Northern Ireland Assembly

Business Office
Parliament Buildings
Belfast BT4 3XX
Tel: +44 (0)28 9052 1251

Eilis Haughey
Committee for Health
Room 416
Parliament Buildings
Stormont
BELFAST
BT4 3XX

22 November 2016

Dear Eilis,

Health Service Medical Supplies (Costs) Bill – Legislative Consent Memorandum

The above-named document was laid in the Business Office and may be of interest to your Committee.

The Legislative Consent Memorandum replaces a previous Legislative Consent Memorandum that was laid in the Business Office on 01 November 2016, and subsequently withdrawn on 18 November 2016.

Yours sincerely,

Alex Carter
Business Office

LEGISLATIVE CONSENT MEMORANDUM

HEALTH SERVICE MEDICAL SUPPLIES (COSTS) BILL

Draft Legislative Consent Motion

1. The draft motion, which will be tabled by the Minister of Health is:

> ***"That this Assembly endorses the principle of the extension to the north of Ireland of the provisions of the Health Service Medical Supplies (Costs) Bill as introduced in the House of Commons on 15 September 2016 and as subsequently amended, concerning the price of medicines and other medical supplies, and the collection of information on the medicines supply chain."***

Background

2. This memorandum has been laid before the Assembly by the Minister of Health under Standing Order 42A(2). The Health Service Medical Supplies (Costs) Bill was introduced in the House of Commons on 15 September 2016. Committee stage commenced on 8 November 2016 and a number of amendments have been tabled for consideration. The latest version of the Bill and associated material can be found at:

> http://services.parliament.uk/bills/2016-17/healthservicemedicalsuppliescosts.html

Summary of the Bill and its policy objectives

Cost of medicines and medical supplies

3. The Bill is to amend provisions in the National Health Service (NHS) Act 2006 concerning the price of medicines and to include powers to collect information on the medicines supply chain.

4. The Secretary of State (SoS) for Health has powers under the NHS Act 2006 to limit the prices or profits from the sale of medicines supplied to the NHS. The powers provide for the existence of a voluntary scheme made by the SoS in agreement with the Association of the British Pharmaceutical Industry (ABPI), the organisation that represents innovative research-based biopharmaceutical companies.

5. The Department of Health (London) (DH) negotiates with the ABPI on behalf of the Devolved Administrations (DAs) and the current voluntary scheme, the Pharmaceutical Price Regulation Scheme (PPRS),

unbranded products where there is no competition in the market to keep prices down. The amendments will enable the DH to require companies to reduce the price of a specific unbranded medicine, or impose other controls on that company's unbranded medicine, even if the company is a member of the voluntary scheme for their branded medicines.

Information powers

12. The DH collects information on purchases and sales from across the medicines supply chain under different arrangements and for a number of specific purposes. The plethora of arrangements means that the DH has different levels of information about products, but does not have a full set of data about all products and is restricted as to how the information can be used.

13. The Bill includes provisions to bring together the information requirements for health service medicines and other medical supplies. This would enable more informed purchasing and reimbursement decisions and to improve the transparency of medicines spend and cost.

14. The Bill also includes new powers to make regulations to require all parts of the supply chain of NHS medicines (and other supplies) (manufacturers, suppliers, wholesalers, pharmacies and GP practices that dispense/supply medicines through personal administration), to keep and supply information on sales and purchases of medicines when requested by the SoS, with penalties for non-compliance.

Amendments to information powers in the Bill

15. The DH has also put forward amendments to the Bill with the aim of providing additional powers for the DH to collect information and use that information for devolved purposes. The amendments apply across the DAs but, in particular, would:

    a. allow confidential or commercially sensitive information collected by the DH for their purposes to be shared with this Department for certain devolved health-related purposes; and

    b. allow this Department to request that the DH collects information across certain parts of the medicines and medical supplies chain which would be used specifically for devolved purposes.

16. The Bill, as introduced, included regulation making powers to allow for information collected by the DH across the medicines and medical supply chains to be shared with any Department in the north of Ireland (and other DAs). However, under the Bill as introduced, confidential or

23. At present, the enforcement provisions within the NHS Act 2006 do not allow for action to be taken if information is not provided by players in the supply chain in relation to medical supplies. It is appropriate that the same enforcement requirements should apply to medicines as medical supplies and the Bill extends powers to control the price of medical supplies.

24. The provision of regulation making powers to collect information on health service medicines and other related products for the health service will ensure that there is a statutory footing to requests by the DH for access to data on all products and all parts of the supply chain. This is necessary to inform operation of the statutory scheme and provide value-for-money for the health service.

Reasons for utilising the Bill rather than an Act of the Assembly

25. It is appropriate on this occasion for the DH to progress legislation on this transferred matter as the existing legislation on the cost of health medicines already extends and applies across Britain and the north of Ireland. Without a LCM agreed by the Assembly, the DH would be unable to proceed with the Bill.

26. It would also not be possible to legislate for the north of Ireland separately within a similar timescale. That would create difficulties in the introduction of a pricing mechanism for the statutory scheme. It could therefore be financially detrimental to the north of Ireland if it was not possible to participate in the statutory scheme.

27. It is also particularly important that there is a consistent approach across Britain and the north of Ireland to pricing of medicines and medical supplies as well as the information required to support that. This Bill provides for such a consistent approach. The most efficient mechanism for amending the legislation on the pricing of medicines and medical supplies is therefore for this Bill to proceed.

Consultation

28. The DH carried out a consultation to the statutory scheme for branded medicines pricing, following agreement of the then Minister of Health. A summary of the responses to the consultation has been published and is available at:

    https://www.gov.uk/government/consultations/pricing-of-branded-health-service-medicines

that this will be accompanied by a full impact assessment when the scope etc. becomes clearer.

Engagement to date with the Committee for Health

35. The Health Committee was informed on 29 September 2016 of the Minister of Health's intention to seek Executive agreement to a Legislative Consent Motion in relation to the Health Service Medical Supplies (Costs) Bill. Officials briefed the Health Committee on the Bill, as introduced, on 6 October 2016. The Health Committee was later informed on 9 November 2016 of the Minister of Health's intention to seek Executive agreement to the amendments to the information powers in the Bill.

Conclusion

36. The view of the Minister of Health is that, in the interests of controlling the costs of Health Services medicines and other medical supplies, in so far as the provisions of the Health Service Medical Supplies (Costs) Bill, as amended, deal with a devolved matter, they should be considered by Parliament.

Department of Health
22 November 2016