
DIRECTIONS

NATIONAL HEALTH SERVICE ACT 2006

The Local Pharmaceutical Services (Essential Small Pharmacies) Directions 2013

The Secretary of State for Health gives the following Directions in exercise of the powers conferred by sections 138, 168A(3), 272(7) and (8), and 273(1) of, and paragraph 7 of Schedule 11 to, the National Health Service Act 2006(a).

PART 1

General

Citation, commencement and application

1.—(1) These Directions may be cited as the Local Pharmaceutical Services (Essential Small Pharmacies) Directions 2013 and come into force on 1st April 2013.

(2) These Directions apply in relation to England.

Interpretation

2.—(1) In these Directions—

“the Act” means the National Health Service Act 2006;

“the 2005 Directions” means the Local Pharmaceutical Services (Essential Small Pharmacies) Directions 2005(b), as in force on 31st March 2013;

“Advanced and Enhanced Services Directions” means the Pharmaceutical Services (Advanced and Enhanced Services) (England) (Directions) 2013(c);

“advanced services” means services of the same type as the services that the Board is required to arrange, where specified conditions are satisfied, by virtue of directions 4 to 13 of the Advanced and Enhanced Services Directions (which relate to advanced services provided by pharmacy and appliance contractors);

“distance selling premises” has the meaning given in regulation 2(1) of the Pharmaceutical Regulations (interpretation);

“Drug Tariff” is to be construed in accordance with regulation 89(1) of the Pharmaceutical Regulations (the Drug Tariff and section 164: general provisions);

“enhanced services” means services of the same type as the enhanced services described in direction 14(1) of the Advanced and Enhanced Services Directions (enhanced services provided by pharmacy contractors);

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- (a) 2006 c.41. Section 138 has been amended by the Health and Social Care Act 2012 (c. 7) (“the 2012 Act”, Schedule 4, paragraph 74; section 168A was inserted by the Health and Social Care Act 2012, section 49(4); and paragraph 7 of Schedule 11 has been amended by the 2012 Act, Schedule 4, paragraph 92(7). By virtue of section 271(1) of the Act, the powers conferred by these sections are exercisable by the Secretary of State only in relation to England.
- (b) The Local Pharmaceutical Services (Essential Small Pharmacies) Directions 2005 were signed on 28th October 2005 and are revoked, together with the amendments to them, by direction 22.
- (c) The Pharmaceutical Services (Advanced and Enhanced Services) (England) Directions 2013 were signed on 12th March 2013.

“ESPLPS agreement” means an agreement which constitutes, or one of the agreements which together constitute, an ESP pilot scheme;

“ESP pilot scheme” means a pilot scheme with a qualifying pharmacist under which essential services are, and advanced, enhanced and other services may be (if the agreement so provides), provided;

“essential services” means services of the same type as the services that are “essential services” within the meaning given in paragraph 3 of Schedule 4 to the Pharmaceutical Regulations (terms of service of NHS pharmacists – essential services);

“financial year” means a period of twelve months ending with 31st March in any year;

“LPS agreement” has the meaning given in the LPS Directions;

“LPS Directions” means the Primary Care Trusts Preparation of Proposals and Implementation of Pilot Schemes (Local Pharmaceutical Services) Directions 2005, signed on 29th April 2005, as in force on 31st March 2006;

“LPS chemist” has the meaning given in regulation 2(1) of the Pharmaceutical Regulations;

“MUR services” means services of the same type as the MUR services described in direction 4(1) of the Advanced and Enhanced Services Directions (MUR services: general matters and preconditions for making arrangements);

“national disqualification” has the meaning given in regulation 2(1) of the Pharmaceutical Regulations;

“NHS Business Services Authority” means the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005(a);

“pharmaceutical list” means a pharmaceutical list maintained in accordance with regulation 10(2)(a) of the Pharmaceutical Regulations (pharmaceutical lists and EPS lists);

“Pharmaceutical Regulations” means the National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013(b);

“pharmacist” means—

- (a) a registered pharmacist; or
- (b) a person lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968(c) (general provisions);

“pharmacy” means premises registered in Part 3 of the register maintained by the General Pharmaceutical Council under article 19 of the Pharmacy Order 2010(d) (establishment, maintenance of and access to the register) at or from which a qualifying pharmacist provides or proposes to provide drugs under an ESPLPS agreement;

“pharmacy pilot scheme” has the same meaning as the term “pilot scheme” in section 134(2) of the Act (pilot schemes);

“piloted services” means essential services and such advanced services, enhanced and other services as the ESPLPS agreement requires the qualifying pharmacist to provide;

“qualifying pharmacist” is a pharmacist who——

- (a) met the requirements of direction 4 of the 2005 Directions (qualifying pharmacists) and entered into an ESPLPS agreement;
- (b) was a qualifying pharmacist by virtue of direction 18A of the 2005 Directions (change of ownership); or
- (c) is a qualifying pharmacist by virtue of direction 18(2);

(a) S.I. 2005/2414.

(b) S.I. 2013/349.

(c) 1968 c.67. Section 69 has been amended by the Statute Law (Repeals) Act 1993 (c. 50), Schedule 1(XII), paragraph 1, and by S.I. 2007/289 and 3010 and 2010/231.

(d) S.I. 2010/231.

“requisite amount” means, subject to paragraph (2), at least 6,000 and fewer than 26,400; and
“superintendent” has the meaning given in section 71 of the Medicines Act 1968(a) (bodies corporate).

(2) In relation to a qualifying pharmacist that has dispensed or is expected to dispense only for part of a financial year, the requisite amount shall be 500 items per month or part month that the qualifying pharmacist has dispensed or will dispense.

(3) In these Directions, references to items do not include items dispensed against a private prescription.

Variation of ESP pilot schemes to comply with NHS changes taking effect on 1st April 2013

3.—(1) The Board must ensure that the changes to ESP pilot schemes that are needed to give effect to these Directions but which do not take effect by virtue of paragraph 15 of Schedule 9 to the Pharmaceutical Regulations (transitional provisions – LPS schemes: replacement of Primary Care Trusts with the NHSCB and service provision issues) on 1st April 2013 take effect either on that date or as soon as is practicable thereafter.

(2) Pending the changes made to ESP pilot schemes by virtue of paragraph (1), the ESP pilot schemes are deemed to be varied so as to give effect to these Directions in so far as it is practicable to do so.

Application of the LPS Directions, the Pharmaceutical Regulations and Advanced and Enhanced Services Directions

4.—(1) The LPS Directions continue to apply to ESP pilot schemes and the implementation of them, but only as provided for in directions 13 and 20.

(2) Where the LPS Directions do apply, any references within the LPS Directions, however made, to—

- (a) “local pharmaceutical services” are to be read as a reference to “piloted services”; and
- (b) “LPS agreement” are to be read as a reference to “ESPLPS agreement”
- (c) “LPS Provider” are to be read as a reference to “qualifying pharmacist”;
- (d) “pilot scheme” are to be read as a reference to “ESP pilot scheme”; and
- (e) “a Primary Care Trust” are to be read as a reference to “the Board”.

(3) Where the ESPLPS agreement requires the qualifying pharmacist to comply with the requirements of provisions within the Pharmaceutical Regulations, the ESPLPS agreement must include terms having the same effect as those provisions, and those Regulations are to be read as if, any reference, however made—

- (a) to an “NHS pharmacist” was a reference to a “qualifying pharmacist”; and
- (b) to “pharmaceutical services” was a reference to “piloted services”.

(4) Where the ESPLPS agreement provides for advanced or enhanced services to be provided in accordance with the Advanced and Enhanced Services Directions, those Directions are to be read as if any reference, however made—

- (a) to a “pharmacy contractor” was a reference to a “qualifying pharmacist”; and
- (b) to “arrangements” in the context of the arrangements with a pharmacy contractor was a reference to “the ESPLPS agreement”.

Division of responsibilities

5.—(1) To the extent that these Directions require the imposition of a requirement on a pharmacist in respect of an activity which could only, or would normally, be undertaken by a

(a) Section 71 was substituted by the Health Act 2006, section 28(1), and has been amended by S.I. 2010/231 and 2647.

natural person, the Board must ensure that the ESPLPS agreement provides that—

- (a) if the qualifying pharmacist is a registered pharmacist—
 - (i) that registered pharmacist must comply with that requirement, or
 - (ii) if he employs or engages a registered pharmacist in connection with the provision of local pharmaceutical services, that registered pharmacist must either comply with that requirement or secure compliance with that requirement by a registered pharmacist whom he employs or engages; and
- (b) if the qualifying pharmacist is not a natural person, that qualifying pharmacist must secure compliance with that requirement by the registered pharmacists it employs or engages.

(2) Where these Directions require the ESPLPS agreement to impose a requirement on the director or superintendent of a body corporate, breach of the requirement by the director or superintendent is to be deemed to be a breach by the body corporate of the terms of the ESPLPS agreement.

PART 2

ESPLPS Agreements

Piloted services

6.—(1) The Board must ensure that an ESPLPS agreement requires the qualifying pharmacist (Q) to provide essential services.

(2) The ESPLPS agreement must, subject to the parties agreeing the number of MUR services consultations that are to take place in accordance with paragraph (3), provide for Q to provide MUR services where—

- (a) Q wishes to make such provision; and
- (b) Q and the pharmacy meet the requirements for the provision of the particular MUR services as set out in direction 4(3) to (6) of the Advanced and Enhanced Services Directions (MUR services: general matters and preconditions for making arrangements).

(3) The Board must agree to the ESPLPS agreement including the number of MUR services consultations that Q elects, up to a maximum of 400 MUR services consultations and provided that the requirements in respect of the provision of the services are met, but may refuse to agree to the ESPLPS agreement including more than 400 MUR services consultations.

(4) Where an ESPLPS agreement provides for Q to provide MUR services, the Board must ensure that the agreement—

- (a) sets out the number of MUR service consultations that may be carried out in any one period of twelve months; and
- (b) provides for the MUR services to be provided in accordance with direction 5(1)(a) to (c), (e) to (o), (6) and (7) of the Advanced and Enhanced Services Directions (MUR services: ongoing conditions of arrangements).

(5) For the purposes of paragraph (4), direction 5(1)(m) of the Advanced and Enhanced Services Directions applies as if “under Schedule 4 to the Pharmaceutical Services Regulations (terms of service of NHS pharmacists)” were omitted.

(6) The ESPLPS agreement shall, subject to paragraph (7), provide for Q to be able to provide advanced services which are not MUR services on the same basis that Q would be able to provide those services if, instead of being a party to an ESPLPS agreement, Q was a pharmacy contractor on a pharmaceutical list.

(7) For the purposes of paragraph (6)—

- (a) direction 6 of the Advanced and Enhanced Services Directions (New Medicine Service: general matters and preconditions for making arrangements) applies as if—
 - (i) in paragraph (1)(b), the words after “such arrangements” were omitted, and

- (ii) in paragraph (4), the words “under Schedule 4 to the Pharmaceutical Services Regulations (terms of service of NHS pharmacists)” were omitted;
 - (b) direction 7(1) of the Advanced and Enhanced Services Directions (New Medicine Service: ongoing conditions of arrangements) applies as if—
 - (i) for the words “under Part 2 of Schedule 4 to the Pharmaceutical Services Regulations (terms of service of NHS pharmacists – essential services)” in sub-paragraph (f)(iv) there were substituted “under the ESPLPS agreement”,
 - (ii) for the words “under Part 2 of Schedule 4 to the Pharmaceutical Services Regulations” in sub-paragraphs (h)(v) and (j)(iv) there were substituted “under the ESPLPS agreement”, and
 - (iii) in sub-paragraph (k), the words “under Schedule 4 to the Pharmaceutical Services Regulations” were omitted;
 - (c) direction 9 of the Advanced and Enhanced Services Directions (establishing and maintaining stoma appliance customisation services) applies as if—
 - (i) in paragraph (1)(b), the words after “the arrangements” were omitted, and
 - (ii) in paragraph (4)(a), for the words “Schedule 4 to the Pharmaceutical Services Regulations (terms of service of NHS pharmacists) or S’s obligations under Schedule 5 to those Regulations (terms of service of NHS appliance contractors), as the case may be” there were substituted “the ESPLPS agreement”; and
 - (d) direction 11 of the Advanced and Enhanced Services Directions (establishing and maintaining appliance use review services for specified appliances) applies as if—
 - (i) in paragraph (1)(b), the words after “the arrangements” were omitted, and
 - (ii) in paragraph (5)(a), for the words “Schedule 4 to the Pharmaceutical Services Regulations (terms of service of NHS pharmacists) or S’s obligations under Schedule 5 to those Regulations (terms of service of NHS appliance contractors), as the case may be” there were substituted “the ESPLPS agreement”.
- (8) The ESPLPS agreement may provide for Q to provide such enhanced and other services as may be agreed by the parties.
- (9) Where the ESPLPS agreement provides for Q to provide enhanced services, the Board must ensure that the agreement makes provision for those services to be provided—
- (a) only by appropriately trained and qualified persons;
 - (b) in accordance with relevant national guidelines or standards;
 - (c) from premises that are suitable for the purpose; and
 - (d) using the appropriate or necessary equipment.

Hours of opening

7.—(1) The Board must ensure that the ESPLPS agreement requires the qualifying pharmacist to provide piloted services for at least 40 hours per week, unless it is of the opinion that it is not necessary for the piloted services to be provided for 40 hours per week.

(2) The Board must ensure the ESPLPS agreement requires the qualifying pharmacist to notify it of any hours during which the qualifying pharmacist is providing piloted services and which are in addition to those during which the qualifying pharmacist is obliged to provide piloted services pursuant to the arrangements made in accordance with paragraph (1) (those additional hours are referred to as “supplementary opening hours”).

(3) The Board must ensure that the ESPLPS agreement requires the qualifying pharmacist to exhibit—

- (a) a notice specifying the days on which and times at which the premises are open for the provision of drugs and appliances; and
- (b) at times when the premises are not open, a notice based on information provided by the Board, where practicable legible from the outside of the premises, specifying—

- (i) the addresses of pharmacists included in the pharmaceutical list for the area in which the premises are situated, and the days on which and times at which drugs and appliances may be obtained from those addresses, and
- (ii) the addresses of LPS chemists in the neighbourhood, the type of local pharmaceutical services which those LPS chemists provide, and the days on which and times at which their premises are open.

(4) The Board must ensure the ESPLPS agreement includes terms having the same effect as those specified in paragraphs 23(5) to (12) and 26 of Schedule 4 to the Pharmaceutical Regulations (which relate to pharmacy premises opening hours and changes to them instigated by the pharmacist), as modified in paragraph (5).

(5) The modifications referred to in paragraph (4) are—

- (a) in relation to paragraph 23 as if—
 - (i) in sub-paragraph (8), for “under sub-paragraph (1)”, there were substituted “in respect of the total number of hours during which the qualifying pharmacist must provide piloted services per week,”, and
 - (ii) in sub-paragraph (10), for “sub-paragraph (1) and (7),” there were substituted “sub-paragraph (8) or their obligations in respect of the total number of hours during which the qualifying pharmacist must provide piloted services per week,”;
- (b) in relation to paragraph 26 as if—
 - (i) in sub-paragraph (4)—
 - (aa) the references to sub-paragraph (6) were omitted, and
 - (bb) in paragraph (c), for the words “by virtue of” to the end there were substituted “the pharmacy will need to be open for 40 hours a week or where the Board is of the opinion that it is not necessary for the pilot services to be provided for 40 hours per week such lesser hours as it shall determine”, and
 - (ii) sub-paragraph (6) were omitted.

Temporary arrangements during an emergency requiring the flexible provision of pharmaceutical services

8.—(1) The Board must ensure that the scheme provides that, during an emergency requiring the flexible provision of pharmaceutical services, the Board may, on application from the qualifying pharmacist (Q)—

- (a) permit Q a temporary change to the days on which or times at which Q is obliged to provide piloted services at the premises from which Q has undertaken to provide those services, or permit temporary closure of those premises, if—
 - (i) Q gives at least 24 hours notice of the change or closure, and
 - (ii) the reasons given by Q for the request are, in the opinion of the Board, adequate reasons; or
- (b) permit Q any other temporary variation to the scheme that, in the opinion of the Board, will facilitate continuity of the provision of services of a kind that may be provided under section 126, or by virtue of section 127, of the Act during the emergency.

(2) The Board need not approve the request referred to in paragraph 1(a)(ii) in advance of the change or closure, and if it does not do so but decides subsequently that Q’s reasons are not, in its opinion, adequate reasons, then the days on which or times at which Q is obliged to provide piloted services at the premises are to revert to the overridden days and times, from the day after the date on which that decision is given to Q.

(3) In this direction, “emergency requiring the flexible provision of pharmaceutical services” has the meaning given in regulation 2(5) of the Pharmaceutical Regulations.

Dispensing under the Pharmaceutical Regulations

9. The Board must ensure that the ESPLPS agreement prohibits the qualifying pharmacist from providing pharmaceutical services under the Pharmaceutical Regulations from the pharmacy specified in the agreement during the term of the agreement.

Other terms of service

10.—(1) The Board must ensure that the ESPLPS agreement requires the qualifying pharmacist to comply with the requirements of paragraphs 28 to 31 and 34 of Schedule 4 to the Pharmaceutical Regulations (which relate to clinical governance, professional standards, inducements, fitness to practise and complaints).

(2) Subject to paragraphs (3) and (4), the Board must ensure that the ESPLPS agreement requires the qualifying pharmacist to comply with the requirements of paragraphs 32 and 35 of Schedule 4 to the Pharmaceutical Regulations (other information to be supplied, and inspections and access to information).

(3) Paragraph 32 of Schedule 4 to the Pharmaceutical Regulations shall be read as if subparagraphs (1)(a) and (3) were omitted.

(4) Paragraph 35(1)(a) of Schedule 4 to the Pharmaceutical Regulations shall be read as if the reference to “this Schedule” were a reference to the ESPLPS agreement.

Free supply of drugs, appliances and containers, and refunds of prescription charges

11.—(1) Subject to paragraph (2), the Board must ensure that the ESPLPS agreement requires the qualifying pharmacist to comply with the requirements of regulations 95 and 96 of the Pharmaceutical Regulations (which relate to the free supply of drugs, appliances and containers, and refunds of prescription charges).

(2) For these purposes, regulation 95 of the Pharmaceutical Regulations shall apply as if the reference in it to regulation 92(1)(a) were omitted.

Prohibition on relocation

12. The Board must not vary an EPS pilot scheme so as to permit a qualifying pharmacist to change the premises from which local pharmaceutical services are provided that are specified in an ESPLPS agreement.

Reimbursement

13.—(1) Directions 12(1) to (4) and (7) of the LPS Directions are to apply to the Board implementing an ESP pilot scheme as they applied to a Primary Care Trust implementing a pilot scheme in accordance with those Directions.

(2) The prices payable for drugs, appliances and chemical reagents shall be calculated in accordance with clauses 7, 8, 9, 10, 11, 12 and 13 of Part II of the Drug Tariff, as they apply at the time of payment.

Remuneration

14.—(1) The Board must ensure that the ESPLPS agreement requires the Board to remunerate the qualifying pharmacist (Q) in respect of his provision of piloted services in accordance with the requirements of this direction.

(2) Remuneration for the provision of essential services is to consist of—

- (a) the fees specified in Parts II, IIIA, IIIB and VIA of the Drug Tariff to be paid at the rate and under the conditions specified in the Drug Tariff from time to time; and
- (b) ESP payments calculated in accordance with the Schedule to these Directions.

(3) Q is to be remunerated for any advanced services Q provides in accordance with Part VIC of the Drug Tariff.

(4) Q is to be remunerated for enhanced services and any other services (not being essential or advanced services) Q provides at the rate agreed with the Board and specified in the ESPLPS agreement.

(5) Where the NHS Business Services Authority is to pay the remuneration in respect of the provision of enhanced or other services (not being essential or advanced services) on behalf of the Board, the ESPLPS agreement must also require the Board to notify the NHS Business Services Authority, on or before the dates specified by that Authority, of all details concerning such remuneration, and any subsequent changes to those details.

(6) Remuneration for essential services under the ESPLPS agreement is to be paid in arrears on the first day of each month except where that falls on a Saturday or Sunday, in which case it is to be paid on the preceding Friday.

(7) Except as provided in paragraph (6), remuneration and re-imburement under the ESPLPS agreement is to be paid at the times and by the method (if any) specified in the Drug Tariff, and to the extent that the Drug Tariff does not so provide the Board must ensure that the ESPLPS agreement makes provision as to the time and method of payments.

Monitoring the requisite amount and pharmacies within one kilometre

15.—(1) The Board, where it is a party to an ESPLPS agreement, must—

- (a) regularly monitor the number of items dispensed by the qualifying pharmacist under the agreement; and
- (b) take steps to ensure that it is aware of any proposal to provide pharmaceutical services, local pharmaceutical services or piloted services from premises which are located less than one kilometre by the nearest practicable route available to the public on foot from the qualifying pharmacist's premises specified in the agreement.

(2) The Board must ensure that the ESPLPS agreement requires the qualifying pharmacist to notify it when the qualifying pharmacist becomes aware that the qualifying pharmacist has dispensed more than 26,400 items in a financial year.

Annual Review

16.—(1) The Board must ensure that the ESPLPS agreement requires the Board and the qualifying pharmacist to review the scheme annually as soon as is reasonably practicable after the end of the review period to ensure that—

- (a) the volume of items dispensed is likely to remain within the requisite amount;
- (b) the volume of items dispensed is likely to be fewer than 6,000 items, but—
 - (i) the qualifying pharmacist is to continue to provide services under the agreement on the basis of certification by a Primary Care Trust under direction 4(1)(a)(iii) of the 2005 Directions (qualifying pharmacists) that the pharmacy continues to be essential for the provision of local pharmaceutical services, or
 - (ii) the Board determines that the pharmacy will continue to be essential for the provision of local pharmaceutical services in the year following the end of the review period;
- (c) the volume of items dispensed is already fewer than 6,000 per annum, but the Board determines the pharmacy will continue to be essential for the provision of local pharmaceutical services in the year following the end of the review period; or
- (d) if the pharmacy is a special consideration case that fell within direction 4(1)(b)(ii) of the 2005 Directions, the circumstances which gave rise to the pharmacy being a special consideration case are unchanged (and if they are changed the Board may need to consider terminating the arrangements pursuant to the term in the agreement giving effect to direction 21(1)(a)).

(2) The review period specified in paragraph (1) is the period of twelve months ending on 31st March in each year.

Duration of an ESPLPS agreement

17. The Board must ensure that an ESPLPS agreement provides for the duration of the agreement to be for a period that ends at the end of 31st March 2015, subject to direction 21.

Change of ownership

18.—(1) The Board may only vary an EPS pilot scheme so as to permit a different person (P) to be the provider of local pharmaceutical services under an ESPLPS agreement if it is satisfied that P is a fit and proper person to be included in its pharmaceutical list if the agreement is terminated and the Board is required to include P in a pharmaceutical list by virtue of regulation 110 of the Pharmaceutical Regulations (LPS schemes: termination).

(2) Where reference is made to a “qualifying pharmacist” and the provider of local pharmaceutical services under an ESP agreement has become P, that reference is to be construed as a reference to P.

Notifications to NHS Business Services Authority

19. The Board must notify the NHS Business Services Authority immediately after entering into an ESPLPS agreement with a qualifying pharmacist, or with a new qualifying pharmacist as referred to in direction 18(2), that it has entered into an ESPLPS agreement with the qualifying pharmacist.

Provisions of the LPS Directions which apply

20.—(1) Directions 7 (publication of pilot schemes), 14 (endorsement and despatch of prescription forms), 15 (endorsement and despatch of repeatable prescriptions and batch issues), 16 (overpayments) and 18 (disputes) of, and Schedule 2 (pilot scheme dispute resolution procedure) to, the LPS Directions are to continue to apply in respect of EPS pilot schemes.

(2) For these purposes, directions 14 and 15 of the LPS Directions apply as if the references in them to the Prescription Pricing Authority were references to the NHS Business Services Authority.

Termination

21.—(1) The Board must ensure (in addition to any other provisions that may be included in the ESPLPS agreement regarding termination of the agreement) that an ESPLPS agreement—

- (a) permits the Board and the qualifying pharmacist to give a period of notice of not less than six months to the qualifying pharmacist or the Board (as the case may be) of any intention to terminate the ESPLPS agreement;
- (b) subject to paragraph (2) requires the Board to terminate the ESPLPS agreement where it becomes aware that the qualifying pharmacist (and where the qualifying pharmacist is a body corporate, a director or superintendent of the qualifying pharmacist)—
 - (i) has been convicted in the United Kingdom of murder,
 - (ii) has been convicted in the United Kingdom of a criminal offence which was committed after 28th October 2005 and has been sentenced to a term of imprisonment of over six months, or
 - (iii) is subject to a national disqualification;
- (c) requires the Board to terminate the ESPLPS agreement in accordance with paragraph (3)—

- (i) when the number of items dispensed exceeds the upper limit of the requisite amount during the financial year,
- (ii) when a pharmacy dispenses fewer than the lower limit of the requisite amount and is not essential for the proper provision of pharmaceutical services, or
- (iii) when a pharmacy (other than a distance selling premises) commences the provision of pharmaceutical services from premises which are less than 1 kilometre by the nearest practicable route available to the public on foot from the premises of the qualifying pharmacist; and
- (d) makes suitable provision for arrangements on termination of the ESPLPS agreement, whether by notice, breach or otherwise.

(2) Where—

- (a) a director or superintendent of a qualifying pharmacist which is a body corporate has been convicted of a criminal offence;
- (b) the Board notifies the body corporate that it proposes to terminate the ESPLPS agreement; and
- (c) the Board receives a notification from the body corporate within the period of 28 days commencing with the date of the Board's notice that the director or superintendent concerned has ceased to be a director or superintendent of the body corporate,

the Board may not proceed to terminate the agreement as proposed in its notice.

(3) Where the Board notifies the qualifying pharmacist that it proposes to terminate the ESPLPS agreement under a term of the ESPLPS agreement giving effect to paragraph (1)(a) or (c), the ESPLPS agreement is to terminate—

- (a) on the date that the qualifying pharmacist is included in a pharmaceutical list in respect of the premises specified in the agreement (by virtue of regulation 110(b)(i) to (iii) of the Pharmaceutical Regulations (LPS pilot schemes: termination)); or
- (b) at the end of the period of six months beginning with the date on which the Board gave notice to the qualifying pharmacist terminating the agreement or such further period as the Board specifies as being necessary to ensure the proper provision of pharmaceutical services or local pharmaceutical services (such period not being greater than six months and being specified before the date that the agreement would otherwise terminate),

whichever is the earlier.

(4) The Board must notify, in writing, the Secretary of State and the NHS Business Services Authority as soon as possible after the termination of an ESPLPS agreement that the agreement has terminated.

Revocation

22.—(1) The Local Pharmaceutical Services (Essential Small Pharmacies) Directions 2005(**a**) are revoked.

(2) The National Health Service (Miscellaneous Amendments Relating to Prescribing, Pharmaceutical Services and Local Pharmaceutical Services etc.) (England) Directions 2006(**b**) are revoked.

(3) The Local Pharmaceutical Services (Essential Small Pharmacies) (Amendment) Directions 2010(**c**) are revoked.

(4) The Local Pharmaceutical Services (Essential Small Pharmacies) (Amendment) (No. 2) Directions 2010(**d**) are revoked.

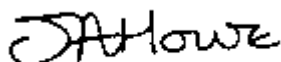
(a) Signed on 28th October 2005.
 (b) Signed on 8th March 2006.
 (c) Signed on 29th January 2010.
 (d) Signed on 30th September 2010.

(5) The Local Pharmaceutical Services (Essential Small Pharmacies) (Amendment) Directions 2011(a) are revoked.

(6) The Local Pharmaceutical Services (Essential Small Pharmacies) (Amendment) Directions 2012(b) are revoked.

(7) the Local Pharmaceutical Services (Essential Small Pharmacies) (Amendment) (No. 2) Directions 2012(c) are revoked.

Signed by authority of the Secretary of State for Health



Jeannette Howe
Head of Pharmacy
Department of Health

27th March 2013

SCHEDULE

Direction 14(2)(b)

ESSENTIAL SMALL PHARMACY PAYMENT

1. The qualifying pharmacist is entitled to an ESP payment for each month in which the qualifying pharmacist provides essential services calculated as follows.

2. Subject to paragraphs 3 to 5, ESP payments shall be the difference between one twelfth of the target payment of £79,527 and the remuneration due under direction 14(2)(a), but excluding expensive prescriptions fees payable in accordance with paragraph 2F of Part IIIA of the Drug Tariff.

3. The maximum monthly ESP payment is to be £5,766. If in any month the qualifying pharmacist is entitled to more than the maximum payment, the excess amount due is to be carried forward and paid in the following month, again subject to the maximum monthly payment. Any surplus or aggregated surplus is to be carried over to the next month.

4. Any over or under ESP payment is, if necessary and possible, to be corrected in the remuneration paid in the first month of the following financial year; otherwise it is to be corrected in accordance with the terms of the ESPLPS agreement.

5. Where the qualifying pharmacist is providing essential services for less than 40 hours per week, the ESP payment is to be calculated by reference to the following formula: the average hours of the qualifying pharmacist is to be divided by 35. This total is then to be multiplied by the ESP payment appropriate to a full time pharmacist who has the same prescription volume as the qualifying pharmacist, as determined by the Secretary of State.

(a) Signed on 29th November 2011.
(b) Signed on 20th July 2012.
(c) Signed on 10th September 2012.