

STATUTORY INSTRUMENTS

1972 No. 1265

Health and Personal Social Services (Northern Ireland) Order 1972

PART VI

GENERAL HEALTH SERVICES

[^{F1}Pharmaceutical services]

F1 [Art. 63 cross-heading inserted \(26.3.2008\) by Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2008 \(c. 2\), ss. 10\(1\), 18\(1\)\(a\)](#)

Arrangements for pharmaceutical services

[^{F3} (1) [^{F4}The Department] shall, in accordance with regulations, make arrangements ^{F5}... for the [^{F6} provision] to persons ^{F5}... of—

- (a) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions—
 - (i) in providing any service in pursuance of this Order; or
 - (ii) in the [^{F7}health care] established in pursuance of section 1 of the National Health Service Act 1977 or section 1 of the National Health Service (Scotland) Act 1978 ; or
 - (iii) in the armed forces of the Crown (excluding forces of a Commonwealth country and forces raised in a colony),^{F8} . . .
- (b) listed drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of such functions;^{F9} . . .
- (bb) [^{F10}listed drugs and medicines and listed appliances which are ordered for those persons by [^{F11}a pharmacist or] a prescribed description of registered nurse, midwife or health visitor in pursuance of such functions; and]
- (c) [^{F12}such services as may be prescribed;]

[^{F13}and the services provided in accordance with the arrangements are, together with additional pharmaceutical services provided in accordance with [^{F14}arrangements] under Article 63A, referred to in this Order as “pharmaceutical services”.]

[^{F15}(2) Regulations shall provide for securing that arrangements made by [^{F16}the Department] under paragraph (1) will enable persons ^{F17}... for whom drugs, medicines or appliances mentioned in that paragraph are ordered as there mentioned [^{F18}, or to whom services mentioned in paragraph (1) (c) are to be provided] to receive them from persons with whom such arrangements have been made.

(2A) ^{F19}

(2B) ^{F19}

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(2C) ^{F19}

(2D) ^{F19}]

(3) Before making any regulations under this Article, the Ministry shall consult such organisations as appear to the Minister to be representative of the pharmaceutical profession.

^{F20}(4) In this Article “listed” means included in a list for the time being approved for the purposes of this Article by the Department.]

F2 mod. by SR 2004/259

F3 1978 NI 26

F4 Words in art. 63(1) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 33(2)(a)**; S.R. 2022/102, art. 2(b)

F5 Words in art. 63(1) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 33(2)(b)**; S.R. 2022/102, art. 2(b)

F6 1991 NI 1

F7 Words in Order substituted (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009](#) (c. 1), s. 34(3), **Sch. 6 para. 1(1)(b)**; S.R. 2009/114, **art. 2**

F8 1992 NI 18

F9 1992 NI 18

F10 1992 NI 18

F11 2003 NI 9

F12 1991 NI 1

F13 1997 NI 7

F14 Word in art. 63(1) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 33(2)(c)**; S.R. 2022/102, art. 2(b)

F15 1986 NI 20

F16 Words in art. 63(2) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 33(3)(a)**; S.R. 2022/102, art. 2(b)

F17 Words in art. 63(2) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 33(3)(b)**; S.R. 2022/102, art. 2(b)

F18 1991 NI 1

F19 Art. 63(2A)-(2D) repealed (26.3.2008) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2008](#) (c. 2), ss. 10(2), 18(1)(a)(c), **Sch. 2 Pt. 1**

F20 1978 NI 26

[^{F21} **Persons providing pharmaceutical**

63AA.—^{F22}(1)

(2) [^{F23}Regulations under Article 63] shall include provision—

[for the preparation, publication and maintenance of lists of persons, other than medical
^{F24}(za) practitioners or dental practitioners, who undertake to provide pharmaceutical services;]

(a) that an application to [^{F25}the Department] for inclusion in such a list shall be made in the prescribed manner and shall state—

(i) the pharmaceutical services which the applicant will undertake to provide and, if they consist of or include the supply of appliances, which appliances he will undertake to supply; and

(ii) the premises from which he will undertake to provide those pharmaceutical services;

(b) that, except in prescribed cases—

(i) an application for inclusion in such a list by a person not already included; and

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- (ii) an application by a person already included in such a list for inclusion also in respect of pharmaceutical services or premises other than those already listed in relation to him,

shall be granted only if [^{F25}the Department] is satisfied, in accordance with the regulations, that it is necessary or desirable to grant it in order to secure in the neighbourhood in which the premises are located the adequate provision by persons included in the list of the pharmaceutical services or some of the pharmaceutical services, specified in the application; and

- (c) for the removal of an entry in respect of premises from a list if it has been determined in the prescribed manner that the person to whom the entry relates—

- (i) has never provided from those premises, or

- (ii) has ceased to provide from them,

the pharmaceutical services, or any of the pharmaceutical services, which he is listed as undertaking to provide from them.

- (3) [^{F26}Regulations under Article 63] may include provision—

- (a) that an application to [^{F27}the Department] may be granted in respect of some only of the pharmaceutical services specified in it;

- (b) that an application to a Health and Social Services Board relating to pharmaceutical services of a prescribed description shall be granted only if it appears to [^{F27}the Department] that the applicant has satisfied such conditions with regard to the provision of those pharmaceutical services as may be prescribed;

- (c) that an application to a Health and Social Services Board by a person who qualified to have his name registered under the Pharmacy (Northern Ireland) Order 1976 by virtue of Article 8(2)(c) of that Order [^{F28}(relevant European qualification)] shall not be granted unless the applicant satisfies the Board that he has the knowledge of English which, in the interests of himself and the persons making use of the pharmaceutical services to which the application relates, is necessary for the provision of pharmaceutical services ^{F29}...;

- (d) that the inclusion of a person in a list in pursuance of such an application may be for a fixed period;

- (e) that, where the premises from which an application states that the applicant will undertake to provide pharmaceutical services are in an area of a prescribed description, the applicant shall not be included in the list unless his inclusion is approved by a prescribed body and by reference to prescribed criteria; and

- (f) that the prescribed body may give its approval subject to conditions.

[
^{F30}(3A) Regulations under Article 63 shall include provision conferring on such persons as may be prescribed rights of appeal [^{F31}to a prescribed body] from decisions made by virtue of paragraph (2) or (3).

[
^{F32}(3AA) Regulations making provision as to the matters referred to in paragraph (3A) may in particular make provision—

- (a) as to the members of the body, including the terms and conditions of their appointment;
 - (b) for the payment of fees and allowances to members of the body.]

- (3B) Regulations under Article 63 shall be framed as to preclude—

- (a) a person included in a list under paragraph (2)(za), and

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(b) an employee of such a person,
from taking part in the decision whether an application such as is mentioned in paragraph (2)(b) should be granted or an appeal against such a decision brought by virtue of paragraph (3A) should be allowed.]

^{F33}(4)

^{F33}(5)]

- F21** Art. 63AA inserted (26.3.2008) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2008](#) (c. 2), **ss. 10(3)**, 18(1)(a)
- F22** Art. 63AA(1) repealed (13.6.2016) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016](#) (c. 26), ss. 11(2), 20(2), **Sch. 2 Pt. 1**
- F23** Words in art. 63AA(2) substituted (13.6.2016) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016](#) (c. 26), **ss. 11(3)**, 20(2)
- F24** Art. 63AA(2)(za) inserted (13.6.2016) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016](#) (c. 26), **ss. 11(4)**, 20(2)
- F25** Words in art. 63AA(2) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 34(2)**; S.R. 2022/102, art. 2(b)
- F26** Words in art. 63AA(3) substituted (13.6.2016) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016](#) (c. 26), **ss. 11(3)**, 20(2)
- F27** Words in art. 63AA(3) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 34(3)(a)**; S.R. 2022/102, art. 2(b)
- F28** Words in art. 63AA(3)(c) substituted (31.12.2020) by [The European Qualifications \(Pharmacists\) \(Amendment etc.\) \(EU Exit\) Regulations \(Northern Ireland\) 2019](#) (S.I. 2019/585), reg. 1(2), **Sch. para. 25** (with Pt. 3) (as amended by S.I. 2020/1394, reg. 20(7)); 2020 c. 1, Sch. 5 para. 1(1)
- F29** Words in art. 63AA(3) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 34(3)(b)**; S.R. 2022/102, art. 2(b)
- F30** Art. 63AA(3A)(3B) inserted (13.6.2016) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016](#) (c. 26), **ss. 11(5)**, 20(2)
- F31** Words in art. 63AA(3A) inserted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 34(4)**; S.R. 2022/102, art. 2(b)
- F32** Art. 63AA(3AA) inserted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 34(5)**; S.R. 2022/102, art. 2(b)
- F33** Art. 63AA(4)(5) repealed (13.6.2016) by [Health \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2016](#) (c. 26), ss. 11(6), 20(2), **Sch. 2 Pt. 1**

^{F34}**Additional pharmaceutical services**

63A.—(1) The Department may make arrangements for the provision of additional pharmaceutical services.

(2) The arrangements—

- (a) may be made on such terms as the Department thinks appropriate;
- (b) may impose, on any person providing a service in accordance with the arrangements, such conditions as the Department thinks appropriate.

(3) But the arrangements must secure that any service to which they apply is provided only by a person whose name is included in a pharmaceutical list.

(4) Different arrangements may be made with respect to—

- (a) different services;
- (b) the provision of the same service by the same person but in different circumstances;

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- (c) the provision of the same service by different persons.
- (5) The Department must provide details of any proposed arrangements (including the remuneration to be offered for the provision of services) to any person who asks for them.
- (6) The Department must publish such details as it thinks appropriate of arrangements under this Article—
 - (a) in the Drug Tariff, or
 - (b) in such other manner as it thinks appropriate.
- (7) In this Article—
 - “additional pharmaceutical services” means services of a kind that do not fall within Article 63;
 - “Drug Tariff” means the Drug Tariff published under regulation 9 of the Pharmaceutical Services Regulations (Northern Ireland) 1997 or under any corresponding provision replacing, or otherwise derived from, that regulation;
 - “pharmaceutical list” means, subject to the arrangements made, a list—
 - (a) published by the Department in accordance with regulations made under Article 63AA(2) (za); or
 - (b) published by any body in accordance with regulations made under—
 - (i) section 27(3)(a) of the National Health Service (Scotland) Act 1978,
 - (ii) section 129(2)(a) of the National Health Service Act 2006,
 - (iii) section 83(2)(a) of the National Health Service (Wales) Act 2006, or
 - (iv) any provision of the law of Scotland or England and Wales that re-enacts (with or without amendment) any of those sections.]

F34 Art. 63A substituted for art. 63A, 63B (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 35](#); S.R. 2022/102, [art. 2\(b\)](#)

Terms and conditions etc.

F34 63B.

F34 Art. 63A substituted for art. 63A, 63B (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), s. 8(1)(b), [Sch. 1 para. 35](#); S.R. 2022/102, [art. 2\(b\)](#)

Persons authorised to provide pharmaceutical services

- 64.**—^{F35}(1) Except as provided^{F36} by or under regulations], an arrangement shall not be made by ^{F37}the Department] —
- (a) with a medical or dental practitioner, under which he is required or agrees to provide pharmaceutical services to any person to whom he is rendering^{F38} primary medical services] or general dental services; or
 - (b) with a person who is not a pharmacist, for the dispensing of medicines.

^{F39}(1A) Regulations shall provide for the preparation and publication by ^{F40}the Department] of one or more lists of medical practitioners who are required or agree to provide drugs, medicines or listed appliances ^{F41}....

(1B) In paragraph (1A) “listed” has the same meaning as in Article 63.

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(1C) The regulations shall include provision for the removal of an entry from a list in prescribed circumstances.]

[
^{F42}(2) No arrangements for the provision of pharmaceutical services falling within Article 63(1) (c)]^{F43}, or additional pharmaceutical services provided in accordance with ^{F44}... Article 63A,] shall be made with persons other than those who are pharmacists or are of a prescribed description.]]

- F35** 1991 NI 1
- F36** 1986 NI 20
- F37** Words in art. 64(1) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 36(2)**; S.R. 2022/102, art. 2(b)
- F38** 2004 NI 2
- F39** 1997 NI 7
- F40** Words in art. 64(1A) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 36(2)**; S.R. 2022/102, art. 2(b)
- F41** Words in art. 64(1A) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 36(3)**; S.R. 2022/102, art. 2(b)
- F42** 1991 NI 1
- F43** 1997 NI 7
- F44** Words in art. 64(2) omitted (1.4.2022) by virtue of [Health and Social Care Act \(Northern Ireland\) 2022](#) (c. 3), s. 8(1)(b), **Sch. 1 para. 36(4)**; S.R. 2022/102, art. 2(b)

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Changes and effects yet to be applied to :

- Instrument amended by [1995 c. 51 s.4Sch. para.30](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- art. 56(4C)(4D) substituted by [S.I. 2002/3135 Sch. 1 para. 16](#) (This amendment has not been applied as it has been superceded by the substitution of art. 56 by 2004/311 NI 2 art. 3)
- art. 61-61E and art. 61F and cross-heading substituted for art. 61 by [2008 c. 2 \(N.I.\) s. 2\(2\)](#) (This amending provision is itself amended (13.6.2016) before it comes into force by 2016 c. 26 (N.I.), ss. 9, 20(2))
- art. 98(3) added by [2008 c. 2 \(N.I.\) s. 4\(1\)](#)
- art. 107(1A) inserted by [2008 c. 2 \(N.I.\) s. 4\(4\)\(b\)](#)