

DRAFT SI REPORT

Constitutional and Legislative Affairs Committee

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Constitutional and Legislative Affairs Committee Draft Report

Title: The National Health Service (Pharmaceutical Services)
(Wales) Regulations 2013

Procedure: Negative

These regulations revoke and replace the National Health Service **(Pharmaceutical Services) Regulations 1992 (“the 1992 Regulations”)**. The 1992 regulations have provided the statutory framework for the provision of NHS pharmaceutical services in Wales since 1992 and set out the processes by which applications to Local Health Boards for inclusion in, and amendment of, pharmaceutical and dispensing doctor lists and for appeals to the Welsh Ministers against decisions made by Local Health boards. They also set out the terms of Service for pharmacists, NHS appliance contractors and dispensing doctors. The 1992 Regulations have been amended only many occasions since their coming into form and consequently have become difficult to interpret; as a result appeals are common place. The CLAC and its predecessor committees have indicated that consolidation of the subordinate legislation applicable to pharmaceutical services should be considered.

These Regulations consolidate the amendments made to the 1992 Regulations. They also make some amendments to the allowing for a structured approach in determining where NHS pharmaceutical services are provided in Wales and reduce the administrative burden on Local Health boards when processing applications and on the Welsh ministers in processing any subsequent appeals.

The Regulations revoke earlier instruments (or parts thereof) relating to the provision of pharmaceutical services.

Technical Scrutiny

Under Standing Order 21.2 the assembly is invited to pay special attention to this instrument on the following grounds:-

- **Regulation 6(1): the reference in the English text is to the “the 1992 Regulations” whereas the Welsh text refers to the “1922 Regulations”. Standing Order 21.2(vii) – inconsistency between Welsh and English texts.** As there no regulations made in 1922

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which touch or concern these Regulations it is considered that this point may be corrected on publication.

- Schedule 1, Part 2, paragraph 22(2)(d): the English text contains **the wording “...a person who is or who will be lawfully conducting a retail pharmacy...”**. The Welsh text omits wording corresponding to “or who will be”. Standing order 21.2(vii) – inconsistency between Welsh and English texts.
- Schedule 1, Part 2, paragraph 23(2)(k): the English text refers **only to “his removal from any relevant list”**. Standing Order 21.2(viii) – gender specific language.
- Schedule 2, Part 3, paragraph 8(4): In the Welsh text the word **“diwrnod” should be inserted between “o fewn 30” and “o’r dyddiad”**. Standing Order 21.2(vi) and (vii) – defective drafting and inconsistency between Welsh and English texts.
- Schedule 6, paragraph 11(2)(b): the English text refers to the local Medical Committee whereas the Welsh text refers to te Local Pharmaceutical Committee. As Schedule 6 sets out the Terms of Service applicable to doctors providing pharmaceutical services it is to be assumed that the correct reference is to the Local Medical Committee. Standing Order 21.2(vi) – defective drafting.

Merits Scrutiny

Under Standing order 21.3(ii), the Assembly may wish to pay special attention to this instrument in that gives rise to matters of public policy relating to the first consolidation since 1992 the of subordinate legislation applicable statutory framework for the provision of pharmaceutical service in Wales.

Legal Advisers

Constitutional and Legislative Affairs committee

25 April 2013