

## **Explanatory Memorandum to the National Health Service (Miscellaneous Amendments Relating to Independent Prescribing) (Wales) Regulations 2010**

This Explanatory Memorandum has been prepared by the Health and Social Services Directorate General and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the National Health Service (Miscellaneous Amendments Relating to Independent Prescribing) (Wales) Regulations 2010.

*Edwina Hart*

Minister for Health and Social Services

21 June 2010

### **Description**

These Regulations amend the :

- National Health Service (Pharmaceutical Services) Regulations 1992;
- National Health Service (General Medical Services Contracts) (Wales) Regulations 2004;
- National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Wales) Regulations 2007.

For the purposes of this memorandum referred to as “the relevant Regulations”.

### **Matters of special interest to the Constitutional Affairs Committee**

None.

### **Legislative Background**

This statutory instrument is being made under exercise of the powers conferred by sections 47, 80, 83, 86, 121 and 203(9) and (10) of the National Health Service (Wales) Act 2006.

This statutory instrument follows the negative resolution procedure.

### **Purpose and intended effect of the legislation**

#### **Policy Background**

The policy decision to retain the title “independent nurse prescriber” in Wales has caused some administrative difficulties

The majority of these difficulties appear to have been anticipated and, in the main, were dealt with by the amendments made by the National Health Service (Miscellaneous Amendments Concerning Independent Nurse Prescribers, Supplementary Prescribers, Nurse Independent Prescribers and Pharmacist Independent Prescribers) (Wales) Regulations 2007 (“the 2007 Regulations”).

The 2007 Regulations provided that from 1 February 2007 the following classes of non-medical prescribers were allowed to prescribe specified drugs, medicines and appliances in the NHS in Wales :

- Independent Nurse Prescriber;
- Supplementary Prescriber;
- Nurse Independent Prescriber;
- Pharmacist Independent Prescriber

The amendments made by the 2007 Regulations to the relevant NHS Regulations clearly established that in relation to Wales for the purposes of the relevant Regulations the references within the Prescription Only Medicine (Human User) Order 1997 (“the POM Order”) (which contains the list of the classes of non-medical prescribers who are able to operate in England and Wales) to a “community practitioner nurse prescriber” is a reference to an “independent nurse prescriber”..

As mentioned above, the POM Order refers to “community practitioner nurse prescribers” who are described as persons whose name is registered in the Nursing and Midwifery Register and against whose name within that register is an annotation that he or she is qualified to order drugs and appliances from the Nurse Prescribers’ Formulary for Community Practitioners (in Wales District Nurses and Health Visitors). The POM Order is made under legislation that is not devolved. Currently, there is no direct correlation within the relevant NHS Regulations and the entries within the Nurses and Midwives (Parts of and Entries in the Register) Order 2004 (which is also non-devolved).

As there is no reference to the classification of “independent nurse prescriber” in the Nursing and Midwifery Register amending the relevant NHS Regulations to establish a correlation between “independent nurse prescriber” and “community practitioner nurse prescriber” is required.

### Objective

These regulations seek to establish beyond doubt that for the purposes of the relevant NHS Regulations in relation to Wales a ‘community practitioner nurse prescriber’, [ as defined by the POM Order means an “independent nurse prescriber”.

### **Implementation**

It is intended that these Regulations will come into force on 19 July 2010.

If these Regulations were to be annulled then the failure to implement the changes would result in the continuation of the current administrative difficulties.

These Regulations are intended to address the current administrative difficulties that are created as a consequence of the difference in terminology within the relevant NHS Regulations and the POM Order.

### **Consultation**

There has been no consultation with stakeholders because the changes to the Regulations are of a technical nature.

A Ministerial Letter will be issued in order to bring these Regulations to the attention of NHS Wales and key stakeholders.

### **Regulatory Impact Assessment**

These Regulations have no impact on the statutory duties (sections 77 – 79 GOWA 06) or impose any additional burdens upon the statutory partners (sections 73 – 75 GOWA 06).

A Regulatory Impact Assessment has not been prepared for this instrument as it contains technical amendments which have no major impact on policy.