

EXPLANATORY MEMORANDUM TO
THE NATIONAL HEALTH SERVICE (PERFORMERS LISTS, CORONAVIRUS)
(ENGLAND) AMENDMENT REGULATIONS 2021

2021 No. 30

1. Introduction

- 1.1 This explanatory memorandum has been prepared by The Department of Health and Social Care 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 These regulations amend regulation 24(1) of the National Health Service (Performers Lists) (England) (Amendments) Regulations 2013 (“the 2013 Regulations”). They amend the 2013 Regulations to remove the requirement for medical practitioners to be on the England Medical Performers List (“PL”) to deliver the Covid vaccine and ancillary Covid vaccine services.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument will come into force within 21 days of being laid before Parliament. The short time between the laying date and this instrument being brought into force is so that the provisions are available with immediate effect in the context of the coronavirus pandemic.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial application of this instrument is England only.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 This instrument is being made by the Secretary of State, in exercise of the powers conferred by sections 91(1) and 272(7) of the National Health Service Act 2006(a).

7. Policy background

What is being done and why?

- 7.1 Prior to the Coronavirus outbreak, in order for a doctor to deliver any primary care services in a primary care setting (e.g. GPs working in GP surgeries), they were required to be on the England Medical Performers List.
- 7.2 GP Practices are expected to deliver a high proportion of the covid-19 vaccinations, particularly in the early phase of the roll out when the programme will target the most vulnerable patients. Participation is voluntary and practices opt into delivery of the vaccine under the Enhanced Service Specification: COVID-19 vaccination programme 2020/21 (“ES Specification”). Rather than individual practices delivering the programme, this is being done at scale through primary care network (“PCN”) groups.
- 7.3 By week commencing 11th January all PCNs that have opted into the vaccine roll out (circa 1,000) will be live and administering vaccines. This will require significant additional workforce to ensure routine and urgent GP services also continue alongside the vaccine programme. The Department of Health and Social Care has identified a barrier to recruitment of doctors to help deliver the ES Specification. Currently, should a doctor wish to help deliver vaccination services in Primary Care under the ES Specification they would be required to be on the PL.
- 7.4 Legislation allows, in emergencies, working non-GP doctors to perform services in primary care (The National Health Service (Performers Lists) (England) Regulations 2013). We also introduced The National Health Service (Performers Lists) (England) (Coronavirus) (Amendment) Regulations 2020, which allows GPs who had left the performers list in the last five years to re-join. However, non-GP returners who have been granted emergency registration with the GMC; and GP returners who have not been on the performers list in the last five years, are still not able to deliver services in primary care setting, including vaccine services under the ES Specification. This regulation removes that barrier by allowing any registered medical practitioner to deliver the vaccine and ancillary services under the ES Specification without the need to be on the performers list.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument does not relate to withdrawal from the European Union and does not trigger the statement required under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 None.

10. Consultation outcome

- 10.1 The Department has consulted with key stakeholders and representative bodies on the proposed changes. These organisations are fully supportive of the proposed amendments to the existing Regulations. The Department considers that shortened engagement is necessary and proportionate in the context of the coronavirus pandemic.

11. Guidance

- 11.1 NHS England and NHS Improvement has already produced guidance for providers and medical practitioners that set out how local organisations should make a decision on the suitability of non-GP medical practitioners to work in primary care and on the induction and supervision arrangements that should be in place. This guidance will apply to the increase in the number of non-GP medical practitioners that are eligible to work in primary care. This guidance will also remain of relevance to regulatory bodies and other organisations providing assistance or advice to medical practitioners.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because the SI relates to emergency measures that will be required for the duration of the Covid vaccination programme. The Regulations will have no practical effect once the vaccination programme comes to an end. The intention is to revoke the Regulation at the end of the period.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 As the amendments will only be in place for the duration of the Covid vaccination programme no monitoring or review provisions have been made in this instrument. The Regulations will have no practical effect once the vaccination programme comes to an end. The intention is to revoke the Regulation at the end of the period.

15. Contact

- 15.1 Sean Marchesi-Denham at the Department of Health and Social Care Telephone: 020 7972 1422 or email: Sean.Marchesi-Denham@dhsc.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Mark Bennett, Deputy Director for Professional Regulation, at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Nadhim Zahawi MP, Parliamentary Under Secretary of State, Minister for COVID Vaccine Deployment at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.