EXPLANATORY MEMORANDUM TO

THE NATIONAL HEALTH SERVICE (PHARMACEUTICAL AND LOCAL PHARMACEUTICAL SERVICES) (AMENDMENT) REGULATIONS 2026

2026 No. 702

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Health and Social Care ("DHSC") and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Minister Stephen Kinnock, Minister of State for Care at DHSC confirms that this Explanatory Memorandum meets the required standard.

2.2 David Simmons, Director (interim) for Medicines, at DHSC confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Biom Nwachukwu at DHSC can be contacted at medicines.reimbursement@dhsc.gov.uk 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 The amendments enable the Secretary of State (or in some instances, NHS England) to determine zero or nominal reimbursement, if certain conditions are met, where the government has centrally purchased meningococcal B (MenB), meningococcal ACWY (MenACWY) and teenage booster (Td/IPV) vaccines that are made available to community pharmacies at no cost for the supply or administration to NHS patients. This only affects reimbursement for the products costs; it does not affect the amount that community pharmacies will be paid for the service costs of supplying or administering these vaccines as part of NHS pharmaceutical services.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 The regulatory amendments are required to enable the NHS to pay zero reimbursement for specific named vaccines that are to be administered or supplied as part of an NHS-commissioned service, to avoid the risk of reimbursing community pharmacies for products they receive from centrally supplied stock at no cost. There are already vaccines listed for zero reimbursement in the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the PLPS

Regulations"), including human papillomavirus (HPV), measles, mumps and rubella (MMR) and Respiratory Syncytial Virus (RSV) vaccines. The vaccines being added to the list are: MenB, Men ACWY and Td/IPV vaccines. NHS England will be responsible for commissioning the vaccination services. Commissioning is the process of assessing population health needs, planning, purchasing and monitoring services, and ensuring accountability for health outcomes. It is important to add these vaccines now to enable any commissioned services to start at pace.

5.2 Following the recent meningitis outbreak in Kent, there is an opportunity to vaccinate adolescents/young adults ahead of the next academic year and the peak season for MenB in the Autumn. The Department has proposed implementation of a time-limited vaccination programme delivered through community pharmacies, combined with some General Practice (GP) catch-up. Delivery via community pharmacies mitigates potential challenges delivering the service to hard-to-reach groups who may not be on GP and/or school systems.

5.3 Additionally, the Department has proposed a catch-up vaccination service for 16–24-year-olds to improve the uptake of routine school-aged vaccines. The service is proposed to be delivered through around 1000 community pharmacies, who will provide a combined 16–24-year-old HPV, MMR, MenACWY and Td/IPV vaccination catch-up service. Currently, there is low take up of catch-up vaccinations delivered via GP providers, therefore, commissioning community pharmacies to provide such vaccination services would increase access and potentially improve vaccine coverage.

What was the previous policy, how is this different?

5.4 The expectation under the ordinary reimbursement arrangements for NHS pharmaceutical services is that community pharmacies are reimbursed an amount which is in respect of the price that a service provider paid when purchasing the prescription item that is then supplied or administered. However, there are powers in Part 7 of the National Health Service 2006 Act ("the NHS Act") to enable alternatives to these ordinary remuneration arrangements in some circumstances.

6. Legislative and Legal Context

How has the law changed?

6.1 The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013 ("the PLPS Regulations") govern the arrangements under Part 7 of the NHS Act, for the provision of pharmaceutical and local pharmaceutical services in England. The core pharmaceutical or local pharmaceutical service is the dispensing of NHS prescriptions. However, in addition to that and other "essential" services, there are services known as "advanced" and "enhanced" services that pharmacies providing the "essential" services can *choose* to provide (in the case of "advanced" services) or are *commissioned* to provide (in the case of "enhanced" services). Commissioning of, "enhanced" services is an NHS England function that can be delegated to local NHS commissioners.

6.2 The scheme for payment for pharmaceutical and local pharmaceutical services in Part 7 of the NHS Act is predicated on the principle that the determining authorities for pharmaceutical remuneration (that is, the Secretary of State and, for some purposes, NHS England) will ordinarily include, in the payments for those services, an amount which is in respect of the price paid by service providers when they purchased the prescription items that they supply or administer to NHS patients.

6.3 However, section 164 of the NHS Act allows for the creation, by regulations, of some statutory exceptions to this principle. The exceptions are to allow for the use of some centrally purchased medicines in the delivery of NHS services provided by community pharmacies. Where the medicines are supplied free of charge to the pharmacies, pharmacies do not need to be remunerated for these medicines when they are later supplied or administered to NHS patients. The powers have previously been exercised to support the supply of coronavirus vaccines and antivirals, RSV and MMR vaccines.

Why was this approach taken to change the law?

6.4 Amending the PLPS Regulations avoids the risk of the NHS paying twice for centrally procured medicines, as community pharmacies would ordinarily be entitled to reimbursement for their supply or administration, despite obtaining the medicines without a charge. The changes in this instrument are not intended to radically change NHS pharmaceutical service provisions or payment mechanisms. The aim is to strengthen the legal basis for scenarios where the usual supply routes need to be bypassed to address a public health need. In these circumstances, this is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Department has consulted with Community Pharmacy England (CPE), the representative body for community pharmacies in England on changes to the PLPS Regulations regarding MenB, Men ACWY and teenage booster vaccination supply with zero reimbursement and they have accepted the amendment.

8. Applicable Guidance

8.1 There will not be any guidance issued by the Department in connection with this instrument. Communication of this sort of legislative change relating to community pharmacies is ordinarily done by CPE via their website: National Pharmacy Services - Community Pharmacy England[1].

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the changes are enabling and facilitative. This is because it will enable pharmacies to offer the centrally procured vaccine that will be supplied to them free of charge as part of the NHS England commissioned services. Pharmacies will be able to choose whether to provide the service.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies as the changes are enabling and facilitative. This is because the vaccines will be provided free of charge to pharmacies that choose to provide the NHS England commissioned service. No adverse impacts are foreseen in the context of the discharge of the Secretary of State's Public Sector Equality Duty or his general duties under the 2006 Act. NHS England will commission these services through community pharmacies as

[1] https://cpe.org.uk/national-pharmacy-services/

an “enhanced” service. Enhanced services are optional for pharmacies to provide, therefore there will be no or minimal impact on pharmacy viability but the potential to improve cash flow as they will be receiving additional funds as part of providing the service.

9.3 There is no significant, impact on the public sector as the changes are enabling and facilitative and pharmacies can choose whether to offer these services.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The proposed MenB vaccination service can be considered a “one-off” programme, however, the roll out will include further evidence gathering on any changed risk from MenB and further advice from the Joint Committee on Vaccination and Immunisation on a routine vaccination programme. Delivery of the community pharmacy 16-24-year-old catch-up vaccination service will be tested with a robust and independent evaluation, reporting once there is sufficient evidence to establish value for money, whether activity is new or displaced from GP providers, and impact on reducing health inequalities, vaccine supply and cost.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation no statement is required.

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”).