
STATUTORY INSTRUMENTS

2020 No. 351

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service (Amendments
Relating to the Provision of Primary Care Services
During a Pandemic etc.) Regulations 2020

Made - - - - at 1.00 p.m. on 26th
March 2020
Laid before Parliament at 2.30 p.m. on 26th
March 2020
Coming into force in accordance with regulation 1(2)

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 85, 89(1), (2)(d) and (g), (4) and (5), 94(1) and (3)(f), 101, 104(1), (2)(d) and (g) and (3), 109(1) and (3)(f), 126(2), 129(6), 132, 150A and 272(7) and (8) of, and paragraph 3(1) and (3)(f) of Schedule 12 to, the National Health Service Act 2006(1).

PART 1

Introductory

Citation and commencement

1.—(1) These Regulations may be cited as the National Health Service (Amendments Relating to the Provision of Primary Care Services During a Pandemic etc.) Regulations 2020.

(1) **2006 c.41.** Section 89 has been amended by the Health and Social Care Act 2012 (c. 7) (“the 2012 Act”), sections 28(1) and 202(2), and Schedule 4, paragraph 34. Section 94 has been amended by the 2012 Act, section 28(2), and Schedule 4, paragraph 38, and by the Crime and County Courts Act 2013 (c. 22) (“the 2013 Act”), Schedule 9, paragraph 52(1) and (2). Section 104 has been amended by the 2012 Act, Schedule 4, paragraph 46. Section 109 has been amended by the 2012 Act, Schedule 4, paragraph 50 and by the 2013 Act, Schedule 9, paragraph 52(1)(b) and (2). Section 126 has been amended by the 2012 Act, Schedule 4, paragraph 63, and by the Children and Social Work Act 2017 (c. 16), Schedule 5, paragraphs 30 and 47(j). Section 129(6) has been amended by: the Health Act 2009 (c. 21) (“the 2009 Act”), sections 26 and 27, and Schedule 6, paragraph 38; the 2012 Act, section 207(1) to (9), and Schedule 4, paragraph 66; the Protection of Freedoms Act 2012 (c. 9), Schedule 9, paragraph 121; and S.I. 2010/231. Section 132 has been amended by the 2012 Act, Schedule 4, paragraph 69, by the Protection of Freedoms Act 2012, Schedule 9, paragraph 122, and by S.I. 2007/289 and 2010/22 and 231. Section 150A was inserted by the 2009 Act, section 28, and has been amended by the 2012 Act, Schedule 4, paragraph 78. Paragraph 3 of Schedule 12 has been amended by the 2009 Act, section 29, by the 2012 Act, Schedule 4, paragraph 93(4), and the 2013 Act, Schedule 9, paragraph 52 (1)(b) and (2). See section 275(1) of the 2006 Act for the meanings given to “prescribed” and “regulations”. By virtue of section 271(1) of the 2006 Act, the functions of the Secretary of State being exercised in the making of these Regulations are exercisable only in relation to England.

(2) These Regulations come into force on the day after the day on which they are laid before Parliament.

PART 2

Amendments relating to primary dental services

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

2.—(1) The National Health Service (General Dental Services Contracts) Regulations 2005(2) are amended as follows.

(2) In regulation 2(3) (interpretation), after paragraph (2) insert—

“(3) In these Regulations, where reference is made to an announcement or advice of the Board that relates to a disease being, or in anticipation of a disease being imminently—

- (a) pandemic; and
- (b) a serious risk or potentially serious risk to human health,

it is to that announcement or advice, which may be withdrawn at any time, as amended from time to time.”

(3) After regulation 24C(4) (variation of contractual terms in respect of election to enter into a prototype agreement) insert—

“Suspension of contract terms or of enforcement of contract terms while a disease is or in anticipation of a disease being imminently pandemic etc.

24D.—(1) Any term that is part of a contract or a prototype agreement as a consequence of action taken under this Part or by agreement between the parties is temporarily not part of that contract or agreement, in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii), in the following circumstances—

(a) as a consequence of a disease being, or in anticipation of a disease being imminently—

- (i) pandemic, and
- (ii) a serious risk or potentially a serious risk to human health,

the Board with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;

(b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;

(c) as part of the announcement, the Board with the agreement of the Secretary of State has issued advice to the effect that contractors are not to comply with a specified type of term of general dental services contracts (including prototype agreements)—

- (i) in the area to which the announcement relates,
- (ii) in the particular circumstances specified in the announcement, and
- (iii) during the period specified in the announcement; and

(2) [S.I. 2005/3361](#).

(3) There are no relevant amending instruments.

(4) Inserted by [S.I. 2015/1728](#).

- (d) the contractor is situated in the area to which the announcement relates and compliance with the term (it being of the specified type) would, but for the effect of this paragraph, be a requirement of the contract or agreement.
- (2) The Board must not take enforcement action, as provided for in a contract or prototype agreement, in respect of a breach of a term of the contract or agreement in the following circumstances—
- (a) as a consequence of a disease being, or in anticipation of a disease being imminently—
 - (i) pandemic, and
 - (ii) a serious risk or potentially a serious risk to human health,the Board with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;
 - (b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;
 - (c) as part of the announcement, the Board with the agreement of the Secretary of State has issued advice to the effect that contractors need not comply with a specified type of term of general dental services contracts (including prototype agreements)—
 - (i) in the area to which the announcement relates,
 - (ii) in the particular circumstances specified in the announcement, and
 - (iii) during the period specified in the announcement; and
 - (d) the contractor—
 - (i) is situated in the area to which the announcement relates, and
 - (ii) has not complied with the term (it being of the specified type) in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii).”.

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

3.—(1) The National Health Service (Personal Dental Services Agreements) Regulations 2005⁽⁵⁾ are amended as follows.

(2) In regulation 2⁽⁶⁾ (interpretation), after paragraph (2) insert—

“(3) In these Regulations, where reference is made to an announcement or advice of the Board that relates to a disease being, or in anticipation of a disease being imminently—

- (a) pandemic; and
- (b) a serious risk or potentially serious risk to human health,

it is to that announcement or advice, which may be withdrawn at any time, as amended from time to time.”.

(3) After regulation 20C⁽⁷⁾ (other contractual terms) insert—

⁽⁵⁾ [S.I. 2005/3373](#).

⁽⁶⁾ There are no relevant amending instruments.

⁽⁷⁾ Inserted by [S.I 2015/1728](#).

“Suspension of agreement terms or of enforcement of agreement terms while a disease is or in anticipation of a disease being imminently pandemic etc.

20D.—(1) Any term that is part of an agreement (including a prototype agreement) as a consequence of action taken under this Part or by agreement between the parties is temporarily not part of that agreement, in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii), in the following circumstances—

- (a) as a consequence of a disease being, or in anticipation of a disease being imminently—
 - (i) pandemic, and
 - (ii) a serious risk or potentially a serious risk to human health,
 the Board with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;
- (b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;
- (c) as part of the announcement, the Board with the agreement of the Secretary of State has issued advice to the effect that contractors are not to comply with a specified type of term of personal dental services agreements (including prototype agreements)—
 - (i) in the area to which the announcement relates,
 - (ii) in the particular circumstances specified in the announcement, and
 - (iii) during the period specified in the announcement; and
- (d) the contractor is situated in the area to which the announcement relates and compliance with the term (it being of the specified type) would, but for the effect of this paragraph, be a requirement of the contractor’s agreement.

(2) The Board must not take enforcement action, as provided for in an agreement (including a prototype agreement), in respect of a breach of a term of the agreement in the following circumstances—

- (a) as a consequence of a disease being, or in anticipation of a disease being imminently—
 - (i) pandemic, and
 - (ii) a serious risk or potentially a serious risk to human health,
 the Board with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;
- (b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;
- (c) as part of the announcement, the Board with the agreement of the Secretary of State has issued advice to the effect that contractors need not comply with a specified type of term of personal dental services agreements (including prototype agreements)—
 - (i) in the area to which the announcement relates,
 - (ii) in the particular circumstances specified in the announcement, and
 - (iii) during the period specified in the announcement; and
- (d) the contractor—
 - (i) is situated in the area to which the announcement relates, and

- (ii) has not complied with the term (it being of the specified type) in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii).”.

PART 3

Amendments relating to pharmaceutical and local pharmaceutical services

Amendment of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013

4. The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013⁽⁸⁾ are amended in accordance with this Part.

Amendment of regulation 2

5. In regulation 2⁽⁹⁾ (interpretation), after paragraph (7) insert—

“(8) In these Regulations, where reference is made to an announcement or advice of the NHSCB that relates to a disease being, or in anticipation of a disease being imminently—

- (a) pandemic; and
- (b) a serious risk or potentially serious risk to human health,

it is to that announcement or advice, which may be withdrawn at any time, as amended from time to time.”.

Amendment of regulation 11

6. In regulation 11 (terms of service of NHS chemists: general), after paragraph (2) insert—

“(3) A term of service of an NHS chemist that would otherwise be part of the arrangements mentioned in paragraphs (1) and (2) is temporarily not part of those arrangements, in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii), in the following circumstances—

- (a) as a consequence of a disease being, or in anticipation of a disease being imminently—
 - (i) pandemic, and
 - (ii) a serious risk or potentially a serious risk to human health,

the NHSCB with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;

- (b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;
- (c) as part of the announcement, the NHSCB with the agreement of the Secretary of State has issued advice to the effect that NHS chemists are not to comply with a specified term of service—
 - (i) in the area to which the announcement relates,
 - (ii) in the circumstances specified in the announcement, and

⁽⁸⁾ S.I. 2013/349.

⁽⁹⁾ There are no relevant amendment instruments.

- (iii) during the period specified in the announcement; and
- (d) the NHS chemist is situated in the area to which the announcement relates and compliance with the term of service (it being the specified term of service) would, but for the effect of this paragraph, be a requirement of the NHS chemist's terms of service."

New regulation 71A

7. After regulation 71 (breaches of terms of service: breach notices), insert—

“Issuing breach or remedial notices while a disease is or in anticipation of a disease being imminently pandemic etc.

71A. The NHSCB must not issue a breach or remedial notice in respect of a breach of a term of service by a NHS chemist in the following circumstances—

- (a) as a consequence of a disease being, or in anticipation of a disease being imminently—
 - (i) pandemic, and
 - (ii) a serious risk or potentially a serious risk to human health,
 the NHSCB with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;
- (b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;
- (c) as part of the announcement, the NHSCB with the agreement of the Secretary of State has issued advice to the effect that NHS chemists need not comply with a specified term of service—
 - (i) in the area to which the announcement relates,
 - (ii) in the circumstances specified in the announcement, and
 - (iii) during the period specified in the announcement; and
- (d) the NHS chemist—
 - (i) is situated in the area to which the announcement relates, and
 - (ii) has not complied with the term of service (it being the specified term of service) in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii)."

New regulation 102A

8. After regulation 102 (terms of service for LPS schemes: general), insert—

“Suspension of terms of schemes or of enforcement of terms of schemes while a disease is or in anticipation of a disease being imminently pandemic etc.

102A.—(1) Any term that is part of an LPS scheme as a consequence of action taken under regulation 102 or by agreement between the parties is temporarily not part of that scheme, in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii), in the following circumstances—

- (a) as a consequence of a disease being, or in anticipation of a disease being imminently—
 - (i) pandemic, and
 - (ii) a serious risk or potentially a serious risk to human health, the NHSCB with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;
 - (b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;
 - (c) as part of the announcement, the NHSCB with the agreement of the Secretary of State has issued advice to the effect that LPS contractors are not to comply with a specified type of term of LPS schemes—
 - (i) in the area to which the announcement relates,
 - (ii) in the circumstances specified in the announcement, and
 - (iii) during the period specified in the announcement; and
 - (d) the LPS contractor is situated in the area to which the announcement relates and compliance with the term (it being of the specified type) would, but for the effect of this paragraph, be a requirement of the LPS scheme of the LPS contractor.
- (2) The NHSCB must not take enforcement action, as provided for in an LPS scheme, in respect of a breach of a term of the LPS scheme in the following circumstances—
- (a) as a consequence of a disease being, or in anticipation of a disease being imminently—
 - (i) pandemic, and
 - (ii) a serious risk or potentially a serious risk to human health, the NHSCB with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;
 - (b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;
 - (c) as part of the announcement, the NHSCB with the agreement of the Secretary of State has issued advice to the effect that LPS contractors need not comply with a specified type of term of an LPS scheme—
 - (i) in the area to which the announcement relates,
 - (ii) in the circumstances specified in the announcement, and
 - (iii) during the period specified in the announcement; and
 - (d) the LPS contractor—
 - (i) is situated in the area to which the announcement relates, and
 - (ii) has not complied with the term (it being of the specified type) in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii).”.

Amendment of Schedule 4

- 9.—(1) Schedule 4 (terms of service of NHS pharmacists) is amended as follows.
- (2) After paragraph 22 (service outline in respect of supporting self-care) insert—

“Home delivery service while a disease is or in anticipation of a disease being imminently pandemic etc.

22A.—(1) Before dispensing any item on a prescription form or supplying it in accordance with a serious shortage protocol, an NHS pharmacist (P) must provide a home delivery option to eligible patients in respect of the item where, as a consequence of a disease being or in anticipation of a disease being imminently—

- (a) pandemic; and
- (b) a serious risk or potentially a serious risk to human health,

the NHSCB with the agreement of the Secretary of State has made an announcement to the effect that, in order to assist in the management of the serious risk or potentially serious risk to human health, eligible patients are advised to stay away from pharmacy premises in the area specified, in the circumstances specified and for the duration of the period specified in the announcement.

(2) If P’s pharmacy premises are in the area specified in the announcement, during the period when, in the circumstances specified in the announcement, eligible patients need to stay away from P’s pharmacy, P must ascertain from—

- (a) an eligible patient—
 - (i) who has contacted P about the home delivery of prescription items, or
 - (ii) who is a person whom P considered, on the basis of the nature of an item on a prescription form, might be an eligible person and accordingly, in the ordinary exercise of professional skill and judgement, made the appropriate checks and determined that they were; or
- (b) a person who may make an application for pharmaceutical services on behalf of that eligible patient (a “duly authorised person”) who has contacted P about the home delivery of prescription items,

whether or not the item could be supplied by a duly authorised person, and if it could, then supplying the item via a duly authorised person is the home delivery option which P must provide.

(3) Where paragraph (2) does not apply, if P’s pharmacy premises are in the area specified in the announcement, during the period when, in the circumstances specified in the announcement, eligible patients need to stay away from P’s pharmacy, the home delivery option that P must provide must comprise—

- (a) P delivering the item to the eligible patient’s home or to an alternative address agreed with the patient or a duly authorised person (for example, a care home where the patient is temporarily residing);
- (b) P arranging for an item dispensed by P to be delivered by another NHS pharmacist or by an LPS contractor to the eligible patient’s home or to an alternative address agreed with the patient or a duly authorised person; or
- (c) if P is unable to deliver the item or arrange for its delivery by another NHS pharmacist or by an LPS contractor, P arranging for the dispensing or supply of the item by another NHS pharmacist or by an LPS contractor who would be able to deliver the dispensed item to the eligible patient’s home or to an alternative address agreed with the patient or a duly authorised person.

(4) Paragraph (1) does not apply where the eligible patient or a duly authorised person is already at P’s pharmacy premises for the purposes of receiving dispensing services.

(5) Notwithstanding the foregoing provisions of this Part, in any case of a supply in accordance with a home delivery option, if but for this sub-paragraph that supply would need

to be made with reasonable promptness, P may instead, in the exercise of professional skill and judgment, make the supply within a reasonable timescale.

(6) Where arrangements are in place which enable an NHS pharmacist to make a delivery as mentioned in sub-paragraph (3)(a) or (b) as part of a directed service, the NHS pharmacist must deliver the item as part of that directed service.

(7) This paragraph does not apply to an NHS pharmacist in respect of distance selling premises.”.

(3) After paragraph 27 (temporary opening hours and closures during an emergency requiring the flexible provision of pharmaceutical services) insert—

“Pharmacy opening hours: arrangements while a disease is or in anticipation of a disease being imminently pandemic etc.

27A.—(1) Notwithstanding the foregoing provisions of this Part, the core or supplementary opening hours of an NHS pharmacist (P) may be changed by the NHSCB where, as a consequence of a disease being, or in anticipation of a disease being imminently—

(a) pandemic; and

(b) a serious risk or potentially a serious risk to human health,

the NHSCB with the agreement of the Secretary of State has made an announcement to the effect that, in order to assist in the management of the serious risk or potentially serious risk to human health, the NHSCB may, in the area to which the announcement relates and in the circumstances specified in the announcement, notify NHS pharmacists of changes to core and supplementary opening hours for the period specified in the announcement.

(2) Where paragraph (1) applies, where the NHSCB notifies P of changes to P’s core or supplementary hours at P’s pharmacy premises, those are P’s core and supplementary opening hours for the period that the NHSCB specifies in the notification (unless the NHSCB notifies P of further changes to P’s opening hours).”.

Amendment of Schedule 6

10. In Schedule 6 (terms of service of dispensing doctors), after paragraph 7 (dispensing doctors issuing prescription forms which may be presented to an NHS chemist) insert—

“Home delivery service while a disease is or in anticipation of a disease being imminently pandemic etc.

7A.—(1) Before dispensing any item on a prescription form or supplying it in accordance with a serious shortage protocol, a dispensing doctor (D) must provide a home delivery option to eligible patients in respect of the item where, as a consequence of a disease being or in anticipation of a disease being imminently—

(a) pandemic; and

(b) a serious risk or potentially a serious risk to human health,

the NHSCB with the agreement of the Secretary of State has made an announcement to the effect that, in order to assist in the management of the serious risk or potentially serious risk to human health, eligible patients are advised to stay away from listed dispensing premises in the area specified, in the circumstances specified and for the duration of the period specified in the announcement.

(2) If D’s listed dispensing premises are in the area specified in the announcement, during the period when, in the circumstances specified in the announcement, eligible patients need to stay away from D’s premises, D must ascertain from—

- (a) an eligible patient—
 - (i) who has contacted D about the home delivery of prescription items, or
 - (ii) who is a person whom D considered, on the basis of the nature of an item on a prescription form, might be an eligible person and accordingly, in the ordinary exercise of professional skill and judgement, made the appropriate checks and determined that they were; or
- (b) a person who may make an application for pharmaceutical services on behalf of that eligible patient (a “duly authorised person”) who has contacted D about the home delivery of prescription items,

whether or not the item could be supplied by a duly authorised person, and if it could, then supplying the item via a duly authorised person is the home delivery option which D must provide.

(3) Where paragraph (2) does not apply, if D’s listed dispensing premises are in the area specified in the announcement, during the period when, in the circumstances specified in the announcement, eligible patients need to stay away from D’s premises, the home delivery option that P must provide must comprise—

- (a) D delivering the item to the eligible patient’s home or to an alternative address agreed with the patient or a duly authorised person (for example, a care home where the patient is temporarily residing);
- (b) D arranging for an item dispensed by D to be delivered by another dispensing doctor, or by an NHS pharmacist or an LPS contractor, to the eligible patient’s home or to an alternative address agreed with the patient or a duly authorised person; or
- (c) if D is unable to deliver the item or arrange for its delivery by another dispensing doctor, or by an NHS pharmacist or by an LPS contractor, D arranging for the dispensing or supply of the item by another dispensing doctor, or by an NHS pharmacist or an LPS contractor, who would be able to deliver the dispensed item to the eligible patient’s home or to an alternative address agreed with the patient or a duly authorised person.

(4) Paragraph (1) does not apply where the eligible patient or a duly authorised person is already at D’s listed dispensing premises for the purposes of receiving dispensing services.

(5) Notwithstanding the foregoing provisions of this Schedule, in any case of a supply in accordance with a home delivery option, if but for this sub-paragraph that supply would need to be made with reasonable promptness, D may instead, in the exercise of professional skill and judgment, make the supply within a reasonable timescale.”.

Amendment of Schedule 7

11. In Schedule 7 (mandatory terms for LPS schemes), after paragraph 10 (further activities in connection with repeat dispensing) insert—

“Home delivery service while a disease is or in anticipation of a disease being imminently pandemic etc.

10A.—(1) Before dispensing any item on a prescription form or supplying it in accordance with a serious shortage protocol, an LPS contractor (C) must provide a home delivery option to eligible patients in respect of the item where, as a consequence of a disease being or in anticipation of a disease being imminently—

- (a) pandemic; and

(b) a serious risk or potentially a serious risk to human health, the NHSCB with the agreement of the Secretary of State has made an announcement to the effect that, in order to assist in the management of the serious risk or potentially serious risk to human health, eligible patients are advised to stay away from listed chemist premises in the area specified, in the circumstances specified and for the duration of the period specified in the announcement.

(2) If C's listed chemist premises are in the area specified in the announcement, during the period when, in the circumstances specified in the announcement, eligible patients need to stay away from C's premises, C must ascertain from—

- (a) an eligible patient—
 - (i) who has contacted C about the home delivery of prescription items, or
 - (ii) who is a person whom C considered, on the basis of the nature of an item on a prescription form, might be an eligible person and accordingly, in the ordinary exercise of professional skill and judgement, made the appropriate checks and determined that they were; or
- (b) a person who may make an application for pharmaceutical services on behalf of that eligible patient (a "duly authorised person") who has contacted C about the home delivery of prescription items,

whether or not the item could be supplied by a duly authorised person, and if it could, then supplying the item via a duly authorised person is the home delivery option which C must provide.

(3) Where paragraph (2) does not apply, if C's listed chemist premises are in the area specified in the announcement, during the period when, in the circumstances specified in the announcement, eligible patients need to stay away from C's premises, the home delivery option that C must provide must comprise—

- (a) C delivering the item to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person (for example, a care home where the patient is temporarily residing);
- (b) C arranging for an item dispensed by C to be delivered by another LPS contractor or by an NHS pharmacist to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person; or
- (c) if C is unable to deliver the item or arrange for its delivery by another LPS contractor or by an NHS pharmacist, C arranging for the dispensing or supply of the item by another LPS contractor or by an NHS pharmacist who would be able to deliver the dispensed item to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person.

(4) Paragraph (1) does not apply where the eligible patient or a duly authorised person is already at C's listed dispensing premises for the purposes of receiving dispensing services.

(5) Notwithstanding the foregoing provisions of this Schedule, in any case of a supply in accordance with a home delivery option, if but for this sub-paragraph that supply would need to be made with reasonable promptness, C may instead, in the exercise of professional skill and judgment, make the supply within a reasonable timescale."

PART 4

Amendments relating to primary medical services

Amendment of the National Health Service (General Medical Services Contracts) Regulations 2015

12. The National Health Service (General Medical Services Contracts) Regulations 2015⁽¹⁰⁾ are amended in accordance with regulations 12 to 16.

Amendment of regulation 3

13. In regulation 3⁽¹¹⁾ (interpretation)—

- (a) in the definition of “core hours”, after “means” insert “, subject to regulation 3A(1),”; and
- (b) in the definition of “out of hours period”, after “means” insert “subject to regulation 3A(2)”.

New regulations 3A and 3B

14. After regulation 3, insert—

“Variation of core hours while a disease is or in anticipation of a disease being imminently pandemic etc.

3A.—(1) In these Regulations, “core hours” means the period beginning at 8.00am and ending at 6.30pm on any day from Monday to Friday in circumstances where, in order to assist in the management of a serious or potentially serious risk to human health arising as a consequence of a disease being, or in anticipation of a disease being imminently—

- (a) pandemic; and
- (b) a serious risk or potentially a serious risk to human health,

the Board may with the agreement of the Secretary of State make an announcement to the effect that the core hours of contractors in the area specified in the announcement are to include Good Friday and bank holidays in the circumstances specified, and for the duration of the period specified, in the announcement.

(2) In these Regulations, in the circumstances described in paragraph (1), “out of hours period means—

- (a) the period beginning at 6.30pm on any day from Monday to Friday and ending at 8.00am on the following day; and
- (b) the period beginning at 6.30pm on Friday and ending at 8.00am on the following Monday.

Amendment and withdrawal of announcements and advice in respect of pandemics etc.

3B. In these Regulations, where reference is made to an announcement or advice of the Board that relates to a disease being, or in anticipation of a disease being imminently—

- (a) pandemic; and

⁽¹⁰⁾ S.I. 2015/1862.

⁽¹¹⁾ There are no relevant amending instruments.

(b) a serious risk or potentially serious risk to human health,
it is to that announcement or advice, which may be withdrawn at any time, as amended from time to time.”.

New regulation 32

15. After regulation 32 (other contractual terms) insert—

“Suspension of contract terms or of enforcement of contract terms while a disease is or in anticipation of a disease being imminently pandemic etc.

32A.—(1) Any term that is part of a contract as a consequence of action taken under this Part, or by agreement between the parties or by virtue of regulation 47(2) of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (terms of service of dispensing doctors: general) is temporarily not part of that contract, in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii), in the following circumstances—

(a) as a consequence of a disease being, or in anticipation of a disease being imminently—

(i) pandemic, and

(ii) a serious risk or potentially a serious risk to human health,

the Board with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;

(b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;

(c) as part of the announcement, the Board with the agreement of the Secretary of State has issued advice to the effect that contractors are not to comply with a specified type of term of general medical services contracts—

(i) in the area to which the announcement relates,

(ii) in the particular circumstances specified in the announcement, and

(ii) during the period specified in the announcement; and

(d) the contractor is situated in the area to which the announcement relates and compliance with the term (it being of the specified type) would, but for the effect of this paragraph, be a requirement of the contractor’s contract.

(2) The Board must not take enforcement action, as provided for in a contract, in respect of a breach of a term of the contract in the following circumstances—

(a) as a consequence of a disease being, or in anticipation of a disease being imminently—

(i) pandemic, and

(ii) a serious risk or potentially a serious risk to human health,

the Board with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;

(b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;

- (c) as part of the announcement, the Board with the agreement of the Secretary of State has issued advice to the effect that contractors need not comply with a specified type of term of general medical services contracts—
 - (i) in the area to which the announcement relates,
 - (ii) in the particular circumstances specified in the announcement, and
 - (ii) during the period specified in the announcement; and
- (d) the contractor—
 - (i) is situated in the area to which the announcement relates, and
 - (ii) has not complied with the term (it being of the specified type) in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii).”.

Amendment of Schedule 3

16. In Schedule 3 (other contractual terms), in paragraph 11B(12) (direct booking by NHS 111)—

- (a) in sub-paragraph (1), after “booking by” insert “or via a service approved by the Board that is or may be accessed via”; and
- (b) after sub-paragraph (4) insert—

“(5) In order to assist in the management of a serious or potentially serious risk to human health arising as a consequence of a disease being, or in anticipation of a disease being imminently—

- (a) pandemic; and
- (b) a serious risk or potentially a serious risk to human health,

the Board may with the agreement of the Secretary of State make an announcement to the effect that the minimum numbers of appointments mentioned in paragraph (1) are modified in the circumstances specified (which may limit the area to which the modification relates), and for the duration of the period specified, in the announcement, and where the Board does so, the minimum numbers are as so modified.”.

Amendment of the National Health Service (Personal Medical Services Agreements) Regulations 2015

17. The National Health Service (Personal Medical Services Agreements) Regulations 2015(13) are amended in accordance with regulations 18 to 21.

Amendment of regulation 3

18. In regulation 3(14) (interpretation)—

- (a) in the definition of “core hours”, after “means” insert “, subject to regulation 3A(1),”; and
- (b) in the definition of “out of hours period”, after “means” insert “subject to regulation 3A(2)”.

New regulations 3A and 3B

19. After regulation 3, insert—

(12) Inserted by [S.I. 2019/1137](#).

(13) [S.I. 2015/1879](#).

(14) There are no relevant amending instruments.

“Variation of core hours while a disease is or in anticipation of a disease being imminently pandemic etc.

3A.—(1) In these Regulations, “core hours” means the period beginning at 8.00am and ending at 6.30pm on any day from Monday to Friday in circumstances where, in order to assist in the management of a serious or potentially serious risk to human health arising as a consequence of a disease being, or in anticipation of a disease being imminently—

- (a) pandemic; and
- (b) a serious risk or potentially a serious risk to human health,

the Board may with the agreement of the Secretary of State make an announcement to the effect that the core hours of contractors in the area specified in the announcement are to include Good Friday and bank holidays in the circumstances specified, and for the duration of the period specified, in the announcement.

(2) In these Regulations, in the circumstances described in paragraph (1), “out of hours period means—

- (a) the period beginning at 6.30pm on any day from Monday to Friday and ending at 8.00am on the following day; and
- (b) the period beginning at 6.30pm on Friday and ending at 8.00am on the following Monday.

Amendment and withdrawal of announcements and advice in respect of pandemics etc.

3B. In these Regulations, where reference is made to an announcement or advice of the Board that relates to a disease being, or in anticipation of a disease being imminently—

- (a) pandemic; and
- (b) a serious risk or potentially serious risk to human health,

it is to that announcement or advice, which may be withdrawn at any time, as amended from time to time.”.

New regulation 27A

20. After regulation 27 (other required terms) insert—

“Suspension of agreement terms or of enforcement of agreement terms while a disease is or in anticipation of a disease being imminently pandemic etc.

27A.—(1) Any term that is part of an agreement as a consequence of action taken under this Part, by agreement between the parties or by virtue of regulation 47(2) of the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 (terms of service of dispensing doctors: general) is temporarily not part of that agreement, in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii), in the following circumstances—

- (a) as a consequence of a disease being, or in anticipation of a disease being imminently—
 - (i) pandemic, and
 - (ii) a serious risk or potentially a serious risk to human health,

- the Board with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;
- (b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;
 - (c) as part of the announcement, the Board with the agreement of the Secretary of State has issued advice to the effect that contractors are not to comply with a specified type of term of personal medical services agreements—
 - (i) in the area to which the announcement relates,
 - (ii) in the circumstances specified in the announcement, and
 - (iii) during the period specified in the announcement; and
 - (d) the contractor is situated in the area to which the announcement relates and compliance with the term (it being of the specified type) would, but for the effect of this paragraph, be a requirement of the contractor's agreement.
- (2) The Board must not take enforcement action, as provided for in an agreement, in respect of a breach of a term of the agreement in the following circumstances—
- (a) as a consequence of a disease being, or in anticipation of a disease being imminently—
 - (i) pandemic, and
 - (ii) a serious risk or potentially a serious risk to human health,
 the Board with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;
 - (b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;
 - (c) as part of the announcement, the Board with the agreement of the Secretary of State has issued advice to the effect that contractors need not comply with a specified type of term of personal medical services agreements—
 - (i) in the area to which the announcement relates
 - (ii) in the circumstances specified in the announcement, and
 - (iii) during the period specified in the announcement; and
 - (d) the contractor—
 - (i) is situated in the area to which the announcement relates, and
 - (ii) has not complied with the term (it being of the specified type) in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii)."

Amendment of Schedule 2

- 21.** In Schedule 2 (other required terms), in paragraph 16B(15) (direct booking by NHS 111)—
- (a) in sub-paragraph (1), after “booking by” insert “or via a service approved by the Board that is or may be accessed via”; and
 - (b) after sub-paragraph (4) insert—

“(5) In order to assist in the management of a serious or potentially serious risk to human health arising as a consequence of a disease being, or in anticipation of a disease being imminently—

(a) pandemic; and

(b) a serious risk or potentially a serious risk to human health,

the Board may with the agreement of the Secretary of State make an announcement to the effect that the minimum numbers of appointments mentioned in paragraph (1) are modified in the circumstances specified (which may limit the area to which the modification relates), and for the duration of the period specified, in the announcement, and where the Board does so, the minimum numbers are as so modified.”.

At 1.00 p.m. on 26th March 2020

Matt Hancock
Secretary of State,
Department of Health and Social Care

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (General Dental Services Contracts) Regulations 2005 and the National Health Service (Personal Dental Services Agreements) Regulations 2005, which make provision in respect of the services provided in England under a general dental services contract and a personal dental services agreement made pursuant to Part 5 of the National Health Service Act 2006 (“the 2006 Act”). They also amend the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, which govern the arrangements in England under Part 7 of the 2006 Act for the provision of pharmaceutical services and local pharmaceutical services. They also amend the National Health Service (General Medical Services Contracts) Regulations 2015 and the National Health Service (Personal Medical Services Agreements) Regulations 2015, which make provision in respect of the services provided in England under a general medical services contract and a personal medical services agreement made pursuant to Part 4 of the 2006 Act. Dental practices, NHS chemists and GP practices providing NHS services under these various types of arrangements are here referred to collectively as “contractors”.

Various measures are put in place to deal with matters arising as consequence of a disease being, or in anticipation of a disease being imminently, pandemic and a serious risk or potentially a serious risk to human health – essentially in order to assist in the management of the serious risk or potentially serious risk to human health.

The National Health Service Commissioning Board (“the Board”), which commissions primary care services in England, may need to ask contractors to prioritise delivery of particular NHS services. Where the Board has made an announcement to the effect that specified NHS terms of service of contractors are suspended in specified circumstances for a limited period, during that limited period the suspended terms will not form part of the arrangements to provide primary care which contractors have with the Board. Similarly, if the Board has made an announcement to the effect that a specified NHS term of service need not be complied with in specified circumstances for a limited period, enforcement action cannot be taken against contractors in relation to non-compliance with that term in that period (regulations 2(3), 3(3), 6, 7, 8, 15 and 20).

The Board may also need to vary the opening hours of pharmacy premises – either increasing them or decreasing them (regulation 9(3)). In the case of GP practice premises, the Board is given powers to require them to open on Good Friday and bank holidays as part of their core hours (regulations 13, 14, 18 and 19).

The Board may also need to require pharmacies and dispensing doctor surgeries to provide a home delivery option for prescription items, in circumstances where certain classes of patients are advised to stay away from pharmacies and dispensing doctor surgeries, and so will need to obtain their prescription items in other ways (regulations 9(2), 10 and 11).

Provision is also made to allow the Board to require GP practices to ensure that greater numbers of appointments can be booked via the NHS 111 telephone and online service, or via a service approved by the Board that is or may be accessed via NHS 111 (regulations 16 and 21).

There are also ancillary provisions dealing with amendment and withdrawal of advice and announcements (regulation 2(2), 3(2), 5, 14 and 19).