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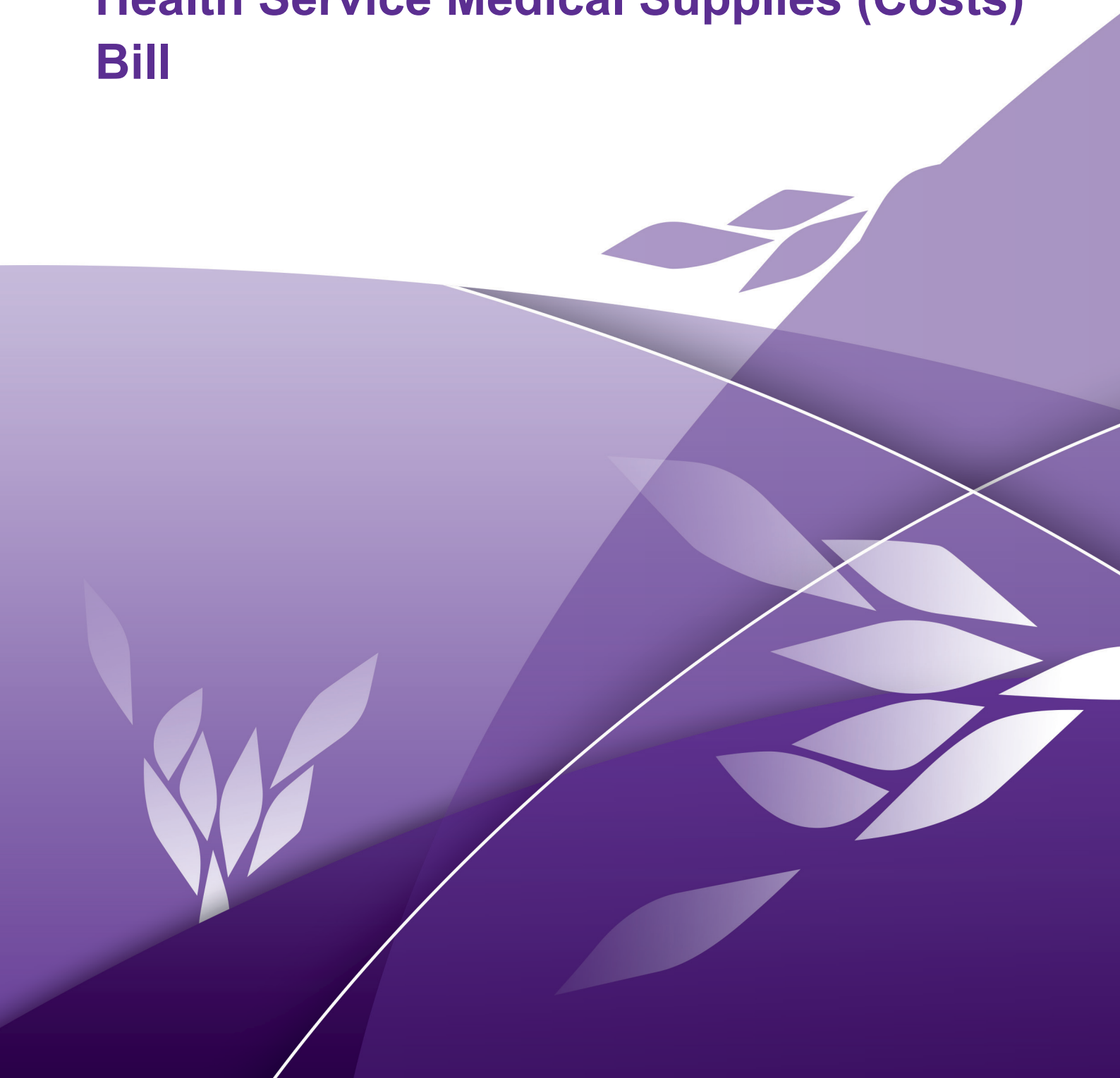
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Health and Sport Committee

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



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Health and Sport Committee

Legislative Consent Memorandum - Health Service Medical Supplies (Costs) Bill, 1st Report, 2017
(Session 5)

Health and Sport Committee

Remit: To consider and report on matters falling within the responsibility of the Cabinet Secretary for Health and Sport.



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Background

1. A Legislative Consent Memorandum (LCM)¹ on provisions in the Health Service Medical Supplies (Costs) Bill² was lodged at the Scottish Parliament by Shona Robison, Cabinet Secretary for Health and Sport on 17 November 2016.

Health Service Medical Supplies (Costs) Bill

2. The Health Service Medical Supplies (Costs) Bill is a UK Government Bill. The Bill had its first reading in the House of Commons on 15 September 2016. The Bill makes provisions in connection with controlling the cost of health service medicines and other medical supplies.
3. The House of Commons Library briefing on the Health Service Medical Supplies (Costs) Bill details that the price of NHS branded medicines is regulated in the UK through two schemes, the voluntary Pharmaceutical Price Regulation Scheme (PPRS) and a Statutory Scheme. Both schemes use measures to control the prices of branded medicines. Manufacturers and suppliers of NHS branded medicines can choose to sign up to the PPRS or will automatically fall under the control of the Statutory Scheme for their branded medicines. The prices of unbranded generic medicines are not controlled. Instead, competition within the market is relied upon to control prices.³
4. The provisions within the Bill intend to address a number of concerns that the UK Government has expressed relating to medicines pricing. These include that the Statutory Scheme is providing lower savings for the NHS than the PPRS and the two schemes should be more aligned; and that a number of manufacturers of single source unbranded generic medicines have been able to significantly increase prices, sometimes by over 1000%.⁴
5. The LCM states that the Bill both updates and strengthens existing reserved powers under the National Health Service Act 2006 in three main areas. The proposed powers will:
 - Put beyond doubt that the UK Government can require companies to make payments to control the cost of health service medicines;
 - Enable the UK Government to require companies to reduce the price of unbranded generic medicines, or to impose other controls on that company's unbranded medicine, even if the company is in the voluntary scheme (the PPRS) for their branded medicines; and
 - Enable the UK Government to make regulations to obtain information on sales and purchases of health service medicines, medical supplies and other related products from all parts of the supply chain, from manufacturer to pharmacy, for defined purposes.

6. Amendments were tabled on 3 November 2016 by the UK Government that contain provisions which are within the legislative competence of the Scottish Parliament, making it a “relevant Bill” under Chapter 9B of the Standing Orders of the Parliament, consequently requiring the consent of the Scottish Parliament.
7. The LCM seeks consent from the Scottish Parliament in relation to amendments which extend the information gathering powers in the Bill to the devolved administrations. The original clause only applied to England. The LCM details that the amendments would enable the Secretary of State for Health to—

” “ [...] collect information on sales and purchase of health service medicines, medical supplies and other related products for the purpose of informing reimbursement arrangements, determining whether the supply chain provides value for money and controlling the cost of medicines.”

8. The provisions provide the Secretary of State with the power to request any information for the purposes set out in the Bill and the amendments would enable the Secretary of State to do this for the whole of the UK and share information with a range of bodies, including Scottish Ministers and NHS National Services Scotland. As detailed in the LCM it has been agreed between the devolved administrations that the UK Secretary of State would collect information from manufacturers and wholesalers across the UK, while the devolved administrations would collect information from pharmacies and GPs in their own area.

Scrutiny of the Memorandum

9. The Committee agreed at its meeting on 6 December 2016 to issue a targeted call for written views on the subject of the LCM. The Committee received response from six organisations—
 - The Association of the British Pharmaceutical Industry (ABPI)
 - British Medical Association
 - Community Pharmacy Scotland
 - Health Improvement Scotland
 - Royal College of General Practitioners Scotland
 - Royal Pharmaceutical Society Scotland
10. Responses were broadly supportive of the information gathering powers detailed in the LCM. However in its written submission the Association of the British Pharmaceutical Industry expressed concern regarding the proposed data requirements.

11. At its meeting on 17 January 2017 the Committee held an oral evidence session with the Cabinet Secretary for Health and Sport on the LCM.
12. During the course of the evidence session the Committee discussed a range of issues including: changes to the Statutory Scheme to make it more aligned with the PPRS; control of prices of unbranded generic medicines; the possible differential in charges for medicines in different jurisdictions and the review of access to new medicines by Dr Brian Montgomery⁵.
13. The Committee also explored ABPI's concerns regarding data collection requirements. The Cabinet Secretary told the Committee that the proposed approach was not "onerous". She explained that companies are already required to keep information on sales and income for six years for tax purposes and that the requirement would be to record similar information which "will not create a huge additional burden". She added that the UK Government would be undertaking an impact assessment for the regulations, which the Scottish Government hoped would take account of the concerns expressed by ABPI.⁶

Policy

14. The Committee supports the policy aims of the provisions set out within the LCM, as well as the use of the LCM procedure on this occasion.
15. The Committee recognises the merits of the UK Government and devolved administrations working together to access and share data on more products and from more parts of the supply chain to improve the data which informs the reimbursement arrangements on the purchase of drugs for community pharmacy contractors and GP dispensing practices. The Committee is also supportive of the aim of these provisions to enable an evaluation of whether the supply chain as a whole, a specific sector or specific product groups, are providing value for money to the NHS and that adequate supplies of health service products are available.

Conclusion

16. The LCM includes a draft legislative consent motion in the following terms—

"That the Parliament agrees that the relevant provisions of the Health Service Medical Supplies (Costs) Bill 2016, introduced in the House of Commons on 15 September 2016, relating to the costs of health service medicines, medical supplies and other related products, and specifically those relating to information powers, so far as these matters fall within the legislative competence of the Scottish Parliament or alter the executive competence of the Scottish Ministers, should be considered by the UK Parliament."

17. The Committee recommends that the Parliament agrees to a legislative consent motion in the terms outlined in the memorandum.

Health and Sport Committee

Legislative Consent Memorandum - Health Service Medical Supplies (Costs) Bill, 1st Report, 2017
(Session 5)

¹ Scottish Parliament [Legislative Consent Memorandum Health Service Medical Supplies \(Costs\) Bill](#)

² UK Parliament [Health Service Medical Supplies \(Costs\) Bill](#)

³ House of Commons Library [Health Service Medical Supplies \(Costs\) Bill : Committee Stage Report](#) , 2 December 2016

⁴ House of Commons Library [Health Service Medical Supplies \(Costs\) Bill : Committee Stage Report](#) , 2 December 2016

⁵ Scottish Government (2016) [Review of Access to New Medicines](#)

⁶ Health and Sport Committee. *Official Report 17 January 2017*, Cols 48-49.

Annexe A

Extracts from the minutes of the Health and Sport Committee and associated written and supplementary evidence.

14th Meeting, 2016 (Session 5), Tuesday 6 December 2016

1. Decision on taking business in private: The Committee agreed to take item 3 in private and to consider the approach to all legislative consent memorandums in private at future meetings.

3. Health Service Medical Supplies (Costs) Bill (UK Parliament Legislation): The Committee considered and agreed its approach to the scrutiny of the legislative consent memorandum.

1st Meeting, 2017 (Session 5), Tuesday 17 January 2017

8. Health Service Medical Supplies (Costs) Bill (UK Parliament legislation): The Committee took evidence on the legislative consent memorandum from—

Shona Robison, Cabinet Secretary for Health and Sport, Rose Marie Parr, Chief Pharmaceutical Officer, and Martin Moffat, Policy Adviser, Pharmacy and Medicines Division, Scottish Government.

9. Health Service Medical Supplies (Costs) Bill (UK Parliament legislation) (in private): The Committee considered the legislative consent memorandum.

Written Evidence

-  Association of the British Pharmaceutical Industry (ABPI)
-  British Medical Association (BMA)
-  Community Pharmacy Scotland
-  Health Improvement Scotland
-  Royal Pharmaceutical Society
-  Royal College of General Practitioners

2nd Meeting, 2017 (Session 5), Tuesday 24 January 2017

4. Health Service Medical Supplies (Costs) Bill (UK Parliament legislation) (in private): The Committee considered and agreed a draft report on the legislative consent memorandum.

