

## SCHEDULE

### CONSEQUENTIAL AND TRANSITIONAL PROVISIONS

#### **Amendment of the National Health Service (Pharmaceutical Services) Regulations 2005**

1.—(1) The National Health Service (Pharmaceutical Services) Regulations 2005<sup>(1)</sup> are amended as follows.

(2) In Schedule 1 (terms of service of pharmacists), for paragraph 32 (complaints) substitute—

#### **“Complaints**

**32.**—(1) A pharmacist must have in place—

- (a) arrangements which are essentially the same as those set out in Part 2 of the National Health Service (Complaints) Regulations 2004<sup>(2)</sup>, for the handling and consideration of any complaints—
  - (i) which were made on or before 31st March 2009; and
  - (ii) in respect of which the complaints process has not yet been concluded; and
- (b) arrangements which comply with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009<sup>(3)</sup>, for the handling and consideration of any complaints made on or after 1st April 2009.

(2) The reference in sub-paragraph (1)(a) to the National Health Service (Complaints) Regulations 2004 is a reference to those Regulations as they had effect on 31st March 2009 and as if they had not been revoked.

(3) In this paragraph, “complaint” means a complaint about a matter connected with the provision of pharmaceutical services by the pharmacist.”

(3) In Schedule 2 (terms of service of dispensing doctors), in paragraph 9(1)(c) (complaints procedures), after “relevant APMS contract” add “, in accordance with any obligation imposed on the APMS contractor by the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009,”.

(4) In Schedule 3 (terms of service of suppliers of appliances), for paragraph 19 (complaints) substitute—

#### **“Complaints**

**19.**—(1) A supplier of appliances must have in place—

- (a) arrangements which are essentially the same as those set out in Part 2 of the National Health Service (Complaints) Regulations 2004, for the handling and consideration of any complaints—
  - (i) which were made on or before 31st March 2009; and
  - (ii) in respect of which the complaints process has not yet been concluded; and
- (b) arrangements which comply with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009<sup>(4)</sup>, for the handling and consideration of any complaints made on or after 1st April 2009.

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(1) [S.I. 2005/641](#), to which there are amendments not relevant to these Regulations.

(2) [S.I. 2004/1768](#).

(3) [S.I. 2009/309](#).

(4) [S.I. 2009/309](#).

*Status: This is the original version (as it was originally made).*

(2) The reference in sub-paragraph (1)(a) to the National Health Service (Complaints) Regulations 2004 is a reference to those Regulations as they had effect on 31st March 2009 and as if they had not been revoked.

(3) In this paragraph, “complaint” means a complaint about a matter connected with the provision of pharmaceutical services by the supplier of appliances.”.

### **Amendment of the National Health Service (Local Pharmaceutical Services etc.) Regulations 2006**

**2.** In Schedule 2 to the National Health Service (Local Pharmaceutical Services etc.) Regulations 2006<sup>(5)</sup> (contract terms), for paragraph 25 (complaints) substitute—

#### **“Complaints**

**25.—**(1) A contractor must have in place—

(a) arrangements which are essentially the same as those set out in Part 2 of the National Health Service (Complaints) Regulations 2004, for the handling and consideration of any complaints—

(i) which were made on or before 31st March 2009; and

(ii) in respect of which the complaints process has not yet been concluded; and

(b) arrangements which comply with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009<sup>(6)</sup>, for the handling and consideration of any complaints made on or after 1st April 2009.

(2) The reference in paragraph (1)(a) to the National Health Service (Complaints) Regulations 2004 is a reference to those Regulations as they had effect on 31st March 2009 and as if they had not been revoked.

(3) In this paragraph, “complaint” means a complaint about a matter connected with the provision of local pharmaceutical services by the contractor.”.

### **Amendment of the National Health Service (General Medical Services Contracts) Regulations 2004**

**3.—**(1) Schedule 6 to the National Health Service (General Medical Services Contracts) Regulations 2004<sup>(7)</sup> (other contractual terms) is amended as follows.

(2) For paragraph 92 (complaints procedure) substitute—

#### **“Complaints procedure**

**92.—**(1) The contractor shall establish and operate a complaints procedure to deal with any complaints in relation to any matter reasonably connected with the provision of services under the contract.

(2) In respect of complaints made on or after 1st April 2009, the complaints procedure required by sub-paragraph (1) shall comply with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009<sup>(8)</sup>.

<sup>(5)</sup> [S.I. 2006/552](#), to which there are amendments not relevant to these Regulations.

<sup>(6)</sup> [S.I. 2009/309](#).

<sup>(7)</sup> [S.I. 2004/291](#), amended by [S.I. 2004/2694](#) and [2007/3491](#).

<sup>(8)</sup> [S.I. 2009/309](#).

(3) In respect of complaints received by the contractor prior to 1st April 2009 which have not been resolved by that date, the contractor shall continue to deal with such complaints in accordance with the complaints procedure that it was required to establish and operate prior to 1st April 2009.”

(3) In paragraph 97 (co-operation with investigations)—

(a) in sub-paragraph (1)(a)(ii), for “the Commission for Healthcare Audit and Inspection” substitute “the Health Service Commissioner”;

(b) at the end of sub-paragraph (2), add—

““Health Service Commissioner” means the person appointed Health Service Commissioner for England in accordance with section 1 of, and Schedule 1 to, the Health Service Commissioners Act 1993(9).”

(4) Paragraphs 93 to 96 and 98 are omitted.

#### **Amendment of the National Health Service (Personal Medical Services Agreements) Regulations 2004**

4.—(1) Schedule 5 to the National Health Service (Personal Medical Services Agreements) Regulations 2004(10) (other contractual terms) is amended as follows.

(2) For paragraph 86 (complaints procedure) substitute—

##### **““Complaints procedure**

**86.**—(1) The contractor shall establish and operate a complaints procedure to deal with any complaints in relation to any matter reasonably connected with the provision of services under the agreement.

(2) In respect of complaints made on or after 1st April 2009, the complaints procedure required by sub-paragraph (1) shall comply with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009(11).

(3) In respect of complaints received by the contractor prior to 1<sup>st</sup> April 2009 which have not been resolved by that date, the contractor shall continue to deal with such complaints in accordance with the complaints procedure that it was required to establish and operate prior to 1st April 2009.”

(3) In paragraph 91 (co-operation with investigations)—

(a) in sub-paragraph (1)(b), for “the Commission for Healthcare Audit and Inspection” substitute “the Health Service Commissioner”;

(b) in sub-paragraph (3), for “In sub-paragraph (2)” substitute “In this paragraph”;

(c) at the end of sub-paragraph (3), add—

““Health Service Commissioner” means the person appointed Health Service Commissioner for England in accordance with section 1 of, and Schedule 1 to, the Health Service Commissioners Act 1993(12).”

(4) Paragraphs 87 to 90 and 92 are omitted.

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(9) 1993 c. 46.

(10) S.I. 2004/627, amended by S.I. 2004/2694 and 2007/3491.

(11) S.I. 2009/309.

(12) 1993 c. 46.

*Status: This is the original version (as it was originally made).*

## **Amendment of the National Health Service (General Dental Services Contracts) Regulations 2005**

5.—(1) Schedule 3 to the National Health Service (General Dental Services Contracts) Regulations 2005(13) (other contractual terms), is amended as follows.

(2) Before Part 6 (complaints) insert—

### **“PART 5A**

#### **Complaints received on or after 1st April 2009**

**46B.** As regards complaints relating to any matter reasonably connected with the provision of services under the contract which are received on or after 1st April 2009, the contractor must have in place a complaints procedure which meets the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009(14).”.

(3) In Part 6 (complaints)—

(a) in paragraph 47 (complaints procedure), in sub-paragraph (1) for the words from “The contractor” to “the contract” substitute—

“As regards complaints relating to any matter reasonably connected with the provision of services under the contract which are received before 1st April 2009, the contractor shall operate a complaints procedure”;

(b) in paragraph 51 (co-operation with investigations)—

(i) in sub-paragraph (1)(a)(ii), for “the Commission for Healthcare Audit and Inspection” substitute “the Health Service Commissioner”;

(ii) at the end of sub-paragraph (2), add—

““Health Service Commissioner” means the person appointed Health Service Commissioner for England in accordance with section 1 of, and Schedule 1 to, the Health Service Commissioners Act 1993(15).”.

## **Amendment of the National Health Service (Personal Dental Services Agreements) Regulations 2005**

6.—(1) Schedule 3 to the National Health Service (Personal Dental Services Agreements) Regulations 2005(16) (other contractual terms) is amended as follows.

(2) Before Part 6 (complaints) insert—

### **“PART 5A**

#### **Complaints received on or after 1st April 2009**

**46B.** As regards complaints relating to any matter reasonably connected with the provision of services under the agreement which are received on or after 1st April 2009, the contractor must have in place a complaints procedure which meets the requirements of the Local

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(13) S.I. 2005/3361.

(14) S.I. 2009/309.

(15) 1993 c. 46.

(16) S.I. 2005/3373.

Authority Social Services and National Health Service Complaints (England) Regulations 2009(17).”.

(3) In Part 6 (complaints)—

(a) in paragraph 47 (complaints procedure), in sub-paragraph (1) for the words from “The contractor” to “the agreement” substitute—

“As regards complaints relating to any matter reasonably connected with the provision of services under the agreement which are received before 1st April 2009, the contractor shall operate a complaints procedure”;

(b) in paragraph 51 (co-operation with investigations)—

(i) in sub-paragraph (1)(a)(ii), for “the Commission for Healthcare Audit and Inspection” substitute “the Health Service Commissioner”;

(ii) at the end of sub-paragraph (2), add—

““Health Service Commissioner” means the person appointed Health Service Commissioner for England in accordance with section 1 of, and Schedule 1 to, the Health Service Commissioners Act 1993(18).”.

### **Amendment to the General Ophthalmic Services Contracts Regulations 2008**

7.—(1) Schedule 1 to the General Ophthalmic Services Contracts Regulations 2008(19) (other contractual terms) is amended as follows.

(2) Before Part 5 (complaints) insert—

#### **“Part 4A**

#### **Complaints received on or after 1st April 2009**

**21A.** As regards complaints relating to any matter reasonably connected with the provision of services under the contract which are received on or after 1st April 2009, the contractor must have in place a complaints procedure which meets the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009(20).”.

(3) In Part 5 (complaints), in paragraph 22 (complaints procedure)—

(a) for sub-paragraph (1) substitute—

“(1) As regards complaints relating to any matter reasonably connected with the provision of services under the contract which are received before 1st April 2009, the contractor shall operate a complaints procedure and that complaints procedure shall comply with the requirements of paragraphs 23 to 25 and 27.”;

(b) in paragraph 26 (co-operation with investigations)—

(i) in sub-paragraph (1)(a)(ii), for “the Commission for Healthcare Audit and Inspection” substitute “the Health Service Commissioner”;

(ii) at the end of sub-paragraph (2), add—

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(17) S.I. 2009/309.

(18) 1993 c. 46.

(19) S.I. 2008/1185.

(20) S.I. 2009/309.

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““Health Service Commissioner” means the person appointed Health Service Commissioner for England in accordance with section 1 of, and Schedule 1 to, the Health Service Commissioners Act 1993(21).”.

**Transitional provision: the Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008, and the General Dental Services, Personal Dental Services and Abolition of the Dental Practice Board Transitional and Consequential Provisions Order 2006**

- 8.—(1) This sub-paragraph applies to a complaint which—
- (a) was made before 1st April 2009; and
  - (b) falls to be investigated by a Primary Care Trust under—
    - (i) regulation 4(2) or 5(2) of the Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008(22); or
    - (ii) article 5(5), 6(2), 21(2) or 22(2) of the General Dental Services, Personal Dental Services and Abolition of the Dental Practice Board Transitional and Consequential Provisions Order 2006(23).
- (2) Where sub-paragraph (1) applies to a complaint, the investigation of the complaint shall be carried out in accordance with the 2004 Regulations as if—
- (a) notwithstanding their revocation, the 2004 Regulations, except for regulations 14 to 22 of those Regulations, continued to have effect;
  - (b) in paragraph (4) of regulation 13, the words “Health Service Commissioner under the Health Service Commissioners Act 1993” were substituted for the words “Healthcare Commission in accordance with regulation 14”; and
  - (c) any request made under regulation 14 before 1st April 2009 for the Healthcare Commission to consider the complaint shall have effect as a request to the Health Service Commissioner to consider the complaint under the 1993 Act.

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(21) 1993 c. 46.

(22) S.I. 2008/1700.

(23) S.I. 2006/562.