EXPLANATORY MEMORANDUM TO

THE HUMAN MEDICINES (AMENDMENT) (MODULAR MANUFACTURE AND POINT OF CARE) REGULATIONS 2024

2024 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by The Medicines and Healthcare products Regulatory Agency ("MHRA"), an executive agency of the Department of Health and Social Care ("DHSC") and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Karin Smyth, Minister of State for Health (Secondary Care) at the Department of Health and Social Care confirms that this Explanatory Memorandum meets the required standard.

2.2 Rachel Arrundale, Deputy Director (SCS 1), Partnerships, at the MHRA confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Partnerships Team at the Medicines and Healthcare products Regulatory Agency, email: Partnerships@mhra.gov.uk, can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends the Human Medicines Regulations 2012 (S.I.2012/1916) ("the HMRs") and the Medicines for Human Use (Clinical Trials) Regulations 2004 (S.I. 2014/1031) ("the 2004 Regulations") to provide a new regulatory framework for medicines manufactured at the 'point of care' (POC), and modular manufacturing (MM), where products are manufactured in modular, relocatable units.

4.2 The amendments will enable the manufacture and supply of innovative products that have a very short shelf life and which may be highly personalised, requiring them to be manufactured and supplied at the point of care. It would be extremely challenging for these innovative products to be regulated according to current regulations as the current model does not allow for these types of manufacturing processes.

4.3 The UK aims to be the first country worldwide to introduce a tailored framework for innovative manufacturing methods, supporting the development of medicines at the forefront of technology and enabling access to pioneering medicines for patients.

Where does the legislation extend to, and apply?

4.4 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the whole of the United Kingdom.

4.5 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the whole of the United Kingdom.

5. Policy Context

What is being done and why?

5.1 Increasingly, with advancing health technology, new medicines are being developed that need to be manufactured close to the health care setting. Our regulatory approach and legislation need to adapt to support the development of these new technologies, enabling access to innovative medicines for patients.

5.2 The current regulations are designed for medicines that can be manufactured at a small number of sites and then distributed globally. This approach does not work for innovative products that need to be manufactured near the patient, potentially at hundreds of different sites across the country. POC products often have a very short shelf-life, ranging from one hour down to a few minutes, or are highly personalised to individual patients such as cell or gene therapy, 3D-printed products or medicines using blood-products obtained from the patient. As a result, they must be manufactured and supplied either at the point of care or very close to where the patient is receiving treatment. This can include healthcare settings like hospital wards and operating theatres, as well as community settings or even the patient's home.

5.3 The current regulations also limit the possibilities with regard to other manufacturing models, such as modular manufacturing (MM), where products need to be manufactured in modular, relocatable units, e.g., where cancer biopsies and blood derived components are taken from a patient and sent to a local manufacturing site to manufacture a cancer vaccine specific for that patient’s disease.

5.4 Innovation in POC treatment and medicine manufacturing is disincentivised by the current regulatory regime, which assumes manufacturing will take place at a small number of fixed and licensed sites. The objective of this instrument is to provide an enabling framework to support increased manufacturing and supply of the innovative medicines that can only be manufactured at the point of care. An enabling framework is particularly important in this area where there are rapid and continued technological developments. This will, in turn, improve the availability of novel products to patients, benefiting patients where there may currently be few or no treatment options. Removing these barriers would also promote economic growth by incentivising investment in innovation.

5.5 Ensuring the same standards of safety, quality and efficacy as more ‘traditional’ products is fundamental to the new framework. Manufacturers would still be required to meet necessary standards, such as the Good Manufacturing Practice (GMP), ensuring the products are manufactured safely and to a high standard of quality.

What was the previous policy, how is this different?

5.6 The previous regulatory framework was based on centralised factory-based manufacture, with a small number of fixed manufacturing sites being listed in the manufacturing licence.

5.7 The new framework is centred on a 'hub and spoke model' with a single Control Site as a hub for each product, overseeing all aspects of the POC/MM system including the spokes of the individual manufacturing locations and their activities. The Control Site will be the only named manufacturing site on manufacturing licence, clinical trial and marketing authorisation (i.e. medicines licensing) applications. The holder of the Control Site will be responsible for ensuring product quality across all manufacturing sites and notifying the MHRA of reportable issues.

5.8 The new framework is a modified form of the current regulatory system for medicines approvals, clinical trials, evaluation of regulatory compliance at manufacturing sites and safety monitoring. There will be no change in the expected standards that must be met for safety, quality and efficacy.

6. Legislative and Legal Context

How has the law changed?

6.1 The Human Medicines Regulations 2012 govern the arrangements across the United Kingdom for the licensing, manufacture, wholesale dealing sale or supply, advertising and post-marketing monitoring of medicines for human use. The Medicines for Human Use (Clinical Trials) Regulations 2004 govern the conduct of clinical trials of medicinal products for human use. Together, they set the essential framework, alongside the surviving provisions of the Medicines Act 1968 and the relevant fees regulations, for the regulation of medicines for human use in the United Kingdom.

6.2 Section 2 of the Medicines and Medical Devices Act 2021 ("MMDA") provides the enabling power to make provision amending or supplementing the "law relating to human medicines", which includes the HMRs and the 2004 Regulations (section 9 of the MMDA).

6.3 There is currently no specific legislative provision for POC and MM of medicines. Current arrangements are geared towards centralised factory-based manufacture, with a small number of fixed manufacturing sites named on manufacturing licences and marketing authorisations, but POC and MM products may be manufactured at multiple sites across the country. Rather than having to name all of those sites in the manufacturing licence and marketing authorisation, and make amendments as sites are added or removed, the control site will be named and the manufacturing sites recorded in a separate master file, which can be updated as sites change.

6.4 In providing a new regulatory framework for POC and MM medicines, due regard has been given to the continued application in relation to Northern Ireland of EU law, including Directive 2001/83/EC of the European Parliament and of the Council on the Community code relating to products for human use (OJ L 311, 28.11.2001, p. 67, as amended). Care has therefore been taken to ensure that the new legal framework for POC and MM medicines is consistent with EU law as it applies in Northern Ireland.

Why was this approach taken to change the law?

6.5 The regulatory framework is designed for the manufacture of new, innovative POC and MM products.

6.6 The proposed new framework sets out a model of regulatory requirements to provide the necessary regulatory oversight to assure that POC and MM products have appropriate quality, safety, and efficacy attributes, whilst the increasing numbers of patients to benefit from these innovative products in clinics and hospitals around the country.

7. Consultation

Summary of consultation outcome and methodology

7.1 Section 45 of the MMDA requires that, before making regulations under section 2, a public consultation must be carried out. A public consultation was carried out from 12 August to 23 September 2021. The consultation received 51 responses, from 35 organisations and 16 individuals.

7.2 There was significant support for introducing legislation to provide for a new framework for regulating medicines manufactured at the POC and MM. Ninety one percent of responders agreed that a new framework was required, and ninety four percent agreed with the framework proposed. The majority of responders, including established pharmaceutical manufacturers and the trade associations, also supported widening the framework to include MM (75%) and home-based manufacture (71%). A further 15% and 21% did not provide an answer on this point.

7.3 Whilst the majority of respondents, including established pharmaceutical manufacturers and the trade associations, supported coverage of modular manufacturing facilities by the POC framework, there were a small minority of respondents who opposed MM (10%) and home-based manufacturing (8%) being included. This was on the basis that existing GMP guidance could cover these types of manufacturing. However, including different types of manufacturing within legislation, rather than guidance, provides a legislative basis for relocatable manufacturing facilities.

7.4 Overall, responders considered that the new framework would support greater availability of innovative medicines, enabling many patients to benefit from new treatments based on cutting-edge manufacturing options.

7.5 A summary of the consultation responses and the Government's response can be found here: POC consultation - Government Response[1]

7.6 This instrument is being made on a UK-wide basis. The Devolved Governments have been consulted on the development of this instrument and are content. The regulation of medicines is a devolved matter for Northern Ireland. This instrument has therefore been made jointly with the Northern Ireland Department of Health, and the public consultation was also carried out jointly.

8. Applicable Guidance

8.1 Detailed guidance on the new framework will be published by the MHRA in advance of the regulations coming into force.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment and Equality Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

[1] https://www.gov.uk/government/consultations/point-of-care-consultation/outcome/government-response-to-consultation-on-proposals-to-support-the-regulation-of-medicines-manufactured-at-the-point-of-care

Impact on businesses, charities and voluntary bodies

9.2 Manufacturers seeking to produce POC and MM products may gain annual benefits of £3.3m per annum (on average). Changes in Good Manufacturing Practice (GMP) inspection protocols proposed in the regulatory framework will only apply to companies involved in MM and POC manufacture, for them the new framework will reduce the number of manufacturing sites that require a regulatory inspection, this means there will be direct benefits to firms in this new sector in the form of reduced inspection costs. The proportion of sites owned by a MM or POC manufacturer that is expected to be inspected is a 95% reduction in comparison to the current regulations where all sites are currently inspected.

9.3 Fewer inspections would benefit both larger and small and medium sized enterprise (SME) firms as they would have more cost savings due to their size and likelihood to have multiple sites. SMEs also would benefit from the reduced barriers to entry as a result of the changes to inspection criteria.

9.4 POC and MM will benefit the public sector through savings from more speedy treatment of patients by increasing availability of new products with very short shelf lives and highly personalised medicines in settings where they can be reached more quickly. There are also benefits to the NHS, where some patients will be able to be treated with medicines manufactured at home, aligning with the NHS concept of 'virtual wards'.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The MHRA will be responsible for monitoring the POC framework on an ongoing basis to ensure it remains effective and fit for purpose.

10.2 The instrument does not include a specific statutory review clause. However, the POC and MM provisions will be covered by the review clause already embedded in the HMRs. In line with the requirements of the Small Business, Enterprise and Employment Act 2015 Karin Smyth, Minister of State for Health (Secondary Care) at the Department of Health and Social Care has made the following statement:

"The Human Medicines Regulations 2012 are subject to a regular review by the Secretary of State".

10.3 In addition, section 46 of the MMDA requires the Secretary of State to lay a report before Parliament every two years on the operation of regulations made under section 2 (and other powers under the Act). As part of the report, stakeholders will be consulted over a 6-week period on how they feel the regulations are operating, as well as any suggestions for improvement. Feedback will be considered as part of the review of the legislation.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

11.1 This instrument is made under the MMDA. It amends the HMRs and the 2004 Regulations, which were made under section 2(2) of the European Communities Act 1972. This instrument is subject to the draft affirmative procedure in accordance with section 47(3) and (6)(c) of the MMDA. The instrument was notified to the EU as

required under the Directive 2015/1535 "the Technical Standards Directive", insofar as the instrument applies in relation to Northern Ireland, and no comments were received under the notification.

Matters of special interest to the Northern Ireland Assembly

11.2 Section 2(6)(b)(ii) of the MMDA provides that in relation to Northern Ireland, regulations under section 2 may be made by the Department of Health in Northern Ireland and the Secretary of State acting jointly. This instrument will apply to the whole of the United Kingdom and accordingly is made jointly.

11.3 Section 47(6)(c) of the MMDA provides that in the case of the regulations being made jointly the regulations must be laid before and approved by a resolution of each House of Parliament, and the Northern Ireland Assembly.

12. European Convention on Human Rights

12.1 The Minister of State for Health (Secondary Care), Karin Smyth, has made the following statement regarding Human Rights:

"In my view the provisions of the Human Medicines (Amendment) (Modular Manufacture and Point of Care) Regulations 2023 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts"). It does however relate to the withdrawal of the United Kingdom from the European Union because it amends regulations made under section 2(2) of the European Communities Act 1972.

13.2 The Minister for Health and Social Care and the Department of Health in Northern Ireland have made the following statement regarding regulations made under the European Communities Act:

"In our opinion there are good reasons for The Human Medicines (Amendment) (Modular Manufacture and Point of Care) Regulations 2023 to amend the HMRs and the 2004 Regulations. This is because the amendments ensure that there is a clear regulatory framework in place to regulate the manufacture of safe and effective innovative products manufactured and supplied at the Point of Care or by modular manufacture. This will improve the availability of novel products, benefiting patients across the UK."