

**EXPLANATORY MEMORANDUM (SUPPLEMENTARY) TO
THE NATIONAL HEALTH SERVICE (GENERAL MEDICAL SERVICES
CONTRACTS) REGULATIONS 2015**

2015 No. 1862

1. Introduction

- 1.1 This explanatory memorandum has been prepared by The Department of Health and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This Instrument consolidates amendments made to the National Health Service (General Medical Services Contracts) Regulations 2004 (SI 2004/291), which sets out the framework for General Medical Services (GMS) contracts with. It also makes consequential amendments and revocations as set out in Schedules 4 and 5.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The Committee has previously made the point that the number of amendments made to SI 2004/291 since its coming into force have made it difficult to understand the requirements of that legislation. The Committee suggested that the regulations are consolidated. The Department of Health originally undertook to prepare consolidated regulations to come into force by 1 April 2015. While good progress had been made on consolidation of regulations and amendments, the Parliamentary timetable did not allow a sufficient period for the draft consolidating regulations to be finalised and for adequate consultation with stakeholders in respect of the consolidated version to take place in the time before Parliament was prorogued. Earl Howe wrote to the Committee on 13 January 2015 to apologise for the delay and to advise that the consolidated regulations are now planned to come into force as soon as possible after the General Election. A copy of the letter from Earl Howe will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Part 4 of the NHS Act 2006 currently requires the NHS Commissioning Board to secure the provision of primary medical services in England. It makes provision for regulations to be made to govern the terms of primary medical services contracts.
- 4.2 This Instrument consolidates the National Health Service (General Medical Services Contracts) Regulations 2004 with subsequent amendments made to those Regulations.

The regulations contain the mandatory contractual terms that must be contained in GMS contracts made between the NHS Commissioning Board and primary medical services contractors.

5. Extent and Territorial Application

- 5.1 This instrument extends only to England.
- 5.2 This instrument applies only to England

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 These regulations do not make any policy changes to existing legislation however revisions have been made to reflect current drafting styles and to update outdated statutory references.

Consolidation

- 7.2 These regulations are, themselves, a consolidation of existing legislation.

8. Consultation outcome

- 8.1 The Department of Health has consulted the British Medical Association (BMA) and the NHS Commissioning Board on the proposed changes to the regulations. While there is no statutory duty to consult on proposals to make regulations under Part 4 of the NHS Act 2006, it is the Department's custom and practice to do so.
- 8.2 The BMA have commented on the draft regulations. The Department has responded to comments received and has made appropriate changes to the drafting for clarity.

9. Guidance

- 9.1 As there are no policy changes being made by these regulations, there are no plans to issue accompanying guidance.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is no impact on the public sector.
- 10.3 An Equality Impact Assessment will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses. GP practices are exempt from the Small Firm Impact Test as they are considered part of the public sector due to their provision of primary medical services for the NHS. Public sector organisations are exempt from this test.

12. Monitoring & review

- 12.1 Monitoring the performance of GMS contracts is the responsibility of the NHS Commissioning Board however the Secretary of State has responsibility for the required terms of those contracts – as set out in regulations – and for the consolidation of those regulations.

13. Contact

- 13.1 Jenny Smith at the Department of Health Telephone: 0113 254 5020 or email: jenny.smith@dh.gsi.gov.uk can answer any queries regarding the instrument.