SCHEDULES

SCHEDULE 2

Capital fees for applications for, and variations to, marketing authorisations, licences, registrations and certificates

PART 1

General: interpretation and categories of applications and variations

Interpretation

1. In this Schedule—

"active ingredient from a new source" means an active ingredient in respect of which the application names as manufacturer a manufacturer not previously named as the manufacturer of that active ingredient included in a medicinal product in respect of which a marketing authorisation (other than a product licence of right) or a traditional herbal registration has previously been granted;

"EU marketing authorisation" means—

(a) a marketing authorisation; or

(b) an authorisation issued by a competent authority of an EEA State other than the United Kingdom for the purposes of Article 6 of the 2001 Directive;

"the MHRA portal" means the internet-based hosted platform which enables persons to carry out business with the Medicines and Healthcare products Regulatory Agency of the Department of Health electronically, known as the "the MHRA Portal";

"new active ingredient" means an active ingredient that has not previously been included as an active ingredient in a medicinal product in respect of which a marketing authorisation (other than a product licence of right) has previously been granted;

"new excipient" means—

(a) except in Part 2, paragraph 35 and Part 4, any ingredient of a medicinal product, other than an active ingredient, that has not previously been included in a medicinal product—

(i) which is intended to be administered by the same route of administration as the product in question; and

(ii) in respect of which a marketing authorisation (other than a product licence of right), a certificate of registration or a traditional herbal registration has previously been granted,

except that in the case of a medicinal product intended to be administered orally, the expression does not include any ingredient specified in any enactment (including an enactment comprised in subordinate legislation or in any Directive, Regulation or Decision of the European Union) as an approved ingredient or additive in food or in a food product;

(b) in Part 2, paragraph 35 and Part 4, any ingredient of a medicinal product, other than an active ingredient, that has not previously been included in a medicinal product which is intended to be administered by the same route of administration as the product in question and in respect of which a marketing authorisation (other than a product licence of right), a certificate of registration or a traditional herbal registration has previously been granted, except that—

(i) in the case of a medicinal product intended to be administered orally, the expression does not include any ingredient specified in any enactment (including an enactment comprised in subordinate legislation or in any Directive, Regulation or Decision of the European Union) as an approved ingredient or additive in food or in a food product; and

(ii) in the case of a medicinal product intended for external use only, the expression does not include any ingredient specified in any enactment (including an enactment comprised in subordinate legislation or in any Directive, Regulation or Decision of the European Union) as an approved ingredient or additive in a cosmetic product;

"Phase I trial" means a clinical trial to study the pharmacology of a medicinal product when administered to humans, where the sponsor and investigator have no knowledge of any evidence that the product has effects likely to be beneficial to the subjects of the trial;

"Phase II or Phase III trial" means a clinical trial, other than a Phase I trial, where the medicinal product being tested—

(a) does not have an EU marketing authorisation; or

(b) has an EU marketing authorisation, but—

(i) there has been a change—

(aa) to the process of manufacture of the product or its active ingredient; or

(bb) of manufacturer of that product, or

(ii) the product is to be used in the trial other than in accordance with the terms of the summary of product characteristics under that authorisation;

"Phase IV trial" means a clinical trial other than a Phase I trial or a Phase II or Phase III trial;

"TSE risk ingredient from a new source" and "TSE risk excipient from a new source" mean**s** an active ingredient or excipient, respectively, which has been manufactured from raw materials of ruminant origin or which has had raw materials of ruminant origin used in its manufacture and in respect of which—

(a) the application names as manufacturer, a manufacturer not previously named as the manufacturer of that ingredient or excipient included in a medicinal product in respect of which a marketing authorisation (other than a product licence of right), a certificate of registration or a traditional herbal registration has previously been granted; and

(b) no European Pharmacopoeia certificate of suitability covering the excipient has been submitted with the application;

"vitamin or mineral from a new source" means a vitamin or mineral in respect of which the application names as manufacturer a manufacturer not previously named as the manufacturer of that vitamin or mineral included in a medicinal product in respect of which a marketing authorisation (other than a product licence of right) or a traditional herbal registration has previously been granted.

General: categories of Applications and Variations

2.—(1) In this Schedule, references to a particular type of application, variation or variation application shall be interpreted in accordance with this paragraph and paragraphs 3 to 23.

(2) A reference to a "European reference product application" means an application for a marketing authorisation to which the third sub-paragraph of Article 10(1) of the 2001 Directive applies.

Administrative variation application

3. An administrative variation application is an application by a traditional herbal registration holder to vary a traditional herbal registration where the variation applied for falls within one of the following sub-paragraphs—

(a) a change of either or both of the name and the address of the holder of the registration;

(b) a change of either or both of the name and the address of a manufacturer, assembler, storer or distributor named in the registration where the change has been occasioned by the taking over of an existing business, whether by purchase, merger or otherwise, and any change of address does not involve a change of the site of manufacture, assembly or storage or of the site from which distribution takes place; or

(c) the removal from the registration of details of one or more of the sites of manufacture, assembly or storage or of the sites from which distribution takes place.

Extension application

4. An extension application is an application—

(a) for an extension of a marketing authorisation within the meaning of Article 2(4) of Commission Regulation (EC) No 1234/2008; and

(b) which includes the result of pre-clinical tests or clinical trials as specified in Article 8(3)(i) of the 2001 Directive.

Complex application

5. A complex application is an application, other than a major application, for a marketing authorisation where the application falls within one or more of the following sub-paragraphs—

(a) the application relates to a medicinal product which is intended to be used in accordance with an indication for use in respect of a new category of patients or as treatment for a new category of disease;

(b) the application relates to a medicinal product containing a new combination of active ingredients that have not previously been included in that combination in a medicinal product in respect of which a marketing authorisation (other than a product licence of right) has previously been granted;

(c) the application relates to a medicinal product containing a new excipient;

(d) the application relates to a medicinal product that is intended to be administered by a route of administration different from that used in relation to any medicinal product which contains the same active ingredient as the product in question and in respect of which a marketing authorisation (other than a product licence of right) has previously been granted;

(e) the application relates to a medicinal product containing an active ingredient the manufacture of which involves a route of synthesis (or, in the case of a medicinal product not synthetically produced, a method of manufacture) different from that used in the manufacture of the active ingredient of any medicinal product which contains the same active ingredient as the product in question and in respect of which a marketing authorisation (other than a product licence of right) has previously been granted;

(f) the application relates to a medicinal product which is a controlled release preparation and is not a simple application;

(g) the application relates to a sterile medicinal product the manufacture of which involves a method of sterilisation different from that used in the manufacture of any medicinal product which contains the same active ingredient as the product in question and in respect of which a marketing authorisation (other than a product licence of right) has previously been granted;

(h) the application relates to a sterile medicinal product the container of which is directly in contact with the medicinal product and is made from different material from the container of any medicinal product which contains the same active ingredient as the product in question and in respect of which a marketing authorisation (other than a product licence of right) has previously been granted;

(i) unless a European Pharmacopoeia certificate of suitability covering the active ingredient has been submitted with the application, the application names as manufacturer of the active ingredient of the medicinal product in question a different manufacturer from the manufacturer of that active ingredient included in a medicinal product in respect of which a marketing authorisation (other than a product licence of right) has previously been granted;

(j) the application relates to a medicinal product which is an influenza vaccine and in respect of which the manufacturer or the manufacturing process is different from that specified in any other marketing authorisation which the applicant holds in respect of that product;

(k) the application is for the grant of a marketing authorisation for a medicinal product which is an influenza vaccine, except where it relates only to an influenza vaccine containing a different strain or strains from that specified in any other marketing authorisation which the applicant holds;

(l) the application is for the grant of a marketing authorisation for a medicinal product which is to be delivered by way of a metered dose inhaler;

(m) the application is for the grant of a marketing authorisation for a medicinal product which is in a powdered form and is to be delivered by way of inhalation;

(n) the application relates to a medicinal product—

(i) which is administered to the site of action or absorption by a method which has not previously been authorised in relation to any authorised medicinal product which contains the same active ingredient as the product in question; and

(ii) in respect of that other product, a marketing authorisation (other than a product licence of right) has previously been granted;

(o) the application is an application for a marketing authorisation to which Article 10(3) of the 2001 Directive applies;

(p) the application is an application where the sole or primary evidence for the safety and efficacy of the medicinal product consists of published scientific literature;

(q) the application is an extension application;

(r) the application—

(i) is not an application in accordance with Article 10, 10a or 10c of the 2001 Directive; and

(ii) includes the results of pre-clinical tests or clinical trials as specified in Article 8(3)(i) of the 2001 Directive; or

(s) the application is an application for a marketing authorisation to which the first sub-paragraph of paragraph 3 of Part II of Annex I to the 2001 Directive applies.

Complex registration application

6. A complex registration application is an application for a traditional herbal registration relating to a medicinal product containing an active ingredient that has not previously been included as an active ingredient in a medicinal product in respect of which a marketing authorisation (other than a product licence of right) or a traditional herbal registration has previously been granted.

Complex variation application

7. A complex variation application is an application by a traditional herbal registration holder to vary a traditional herbal registration which relates to a change in the formulation of a medicinal product comprising one or more of the following changes—

(a) a change in that product's active ingredients which involves the addition of one or more active ingredients which are active ingredients from a new source;

(b) a change in that product's excipients which involves the addition of one or more TSE risk excipients from a new source; or

(c) a change which involves the addition of one or more vitamins or minerals which are vitamins or minerals from a new source where no European Pharmacopoeia certificate of suitability covering those vitamins or minerals has been submitted with the application.

Decentralised procedure application

8. A decentralised procedure application is a major application, a complex application, a standard application or a simple application for a marketing authorisation for a medicinal product in respect of which at the time of the application—

(a) a marketing authorisation has not been granted in any EEA State; and

(b) an application for a marketing authorisation has been made in more than one EEA State under the procedure in Title III, Chapter 4 of the 2001 Directive.

Extended Type II Complex Variation Application

9. An Extended Type II Complex Variation Application is an application by a marketing authorisation holder to vary a marketing authorisation (not being a parallel import licence) so that the medicinal product is indicated for use—

(a) in a therapeutic area for which the product was not previously indicated for use; or

(b) in respect of an organ, or any other part, of the human body for which the product was not previously indicated for use, if the application is supported by data which comprises or includes the results of clinical trials or physico-chemical, microbiological or pharmacological and toxicological tests.

Major application

10. A major application is an application for a marketing authorisation made to the licensing authority on the grounds that a medicinal product contains a new active ingredient.

Mutual recognition procedure incoming application

11. A mutual recognition procedure incoming application is a major application, a complex application or a standard application for a marketing authorisation for a medicinal product in respect of which—

(a) a marketing authorisation has already been granted in another EEA State; and

(b) recognition of that marketing authorisation is sought from the licensing authority by way of the grant of a marketing authorisation in the United Kingdom, under the procedure in Title III, Chapter 4 of the 2001 Directive.

New excipient variation application

12. A new excipient variation application is an application, other than a complex variation application, by a traditional herbal registration holder to vary a traditional herbal registration which relates to a change in the formulation of the medicinal product to add a new excipient.

New indication variation application

13. A new indication variation application is an application to vary a marketing authorisation for a national homoeopathic product, so that product is indicated for a therapeutic use not previously covered by that authorisation.

Parallel Import Licence application

14.—(1) An application for a simple parallel import licence means an application for a parallel import licence in respect of a proposed importation of a medicinal product ("P") which is similar to a medicinal product ("R") in respect of which a marketing authorisation has already been granted in the United Kingdom.

(2) For the purposes of sub-paragraph (1) "similar" means—

(a) the manufacturer of P and the manufacturer of R are either the same company or belong to the same group of companies or, in the case of independent companies, agreements have been concluded with the same licensor; and

(b) product P and R are manufactured according to the same formulation, using the same active ingredients, have the same pharmaceutical form and have no differences that will result in a difference in the therapeutic effect.

(3) An application for a complex parallel import licence means an application for a parallel import licence which is not a simple parallel import licence and the application is in respect of a medicinal product—

(a) containing a new excipient;

(b) containing an active ingredient the manufacture of which involves a route of synthesis (or, in the case of a medicinal product not synthetically produced, a method of manufacture) different from that used in the manufacture of the active ingredient of any medicinal product which contains the same active ingredient as the product in question and in respect of which a marketing authorisation (other than a product licence of right) has previously been granted;

(c) which is a controlled release preparation;

(d) which is a sterile medicinal product the manufacture of which involves a method of sterilisation different from that used in the manufacture of any medicinal product which contains the same active ingredient as the product in question and in respect of which a marketing authorisation (other than a product licence of right) has previously been granted;

(e) which is a sterile medicinal product the container of which is directly in contact with the medicinal product and is made from different material from the container of any medicinal product which contains the same active ingredient as the product in question and in respect of which a marketing authorisation (other than a product licence of right) has previously been granted;

(f) containing an active ingredient which, unless that active ingredient is covered by a European Pharmacopoeia certificate of suitability, is not manufactured by a manufacturer of the active ingredient which is included in the medicinal product in respect of which a marketing authorisation (other than a product licence of right) has previously been granted;

(g) which is an influenza vaccine;

(h) which is to be delivered by way of a metered dose inhaler;

(i) which is in powder form and is to be delivered by inhalation;

(j) which falls within the description of the medicinal product set out in Article 10(3) of the 2001 Directive;

(k) where the sole or primary evidence for the safety and efficacy of that product consists of published scientific literature;

(l) in respect of which a marketing authorisation has not been made under Article 10, 10a or 10c of the 2001 Directive by the competent authority in the member State of exportation, and the application includes the results of pre-clinical tests or clinical trials within the meaning of Article 8(3)(i) of the 2001 Directive; or

(m) in respect of which a marketing authorisation to which the first sub-paragraph of paragraph 3 of Part II of Annex I to the 2001 Directive applied in the member State of exportation.

(4) An application for a standard parallel import licence means an application for a parallel import licence which is not a complex parallel import licence or a simple parallel import licence.

(5) An application shall not fall within the meaning of sub-paragraph (1), (3) or (4) where the applicant and the holder of the marketing authorisation in the member State of exportation in respect of which the medicinal product in question relates are a parent undertaking and subsidiary undertaking within the meaning of section 1162 (taken together with section 1161 of, and Schedule 7 to) the Companies Act 2006(**1**).

Reclassification variation application

15. A reclassification variation application is an application for variation of a marketing authorisation which has the effect that a medicinal product to which that authorisation relates—

(a) is to be available only from a pharmacy or on general sale, where previously it was available only on prescription; or

(b) is to be available on general sale, where previously it was available only from a pharmacy.

Reduced registration application

16.—(1) A reduced registration application category I is an application other than a complex registration application for a traditional herbal registration relating to a medicinal product which is presented in the form of a herbal tea.

(2) A reference to a reduced registration application category II means an application, other than a complex registration application, or a traditional herbal registration where the application falls within one of the descriptions specified in sub-paragraphs (a) to (d) as follows—

(a) the application relates to a medicinal product which is presented in the form of a herbal tincture;

(b) the application relates to a medicinal product which is presented in the form of an essential oil;

(c) the application relates to a medicinal product which is presented in the form of a fatty oil; or

(**1**) 2006 c.46.

(d) the application relates to a medicinal product which contains only herbal substances in a capsule.

Simple application

17. A simple application is an application—

(a) for a marketing authorisation to which Article 10c of the 2001 Directive applies; or

(b) made no later than three months after the expiry of a marketing authorisation, which is for a marketing authorisation containing identical provisions to those contained in the expired authorisation and which is made by the person who held the expired authorisation.

Standard application

18. A standard application is any application for the grant of a marketing authorisation which is not a major application, a complex application, a simple application, a change of ownership application or an application for a parallel import licence.

Standard registration application

19. A standard registration application means any application for the grant of a traditional herbal registration which is not a complex registration application, a reduced registration application category I, a reduced registration application category II or a change of ownership application.

Standard variation application

20. A standard variation application is an application by a traditional herbal registration holder to vary a traditional herbal registration which is not a complex variation application, a new excipient variation application or an administrative variation application.

Standard variation application for a homoeopathic medicinal product

21. A standard variation application for a homoeopathic medicinal product is an application for a variation of a marketing authorisation for a national homoeopathic product which requires—

(a) the replacement of an excipient used in the manufacture of the product;

(b) the replacement of a reagent indirectly associated with the manufacturing process of the product or which disappears from that process with a comparable reagent;

(c) a change to the qualitative composition of the container or other form of packaging immediately in contact with the product;

(d) a change to the method of manufacture of a homoeopathic stock included in the product;

(e) a change to the specification of any reagent or excipient used in the manufacture of the product;

(f) a change to the finished product specification of the product;

(g) a change to the test procedure for any raw material used in the manufacture of the product;

(h) a change to the test procedure for the product;

(i) a change to the test procedure for the container or other form of packaging immediately in contact with the product;

(j) a change to comply with a supplement to the European Pharmacopoeia or any national pharmacopoeia of a member State;

(k) a change to the shape of the container in which the product may be placed on the market;

(l) an additional pack size in which the product may be placed on the market;

(m) a change to the approved storage conditions for the product;

(n) a change to the shelf life of an unopened container of the product after the container has been opened for the first time;

(o) a change to the dimensions of an approved dosage form of the product (for example, tablets); or

(p) a change following modification to the manufacturing authorisation referred to in Article 40 of the 2001 Directive.

Type IB and Type II Applications

22.—(1) A Type IB Application is an application by a marketing authorisation holder to vary a marketing authorisation (not being a parallel import licence) which is a "minor variation of type IB" within the meaning of Article 2(5) of Commission Regulation (EC) No 1234/2008.

(2) A Type II Application is an application by a marketing authorisation holder to vary a marketing authorisation (not being a parallel import licence) which is not—

(a) a reclassification variation;

(b) a Type IA Application;

(c) a Type IB Application;

(d) a Type II Complex Variation Application;

(e) an Extended Type II Complex Variation Application; or

(f) an application for an extension of a marketing authorisation within the meaning of Article 2(4) of Commission Regulation (EC) No 1234/2008.

(3) For the purposes of sub-paragraph (2)(b), a "Type IA Application" means an application by a marketing authorisation holder to vary a marketing authorisation (not being a parallel import licence) which is a "minor variation of type IA" within the meaning of Article 2(2) of Commission Regulation (EC) No 1234/2008.

Type II Complex Variation Application

23. A Type II Complex Variation Application is an application for a variation of a marketing authorisation, other than an Extended Type II Complex Variation Application, which relates to a change—

(a) in the formulation of a medicinal product comprising one or more of the following changes, other than a change to which paragraph 1 (changes to active substances) or paragraph 2 (changes to strength, pharmaceutical form and route of administration) of Annex I to Commission Regulation (EC) No 1234/2008 applies—

(i) a change which necessitates in-vivo bioavailability studies to be performed on that product;

(ii) a change in that product's preservative system; or

(iii) a change in that product's excipients which significantly affects the pharmaceutical or the therapeutic properties of that product; or

(b) which is considered a "major variation of type II" within the meaning of Article 2(3) of Commission Regulation (EC) No 1234/2008 and which is—

(i) supported by data which comprises or includes the results of clinical trials or physicochemical, biological, microbiological or pharmacological and toxicological tests; or

(ii) accompanied by evidence relating to post-marketing experience which is information of any type described in paragraph 5.2.6 of Part I of Annex I to the 2001 Directive (clinical documentation); or

(c) in the composition, manufacture or use of a medicinal product to which—

(i) sub-paragraph (c), (e), (g), (h), (j) or (n) of the definition of complex application in paragraph 5 of this Schedule would apply where an application for a marketing authorisation is made in respect of a medicinal product; or

(ii) sub-paragraph (i) of that definition would so apply and the change is not a minor variation of type IA or a minor variation of type IB within the meaning of Commission Regulation (EC) No 1234/2008.