SCOTTISH STATUTORY INSTRUMENTS

2002 No. 111

NATIONAL HEALTH SERVICE

The National Health Service (General Medical Services and Pharmaceutical Services) (Scotland) Amendment Regulations 2002

Made - - - -	*6th March 2002*
Laid before the Scottish Parliament - - - -	*8th March 2002*
Coming into force - -	*1st April 2002*

The Scottish Ministers, in exercise of the powers conferred by sections 2(5), 19, 27(2), 28(1), 28A, 105(7), 106(a) and 108(1) of and Schedule 1, paragraph 11(c) to the National Health Service (Scotland) Act 1978(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the National Health Service (General Medical Services and Pharmaceutical Services) (Scotland) Amendment Regulations 2002 and shall come into force on 1st April 2002.

(**1**) 1978 c. 29; section 19 was amended by the Health Services Act 1980 (c. 53) ("the 1980 Act"), section 7, by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) ("the 1983 Act"), Schedule 7, paragraph 2, by the Medical Act 1983 (c. 54), Schedule 5, paragraph 17(a), by the National Health Service and Community Care Act 1990 (c. 19) ("the 1990 Act"), section 37, by the Medical (Professional Performance) Act 1995 (c. 51), Schedule, paragraph 29(a) and by the National Health Service (Primary Care) Act 1997 (c. 46), section 41(10) and Schedule 2 and is to be read with the Health and Medicines Act 1988 (c. 49) ("the 1988 Act"), section 17; section 27(2) was amended by the National Health Service (Amendment) Act 1986 (c. 66) ("the 1986 Act"), section 3(3), by the 1990 Act, section 66(1) and Schedule 9, paragraph 19(7)(b) and is to be read with the 1988 Act, section 17; section 28(1) was amended by the 1986 Act, section 3(4); section 28A was substituted by the Health Act 1999 (c. 8) ("the 1999 Act"), section 57; section 105(7) which contains provisions relevant to the making of regulations, was amended by the 1980 Act, Schedule 6, paragraph 5 and Schedule 7, by the 1983 Act, Schedule 9, paragraph 24 and by the 1999 Act, Schedule 4, paragraph 60; section 108(1) contains definitions of "prescribed" and "regulations" relevant to the exercise of the statutory powers under which these Regulations are made. See section 66(1) of the 1999 Act in relation to any provision of that Act being taken to be a pre-commencement enactment within the meaning of the Scotland Act 1998 (c. 46). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998.

Amendment of the National Health Service (Pharmaceutical Services) Regulations 1995

2.—(1) The National Health Service (Pharmaceutical Services) Regulations 1995(**2**) are amended in accordance with the following paragraphs.

(2) In regulation 2(1) (interpretation and application)–

(a) the definition of "Charges Regulations" is omitted;

(b) in the definition of "nurse prescriber", for "nurse or health visitor" there is substituted "nurse, midwife or health visitor";

(c) the definition of "Remission of Charges Regulations" is omitted;

(d) after the definition of "relevant service" there is inserted–

""restricted availability appliance" means an appliance which is approved for particular categories of persons or for particular purposes only;"; and

(e) the definition of "supplemental services" is omitted.

(3) For regulation 2(1A) (interpretation) there is substituted–

"(1A) The specified description of nurse, midwife or health visitor mentioned in the definition of "nurse prescriber" in paragraph (1) is–

(a) a person who is either–

(i) registered in Part 1 or 12 of the register maintained by the Nursing and Midwifery Council(**3**) pursuant to paragraph 10 of Schedule 2 to the Nursing and Midwifery Order 2001(**4**) (referred to below in this definition as the "professional register"), and has a district nursing qualification additionally recorded in the professional register under rule 11 of the Nurses, Midwives and Health Visitors Rules 1983(**5**), or

(ii) registered in Part 11 of the professional register as a health visitor,

and against whose name (in each case) is recorded in the professional register an annotation signifying that he is qualified to order drugs, medicines and appliances for patients; or

(b) a person who is registered in Parts 1, 3, 5, 8, 10, 11, 12, 13, 14 or 15 of the professional register and against whose name is recorded in the professional register an annotation signifying that he is qualified to order drugs, medicines and appliances from the Nurse Prescribers' Extended Formulary Appendix in the British National Formulary(**6**).".

(4) Regulation 3(4) (pharmaceutical services) is omitted.

(5) Regulation 3(7)(b) (pharmaceutical services) is omitted.

(6) In regulation 9(1)(c) (payments to pharmacists) "supplemental services and" is omitted.

(7) In regulation 9(1)(f) (payments to pharmacists) for "and the specifications for such appliances;" there is substituted ", the specifications for such appliances and, in the case of a restricted availability appliance, the categories of persons for whom or the purposes for which the appliance is approved;".

(8) In Schedule 1, (interpretation) paragraph 1(a) is omitted.

(9) In Schedule 1, paragraph 3(1) (provision of pharmaceutical services)–

(**2**) S.I.1995/414; relevant amending instruments are S.I. 1996/840 and 1504, 1997/696, 1998/2224 and S.S.I. 1999/57 and 2001/70.
(**3**) See article 3 of the Nursing and Midwifery Order 2001, S.I. 2002/253.
(**4**) S.I. 2002/253.
(**5**) Approved by S.I. 1983/873, to which there are amendments not relevant to these Regulations.
(**6**) Published by the British Medical Association and Royal Pharmaceutical Society of Great Britain.

(a) in paragraph (a), after "appliances" there is inserted ", not being restricted availability appliances";

(b) after paragraph (b) there is inserted–

"(ba) an order for a restricted availability appliance, signed by and endorsed on its face with the reference "SLS", by a doctor;"

(c) at the end of paragraph (c) "or" is omitted;

(d) in paragraph (d), after "appliances" there is inserted ", not being restricted availability appliances"; and

(e) after paragraph (d) there is inserted–

"or

(e) an order for a restricted availability appliance, signed by and endorsed on its face with the reference "SLS" by a nurse prescriber.".

(10) In Schedule 1, paragraph 3(11) (provision of pharmaceutical services), after paragraph (b) there is inserted–

"(ba) that appliance is not a restricted availability appliance; and".

(11) In Schedule 1, paragraph 11 (records) is omitted.

Amendment of the National Health Service (General Medical Services) Regulations 1995

3.—(1) The National Health Service (General Medical Services) Regulations 1995(**7**) are amended in accordance with the following paragraphs.

(2) In regulation 2(1) (interpretation), in the definition of "nurse prescriber", for "nurse or health visitor" there is substituted "nurse, midwife or health visitor".

(3) For regulation 2(1A) (interpretation) there is substituted–

"(1A) The specified description of nurse, midwife or health visitor mentioned in the definition of "nurse prescriber" in paragraph (1) is–

(a) a person who is either–

(i) registered in Part 1 or 12 of the register maintained by the Nursing and Midwifery Council(**8**) pursuant to paragraph 10 of Schedule 2 to the Nursing and Midwifery Order 2001(**9**) (referred to below in this definition as the "professional register"), and has a district nursing qualification additionally recorded in the professional register under rule 11 of the Nurses, Midwives and Health Visitors Rules 1983(**10**), or

(ii) registered in Part 11 of the professional register as a health visitor,

and against whose name (in each case) is recorded in the professional register an annotation signifying that he is qualified to order drugs, medicines and appliances for patients; or

(b) a person who is registered in Parts 1, 3, 5, 8, 10, 11, 12, 13, 14 or 15 of the professional register and against whose name is recorded in the professional register an annotation signifying that he is qualified to order drugs, medicines and appliances from the Nurse Prescribers' Extended Formulary Appendix in the British National Formulary."

(**7**) S.I. 1995/416; relevant amending instruments are S.I. 1996/1504, 1997/943, 1998/1600, 1999/749 and 1620 and S.S.I. 1999/54.
(**8**) See article 3 of the Nursing and Midwifery Order 2001, S.I. 2002/253.
(**9**) S.I. 2002/253.
(**10**) Approved by S.I. 1983/873, to which there are amendments not relevant to these Regulations.

(4) In regulation 35(1) (payments) after subparagraph (d) there is inserted–

"(da) fees and allowances for the grant of pre-payment certificates in accordance with regulation 8 of the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001(**11**)

(5) In Schedule 1–

(a) in paragraph 1 (interpretation), after the definition of "prescription form" there is inserted–

""restricted availability appliance" means an appliance which is approved for particular categories of persons or particular purposes only;";

(b) in paragraph 29(1) (prescribing and dispensing), before "A doctor" there is inserted "Subject to sub-paragraph (1A),";

(c) after paragraph 29(1) there is added–

"(1A) A doctor shall supply a restricted availability appliance only if it is for a patient in a category of person or a purpose specified in the Drug Tariff.";

(d) in paragraph 29(2)(b) (prescribing and dispensing), after sub-paragraph (ii) there is added–

"(iii) shall supply under regulation 34 for that patient a restricted availability appliance only if it is for a patient in a category of person or a purpose specified in the Drug Tariff;";

(e) in paragraph 30(3) (prescribing and dispensing) ", or an appliance," is omitted; and

(f) after paragraph 30(3) there is added–

"(4) In the case of urgency a doctor may request a chemist to dispense an appliance before a prescription form is issued only if–

(a) that appliance does not contain a scheduled drug or a controlled drug within the meaning of the Misuse of Drugs Act 1971(**12**) other than a drug which is for the time being specified in Schedule 5 to the Misuse of Drugs Regulations 1985(**13**);

(b) in the case of a restricted availability appliance, the appliance is for a patient in a category of person or a purpose specified in the Drug Tariff; and

(c) in either case, the doctor undertakes to furnish the chemist, within 72 hours, with a prescription form completed in accordance with sub paragraphs (1) and (2).".

(6) In Schedule 11 (drugs to be supplied by general medical practitioners or prescribed for supply under pharmaceutical services only in certain circumstances) after the entry "Alprostadil (Caverject), (MUSE), (Viridal)" in each of columns 1 and 2 there is inserted "Apomorphine Hydrochloride (sublingual tablets) (Uprima)".

St. Andrew's House,
Edinburgh
6th March 2002

MALCOLM CHISHOLM
A member of the Scottish Executive

(**11**) S.S.I. 2001/430 was amended by S.S.I. 2002/[ ].
(**12**) 1971 c. 38.
(**13**) S.I. 1985/2066.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 ("the Pharmaceutical Services Regulations") which govern the arrangements to be made by Health Boards for the provision in their area of pharmaceutical services under the National Health Service (Scotland) Act 1978 ("the 1978 Act"). They also amend the National Health Service (General Medical Services) (Scotland) Regulations 1995 ("the General Medical Services Regulations") which regulate the terms on which doctors provide general medical services under the 1978 Act.

Regulation 2 amends the Pharmaceutical Services Regulations.

Definitions of "Charges Regulations" and "Remission of Charges Regulations" contained in regulation 2(1) and which are not relevant are removed (regulation 2(2)(a) and (c)). The definition of "prescription form" in Schedule 1, paragraph 1 is removed as this term is defined in regulation 2(1) (regulation 2(8)). References to "supplemental services" which were not removed by S.S.I. 2001/70, which removed supplemental services from the arrangements for the provision of pharmaceutical services which must be made by a Health Board, are removed by this regulation (regulation 2(2)(e), (4), (5), (6) and (11)).

The definition of "nurse prescriber" is amended by regulation 2(2)(b) and (3) in order to extend the categories of nurse, midwife or health visitor who may prescribe under the National Health Service in Scotland.

A new category of appliance to be known as a restricted availability appliance is introduced. A definition of this term is included in regulation 2(1) (regulation 2(2)(d)). This appliance is an appliance that will only be available on prescription to patients falling within limited categories and for certain limited purposes to be set out in the Drug Tariff.

Regulation 2 then makes various amendments to the Pharmaceutical Services Regulations to enable such appliances to be added to the Drug Tariff (regulation 2(7)) and to restrict the circumstances in which such appliances may be supplied on prescription (regulation 2(9) and (10)).

Regulation 3 amends the General Medical Services Regulations.

The definition of "nurse prescriber" is amended by regulation 3(2) and (3) in order to extend the categories of nurse, midwife or health visitor who may prescribe under the National Health Service in Scotland.

Regulation 3(4) amends regulation 35 in order to enable fees and allowances to be paid to doctors who grant pre-payment certificates in accordance with regulation 8 of the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001.

Regulation 3(5) makes various amendments to Schedule 1 of the General Medical Services Regulations in order to take into account the new restricted availability appliances referred to above. The amendments prevent a doctor from supplying restricted availability appliances except to patients who fall into limited categories and for limited purposes specified in the Drug Tariff and, in the case of urgency, prevents a doctor requesting a pharmacist, without a prescription, to supply a restricted availability appliance containing scheduled or controlled drugs.

Regulation 3(6) amends Schedule 11 which lists drugs to be supplied by general medical practitioners or prescribed for supply under pharmaceutical services only in certain circumstances. It amends the

list in Schedule 11, so as to include the tablet form of the drug Apomorphine Hydrochloride (Uprima) used for the treatment of erectile dysfunction.

The British National Formulary is available from the British Medical Association of Tavistock Square, London WC1H 9JP, the Royal Pharmaceutical Society of Great Britain of 1 Lambeth High Street, London SE1 7JN, Pharaceutical Press, PO Box 151 Wallingford, Oxon OX10 8QU or BMJ Books, PO Box 295, London WC1H 9TE.