



Health and Social Care Act 2001

2001 CHAPTER 15

PART 2

PHARMACEUTICAL SERVICES

CHAPTER 2

CHANGES TO EXISTING ARRANGEMENTS

England and Wales

42 Dispensing of NHS prescriptions and provision of pharmaceutical services

- (1) For section 41 of the 1977 Act (arrangements for pharmaceutical services) there shall be substituted—

“41 Arrangements for pharmaceutical services

- (1) It is the duty of every Health Authority, in accordance with regulations which shall be made for the purpose, to arrange as respects their area for the provision to persons who are in that area of—
- (a) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown;
 - (b) proper and sufficient drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of—
 - (i) his functions in the health service, the Scottish health service or the Northern Ireland health service (other than functions exercised in pursuance of the provision of services mentioned in paragraph (c)); or
 - (ii) his functions in the armed forces of the Crown;

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- (c) listed drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of the provision of general dental services or equivalent services in the Scottish health service or the Northern Ireland health service;
 - (d) such drugs and medicines and such listed appliances as may be determined by the Secretary of State for the purposes of this paragraph which are ordered for those persons by a prescribed description of person in accordance with such conditions, if any, as may be prescribed, in pursuance of functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown; and
 - (e) such other services as may be prescribed.
- (2) The services provided under this section are, together with additional pharmaceutical services provided in accordance with a direction under section 41A, referred to in this Act as “pharmaceutical services”.
- (3) The descriptions of persons which may be prescribed for the purposes of subsection (1)(d) are the following, or any sub-category of such a description—
- (a) persons who are registered by any board established under the Professions Supplementary to Medicine Act 1960 (c. 66);
 - (b) persons who are registered pharmacists;
 - (c) persons whose names are entered in a roll or record established by the General Dental Council by virtue of section 45 of the Dentists Act 1984 (c. 24) (dental auxiliaries);
 - (d) persons who are ophthalmic opticians;
 - (e) persons who are registered osteopaths within the meaning of the Osteopaths Act 1993 (c. 21);
 - (f) persons who are registered chiropractors within the meaning of the Chiropractors Act 1994 (c. 17);
 - (g) persons who are registered in the register of qualified nurses, midwives and health visitors maintained under section 7 of the Nurses, Midwives and Health Visitors Act 1997 (c. 24);
 - (h) persons who are registered in any register established, continued or maintained under an Order in Council under section 60(1) of the Health Act 1999 (c. 8);
 - (i) any other description of persons which appears to the Secretary of State to be a description of persons whose profession is regulated by or under a provision of, or made under, an Act of the Scottish Parliament or Northern Ireland legislation and which the Secretary of State considers it appropriate to specify.
- (4) A determination under subsection (1)(d) may—
- (a) make different provision for different cases;
 - (b) provide for the circumstances or cases in which a drug, medicine or appliance may be ordered;
 - (c) provide that persons falling within a description specified in the determination may exercise discretion in accordance with any provision made by the determination in ordering drugs, medicines and listed appliances.

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(5) The arrangements which may be made by a Health Authority under subsection (1) include arrangements for the provision of a service by means such that the person receiving it does so otherwise than at the premises from which it is provided.

(6) Where a person with whom a Health Authority makes arrangements under subsection (1) wishes to provide services to persons outside the area of the Health Authority, he may, subject to any provision made by regulations in respect of arrangements under this section, provide such services under the arrangements.

(7) In this section—

“armed forces of the Crown” does not include forces of a Commonwealth country or forces raised in a colony;

“listed” means included in a list for the time being approved by the Secretary of State for the purposes of this section; and

“the Scottish health service” and “the Northern Ireland health service” mean respectively the health service established in pursuance of the National Health Service (Scotland) Act 1947 (c. 27) or any service provided in pursuance of Article 4(1) of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)).”

(2) In section 43 of the 1977 Act (persons authorised to provide pharmaceutical services), in subsection (3), for “section 41(d)” there shall be substituted “section 41(1)(e)”.

43 Remote provision of pharmaceutical, etc. services

(1) In section 41A of the 1977 Act (additional pharmaceutical services)—

(a) in subsection (1)(a), for “in their area” there shall be substituted “within or outside their area”;

(b) after subsection (1) there shall be inserted—

“(1A) Directions under this section may require or authorise a Health Authority to arrange for the provision of a service by means such that the person receiving it does so otherwise than at the premises from which it is provided (whether those premises are inside or outside the area of the Health Authority).”

(2) In section 42 of that Act (regulations as to pharmaceutical services), in subsection (1), for the words from “enable persons” to the end of the subsection there shall be substituted—

“(a) enable persons for whom drugs, medicines or appliances mentioned in that section are ordered as there mentioned to receive them from persons with whom such arrangements have been made; and

(b) ensure the provision of services prescribed under subsection (1)(e) of that section by persons with whom such arrangements have been made.”

(3) In subsection (2)(c) of that section, after “prescribed cases” there shall be inserted “(which may, in particular, include cases of applications for the provision only of services falling within subsection (3A) below)”.

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- (4) After subsection (3) of that section there shall be inserted—
- “(3A) A service falls within this subsection if the means of providing it is such that the person receiving it does so otherwise than at the premises from which it is provided.
- (3B) The regulations may, in respect of services falling within subsection (3A) above, include provision—
- (a) requiring persons to be approved for the purposes of providing such services, by the Secretary of State or such other person as may be specified in the regulations, in accordance with criteria to be specified in or determined under the regulations (whether by the Secretary of State or by another person so specified);
- (b) requiring the Health Authority to make the grant of an application subject to prescribed conditions.”
- (5) In section 43(2A) of the 1977 Act (list of medical practitioners providing drugs, etc.) for “in the Authority’s area” there shall be substituted “under arrangements with the Authority”.
- (6) In section 44(1) of the 1977 Act (local representative committees), in paragraph (d), after “pharmaceutical services” there shall be inserted “from premises”.

Scotland

44 Dispensing of NHS prescriptions

- (1) Section 27 of the National Health Service (Scotland) Act 1978 (c. 29) (arrangements for provision of pharmaceutical services) shall be amended as follows.
- (2) In subsection (1), in paragraph (cc)—
- (a) for “listed drugs and medicines and listed appliances” there shall be substituted “such drugs and medicines and such listed appliances as may be determined by the Scottish Ministers for the purposes of this paragraph”; and
- (b) for “registered nurse, midwife or health visitor” there shall be substituted “person in accordance with such conditions, if any, as may be prescribed.”.
- (3) After that subsection there shall be inserted—
- “(1A) The descriptions of persons which may be prescribed for the purposes of subsection (1)(cc) are the following, or any sub-category of such a description—
- (a) persons who are registered by any board established under the Professions Supplementary to Medicine Act 1960 (c. 66);
- (b) persons who are registered pharmacists;
- (c) persons whose names are entered in a roll or record established by the General Dental Council by virtue of section 45 of the Dentists Act 1984 (c. 24) (dental auxiliaries);
- (d) persons who are ophthalmic opticians;
- (e) persons who are registered osteopaths within the meaning of the Osteopaths Act 1993 (c. 21);

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- (f) persons who are registered chiropractors within the meaning of the Chiropractors Act 1994 (c. 17);
 - (g) persons who are registered in the register of qualified nurses, midwives and health visitors maintained under section 7 of the Nurses, Midwives and Health Visitors Act 1997 (c. 24);
 - (h) persons who are registered in any register established, continued or maintained under an Order in Council under section 60(1) of the Health Act 1999 (c. 8);
 - (i) any other description of persons which appears to the Scottish Ministers to be a description of persons whose profession is regulated by or under a provision of, or made under, Northern Ireland legislation and which the Scottish Ministers consider it appropriate to specify.
- (1B) A determination under subsection (1)(cc) may—
- (a) make different provision for different cases;
 - (b) provide for the circumstances or cases in which a drug, medicine or appliance may be ordered;
 - (c) provide that persons falling within a description specified in the determination may exercise discretion in accordance with any provision made by the determination in ordering drugs, medicines and listed appliances.”