulations 2006”.

(6) S.I. 1990/2024; the relevant amending instruments are S.I. 1996/1755, 1998/646, 2000/2434, 2001/3786 and 2002/2469.

(7) S.I. 1995/2801; the relevant amending instruments are S.I. 1998/646, 2000/696 and 2002/2469.

Amendment of the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000

21. In the Primary Care Trusts (Membership, Procedure and Administration Arrangements) Regulations 2000⁽⁸⁾—

- (a) in regulation 1(2) (interpretation), in the definition of “health service body”, after “Care Act 2001” insert “or a contractor which is treated as a health service body pursuant to regulation 10 of the National Health Service (Local Pharmaceutical Services etc.) Regulations 2006”; and
- (b) in regulation 5(1)(i) (disqualification for appointment: chairman and non-officer members), after “Care Act 2001” insert “or a contractor which is treated as a health service body pursuant to regulation 10 of the National Health Service (Local Pharmaceutical Services etc.) Regulations 2006”.

Amendment of the Charges Regulations

22. In the Charges Regulations⁽⁹⁾, in regulation 2 (interpretation), in the definition of “local pharmaceutical services” for sub-paragraph (b) substitute—

- “(b) provided under an LPS scheme as defined in paragraph 1(2) of Schedule 8A to the Act;”.

Amendment of the Health Service Medicines (Control of Prices of Specified Generic Medicines) Regulations 2000

23. In the Health Service Medicines (Control of Prices of Specified Generic Medicines) Regulations 2000⁽¹⁰⁾, in regulation 2(1) (interpretation), in the definition of “supply”, after “Care Act 2001” insert “or under an LPS scheme as defined in paragraph 1(2) of Schedule 8A to the Act”.

Amendment of the Health Service Medicines (Information on the Prices of Specified Generic Medicines) Regulations 2001

24. In the Health Service Medicines (Information on the Prices of Specified Generic Medicines) Regulations 2001⁽¹¹⁾, in regulation 2(1) (interpretation), in the definition of “supply”, after “Care Act 2001” insert “or under an LPS scheme as defined in paragraph 1(2) of Schedule 8A to the National Health Service Act 1977”.

Amendment of the National Health Service (Local Pharmaceutical Services and Pharmaceutical Services) Regulations 2002

25. In the National Health Service (Local Pharmaceutical Services and Pharmaceutical Services) Regulations 2002⁽¹²⁾—

- (a) in regulation 3(1)⁽¹³⁾ (designation of priority neighbourhoods or premises), after “a Primary Care Trust may” insert “until 31st March 2006”;
- (b) omit regulations 7⁽¹⁴⁾ (which relates to requests to Primary Care Trusts for preparation of proposals) and 7A⁽¹⁵⁾ (consultation on proposals); and

⁽⁸⁾ S.I. 2000/89; the relevant amending instruments are S.I. 2001/3787 and 2002/557 and 2469.

⁽⁹⁾ The relevant amending instrument is S.I. 2002/2352.

⁽¹⁰⁾ S.I. 2000/1763; the relevant amending instrument is S.I. 2002/2861.

⁽¹¹⁾ S.I. 2001/3798; the relevant amending instrument is S.I. 2002/2861.

⁽¹²⁾ S.I. 2002/888.

⁽¹³⁾ Amended by S.I. 2002/2469 and 2005/641.

⁽¹⁴⁾ Amended by S.I. 2002/2469.

⁽¹⁵⁾ Inserted by S.I. 2002/2861.

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- (c) in regulation 8(1)(16) (provision of financial assistance), after “a Primary Care Trust may” insert “until 31st March 2006”.

Amendment of the National Health Service (Local Pharmaceutical Services and Pharmaceutical Services) (No.2) Regulations 2002

26. In regulation 4 of the National Health Service (Local Pharmaceutical Services and Pharmaceutical Services) (No.2) Regulations 2002(17) (right of return to pharmaceutical lists), for paragraph (1) substitute the following paragraph—

“(1) Before the Secretary of State approves a pilot scheme under paragraph 3(1)(a) or (b) of Schedule 2 to the Act, he must determine pursuant to this regulation whether the pilot scheme provider is to be given a right of return, subject to the conditions specified in regulation 10(2) of the principal Regulations, if he makes an application for his name to be included in a Primary Care Trust’s pharmaceutical list after ceasing to provide local pharmaceutical services under the pilot scheme.”.

Amendment of the Delayed Discharges (England) Regulations 2003

27. In the Delayed Discharges (England) Regulations 2003(18), in regulation 2 (interpretation), in paragraph (e) of the definition of “health service body” after “Care Act 2001” insert “or a contractor which is treated as a health service body pursuant to regulation 10 of the National Health Service (Local Pharmaceutical Services etc.) Regulations 2006”.

Amendment of the National Health Service (Complaints) Regulations 2004

28. In the National Health Service (Complaints) Regulations 2004(19), in regulation 2(2) (interpretation), in sub-paragraph (h) after “Care Act 2001” insert “or in accordance with an LPS scheme as defined in paragraph 1(2) of Schedule 8A to the 1977 Act”.

(16) Amended by S.I. 2002/2469.

(17) S.I. 2002/2016.

(18) S.I. 2003/2277.

(19) S.I.2004/1768.