SCHEDULE 1

Article 2(1)

CONSEQUENTIAL AND ANCILLARY AMENDMENTS

The Medicines (Pharmacy and General Sale – Exemption) Order 1980

1. In the Medicines (Pharmacy and General Sale – Exemption) Order 1980(**1**) for paragraph (3)(b)(ii) of article 4B(**2**) substitute–

"(ii) in relation to Scotland, the provision of primary medical services under Part I of the National Health Service (Scotland) Act 1978; and"

The National Health Service (General Ophthalmic Services) (Scotland) Regulations 1986

2. In the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1986(**3**) omit paragraph 8C (complaints against ophthalmic medical practitioners) of Schedule 1 (terms of service)(**4**).

The Common Services Agency (Membership and Procedure)Regulations 1991

3. In the Common Services Agency (Membership and Procedure) Regulations 1991(**5**), in paragraph (1)(f) of regulation 4 (disqualification) for "under section 29 of the Act for inclusion in any list prepared under Part II of the Act" substitute "by the Tribunal for inclusion in any list prepared under or by virtue of Part II or Part I of the Act".

The National Health Service (Pharmaceutical Services)(Scotland) Regulations 1995

4.—(1) The National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995(**6**) shall be amended as provided in this paragraph.

(2) In regulation 2(1) (interpretation and application)(**7**)–

(a) for the definition of "appropriate non-proprietary name" substitute–

""appropriate non-proprietary name" means a non-proprietary name which is not mentioned in any directions given by the Scottish Ministers under section 17N(6) of the Act (other mandatory contract terms)(**8**) as to the drugs or other substances–

(a) which may not be ordered for patients in the provision of primary medical services under a general medical services contract;

(b) except where the conditions in paragraph 40(2) of Schedule 5 to the GMS Contracts Regulations are satisfied, which can only be ordered for specified patients and specified purposes;";

(b) omit the definition of "medical list";

(**1**) S.I.1980/1924.
(**2**) Article 4B was inserted by S.I. 2000/1919 and amended by S.I. 2004/865.
(**3**) S.I. 1986/965.
(**4**) Paragraph 8C was inserted by S.I. 1996/843.
(**5**) S.I. 1991/564.
(**6**) S.I. 1995/414. Relevant amending instruments are S.I. 1996/840 and 1504, 1997/696, 1998/2224, 1998/3031 and S.S.I. 1999/57, 2001/70, 2002/111 and 2003/296.
(**7**) Regulation 2 was amended by S.I. 1996/840 and 1504, 1998/2224 and S.S.I. 1999/57, 2001/70, 2002/111 and 2003/296.
(**8**) 1978 c. 29. Section 17N was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1) ("the 2004 Act"), section 4. The current directions are the "Directions as to the drugs, medicines or other substances which may, or may not, be ordered for patients in the provision of primary medical services under a general medical services contract" given on 18th March 2004, and published on Scottish Health on the Web (SHOW) at http://www.show.scot.nhs.uk/sehd/pca/PCA2004(M)11.pdf.

(c) in the definition of "prescription form"–

(i) in paragraph (a)(iii) omit "doctor or"; and

(ii) for paragraph (a)(v) and (vi) substitute–

"or;

(v) prescriber; and";

(d) for the definition of "scheduled drug" substitute–

""scheduled drug" means–

(a) a drug, medicine or other substance specified in any directions given by the Scottish Ministers under section 17N(6) of the Act as being a drug or other substance which may not be ordered in the provision of primary medical services under a general medical services contract; or

(b) except where the conditions in paragraph 40(2) of Schedule 5 to the GMS Contracts Regulations are satisfied, a drug, medicine or other substance which is specified in any directions given by the Scottish Ministers under section 17N(6) of the Act as being a drug or other substance which can only be ordered for specified patients and specified purposes in the provision of primary medical services under a general medical services contract;"; and

(e) insert the following definitions at the appropriate place in alphabetical order:–

""GMS Contracts Regulations" means the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004(**9**);"

""prescriber" means a doctor, an independent nurse prescriber or a supplementary prescriber;".

(3) In regulation 2(2) omit "doctor or".

(4) Omit regulation 11(3) and (4) (publication of particulars)(**10**).

(5) In paragraph 3 (provision of pharmaceutical services) of Schedule 1 (terms of service for pharmacists)(**11**)–

(a) in sub-paragraph (1)–

(i) in paragraph (a) for "doctor, a supplementary prescriber or an independent nurse prescriber" substitute "prescriber";

(ii) for paragraph (b) substitute–

"(b) an order for a drug specified in any directions given by the Scottish Ministers under section 17N(6) of the Act as being a drug which can only be ordered for specified patients and specified purposes in the provision of primary medical services under a general medical services contract, signed by, and endorsed on its face with the reference "SLS" by a prescriber;";

(iii) in paragraph (ba) for "doctor;" substitute "prescriber; or"; and

(iv) omit paragraphs (d) and (e);

(b) in sub-paragraphs (4) and (6) for "a doctor, a dentist, a supplementary prescriber or an independent nurse prescriber" substitute "a prescriber or a dentist" in each place where it occurs;

(**9**) S.S.I. 2004/115.
(**10**) Regulation 11 was amended by S.I. 1997/696 and S.S.I. 1999/57.
(**11**) Paragraph 3 was amended by S.I. 1996/1504, 1998/3031 and S.S.I. 2001/70, 2002/111 and 2003/296.

(c) in sub-paragraph (7), for "the doctor, dentist, a supplementary prescriber or an independent nurse prescriber" substitute "the prescriber or dentist"; and

(d) in sub-paragraph (11)–

(i) for "a doctor, supplementary prescriber or an independent nurse prescriber" substitute "a prescriber"; and

(ii) for paragraph (c) substitute–

"(c) in any case the prescriber undertakes to furnish the pharmacist, within 72 hours, with such a prescription form.".

The Prescription Only Medicines (Human Use) Order 1997

5. In the Prescription Only Medicines (Human Use) Order 1997(**12**) for paragraph (3)(b)(ii) of article 12B (exemption for health professionals who supply or administer prescription only medicines under a Patient Group Direction in order to assist doctors or dentists in providing national health services) (**13**) substitute–

"(ii) in relation to Scotland, the provision of primary medical services under Part I of the National Health Service (Scotland) Act 1978; and".

The National Health Service (Proposals for Pilot Schemes) and (Miscellaneous Amendments) Regulations 1997

6. In the National Health Service (Proposals for Pilot Schemes) and (Miscellaneous Amendments) Regulations 1997(**14**)–

(a) in regulation 2 (requests to authorities for preparation of proposals)(**15**) omit paragraph (5)(b)(i); and

(b) in regulation 3 (consultation on proposals)(**16**), omit paragraph (2).

The National Health Service (Pilot Schemes – Health Service Bodies) Regulations 1997

7. In the National Health Service (Pilot Schemes – Health Service Bodies) Regulations 1997(**17**), in regulation 1(2) (citation, commencement and interpretation)(**18**), in the definition of "application" omit "personal medical services or".

The National Health Service (Scotland)(Injury Benefits) Regulations 1998

8.—(1) The National Health Service (Scotland) (Injury Benefits) Regulations 1998(**19**) shall be amended as provided in this paragraph.

(2) In regulation 2 (interpretation)(**20**)–

(a) in the definition of "assistant practitioner"–

(i) in paragraph (a) omit "medical practitioner, or" and "medical practitioner or"; and

(ii) for paragraph (b) substitute–

(**12**) S.I. 1997/1830.
(**13**) Article 12B was inserted by S.I. 2000/1917 and amended by S.I. 2002/2469 and 2004/865.
(**14**) S.I. 1997/2289.
(**15**) Regulation 2 was amended by S.I. 1998/3.
(**16**) Regulation 3 was amended by S.I. 1998/3.
(**17**) S.I. 1997/2929.
(**18**) Regulation 1 was amended by S.I. 1998/1136 and 2002/2469.
(**19**) S.I. 1998/1594
(**20**) Regulation 2 was amended by S.I. 1999/444, S.S.I. 1999/195 and 2001/437.

"(b) a person–

(i) on a primary medical services performers list; or

(ii) who is a GP Registrar and has applied for inclusion on a primary medical services performers list, and

who is employed (other than by a Health Board) to perform primary medical services under a GMS contract, a default contract or a section 17C agreement;";

(b) in the definition of "practitioner"–

(i) in paragraph (a) for "a registered medical practitioner or a registered dentist whose name is included on the medical list or, as the case may be," substitute " a registered dentist whose name is included";

(ii) in paragraph (c), omit "a registered medical practitioner or";

(iii) omit "and" after paragraph (d);

(iv) in paragraph (e)–

(aa) for "a registered medical practitioner or a registered dentist who is a medical pilot scheme employee or a dental pilot scheme employee, as the case may be," substitute "a registered dentist who is a dental pilot scheme employee";

(bb) in sub-paragraph (i) omit "the medical list or, as the case may be,";

(cc) in the full out words at the end, omit "medical or"; and

(dd) at the end, insert "and"; and

(v) at the end, insert–

"(f) a registered medical practitioner who is included in a primary medical services performers list and who is, or is a member of a partnership which is, providing services under–

(i) a GMS contract or default contract; or

(ii) a section 17C agreement;";

(c) omit the definitions of "medical list", "medical pilot scheme employee" and "personal medical services"; and

(d) insert the following definitions at the appropriate place in alphabetical order:–

""default contract" means a contract under article 13 of the General Medical Services (Transitional and Other Ancillary Provisions) (Scotland) Order 2004(**21**);";

""GP Registrar" has the meaning assigned to it in regulation 2 of the National Health Service (Primary Medical Services Performers Lists) (Scotland) Regulations 2004(**22**);";

"GMS contract" means a general medical services contract under section 17J of the National Health Service (Scotland) Act 1978(**23**);?CQ?;

"primary medical services performers list" means a list of primary medical services performers prepared in accordance with regulations made under section 17P of the National Health Service (Scotland) Act 1978(**24**);?CQ?;

(**21**) S.S.I. 2004/142.
(**22**) S.S.I. 2004/114.
(**23**) Section 17J was inserted by the 2004 Act, section 4.
(**24**) Section 17P was inserted by the 2004 Act, section 5.

"section 17C agreement means an agreement made under section 17C of the National Health Service (Scotland) Act 1978(**25**) and includes a transitional agreement as defined in article 1(2) of the General Medical Services and Section 17C Agreements (Transitional and other Ancillary Provisions) (Scotland) Order 2004(**26**);";

(3) In regulation 3 (persons to whom the regulations apply)(**27**), omit paragraph (1)(f).

(4) In regulation 4A (recovery of costs)(**28**)–

(a) at the end of paragraph 4(c) insert "and"; and

(b) omit paragraph 4(d).

The Health Boards (Membership and Procedure)(Scotland) Regulations 2001

9. In the Health Boards (Membership and Procedure) (Scotland) Regulations 2001(**29**) in paragraph (1) of regulation 6 (disqualification)–

(a) for sub-paragraph (f), substitute–

"(f) they have been disqualified by the Tribunal, for inclusion in any list prepared under or by virtue of Part II or Part I of the Act and have not subsequently had their name included in such a list;"; and

(b) in sub-paragraph (g)–

(i) after "under" insert "or by virtue of"; and

(ii) after "Part II" insert "or Part I";

The National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001

10.—(1) The National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001(**30**) shall be amended as provided in this paragraph.

(2) In regulation 2 (interpretation)(**31**), in paragraph (1)–

(a) in the definition of "patient", for paragraph (a) substitute–

"(a) any person who is provided with primary medical services under Part 1 of the Act;";

(b) in the definition of "prescription form"–

(i) in paragraph (a)(iii) omit "doctor or"; and

(ii) for paragraph (a)(v) and (vi) substitute–

"or;

(v) prescriber; and";

(c) in the definition of "terms of service" omit "a doctor," and "the General Medical Services Regulations,";

(d) omit the definitions of "the General Medical Services Regulations" and "medical list"; and

(e) insert the following definitions at the appropriate place in alphabetical order–

(**25**) Section 17C was inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 21(2) and was amended by the 2004 Act, section 2(2).
(**26**) S.S.I. 2004/163.
(**27**) Regulation 3 was amended by S.I. 1999/444 and S.S.I. 2001/437.
(**28**) Regulation 4A was inserted by S.S.I. 1999/195 and amended by S.S.I. 2001/437.
(**29**) S.S.I. 2001/302.
(**30**) S.S.I. 2001/430. Relevant amending instruments are S.S.I. 2002/100 and 2003/295.
(**31**) Regulation 2 was amended by S.S.I. 2002/100 and 2003/295.

""GMS contract" means a general medical services contract under section 17J of the Act(**32**);";

""GMS contractor" means a party to a GMS contract other than a Health Board;";

""prescriber" means a doctor, an independent nurse prescriber or a supplementary prescriber;";

""section 17C agreement" means an agreement made under section 17C of the Act(**33**);";

""section 17C provider" means a party to a section 17C agreement other than a Health Board;".

(3) After regulation 2(3) insert–

"(3A) For as long as there are in existence contracts entered into under article 13 of the General Medical Services (Transitional and Other Ancillary Provisions) (Scotland) Order 2004(**34**) ("default contracts") any reference in these Regulations to a GMS contract shall be read as including a reference to a contract entered into under that article and any reference to a term of a GMS contract shall be read as including a reference to the equivalent term of the default contract.

(3B) For as long as there are in existence transitional agreements as defined in article 1(2) of the General Medical Services and Section 17C Agreements (Transitional and Other Ancillary Provisions) (Scotland) Order 2004(**35**), any reference in these Regulations to a section 17C agreement shall be read as including a reference to a transitional agreement and any reference to a term of a section 17C agreement shall be read as including a reference to any equivalent term in the transitional agreement.".

(4) In regulation 4 (supply of drugs and appliances by doctors)–

(a) in paragraph (1) for "who provides pharmaceutical services to a patient in pursuance of the provisions of regulation 34 of the General Medical Services Regulations (and other wise than under paragraph 15(1) of Schedule 1 to those Regulations)" substitute "who provides services corresponding to pharmaceutical services under the terms of a GMS contract which give effect to paragraph 44 of Schedule 5 to the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004(**36**) or under the terms of a section 17C agreement which give effect to paragraph 15 of Schedule 1 to the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004(**37**)"; and

(b) for paragraph (4) substitute–

"(4) A GMS contractor or section 17C provider shall, as soon as practicable after the end of each month, send a sum of money equal to the total of the charges required to be made and recovered by a doctor pursuant to the provisions of paragraph (1) during that month to the Health Board with which the GMS contractor or section 17C provider has a GMS contract or section 17C agreement.".

(**32**) Section 17J was inserted by the 2004 Act, section 4.
(**33**) Section 17C was inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 21(2) and amended by the 2004 Act, section 2(2).
(**34**) S.I. 2004/142.
(**35**) S.S.I. 2004/163.
(**36**) S.S.I. 2004/115.
(**37**) S.S.I. 2004/116.

The Adults with Incapacity (Ethics Committee) (Scotland) Regulations 2002

11. In the Adults with Incapacity (Ethics Committee) (Scotland) Regulations 2002(**38**) in paragraph (1)(f) of regulation 3 (membership of the committee)(**39**), for "personal, or general, medical services under sections 17C or 19" substitute "primary medical services pursuant to Part I".

(**38**) S.S.I. 2002/190.
(**39**) Regulation 3 was amended by S.I. 2003/1590.