

2003 No. 64

NATIONAL HEALTH SERVICE

**The National Health Service (General Medical Services
Supplementary Lists) (Scotland) Regulations 2003**

Made 5th February 2003

Laid before the Scottish Parliament 6th February 2003

Coming into force in accordance with regulations 1(1) and (2)

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The Scottish Ministers, in exercise of the powers conferred by sections 19, 24B, 24C(2) and 105(7) of the National Health Service (Scotland) Act 1978(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the National Health Service (General Medical Services Supplementary Lists) (Scotland) Regulations 2003 and, subject to paragraph (2), come into force on 28th February 2003.

(2) Regulation 15(b) will come into force on 1st August 2003.

(3) These Regulations extend to Scotland only.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“the 1995 Regulations” means the National Health Service (General Medical Services) (Scotland) Regulations 1995(b);

“the Agency” means the Common Services Agency for the Scottish Health Service constituted under section 10 of the Act;

“the Act” means the National Health Service (Scotland) Act 1978;

“Area Medical Committee” means the committee of that name recognised under section 9 of the Act in whose area services under these Regulations are provided;

“Area Pharmaceutical Committee” means the committee of that name recognised under section 9 of the Act in whose area service under these Regulations are provided;

“Board” means a Health Board or a National Health Service trust having functions under section 19(1) of the Act;

“child health surveillance services” means the medical services set out in Schedule 3 to the 1995 Regulations;

“contraceptive services” means—

- (i) the giving of advice to women on contraception,
- (ii) the medical examination of such women,
- (iii) the contraceptive treatment of such women, and
- (iv) the supply to such women of contraceptive substances and appliances;

“Drug Tariff” has the meaning assigned to it in regulation 9 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995(c);

“EEA state” means a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992(d) as adjusted by the Protocol signed at Brussels on 17th March 1993(e);

“GP Registrar” means a doctor who is being trained in general practice by a doctor whose name is included in a medical list;

“maternity medical services” has the meaning assigned to it by regulation 2(1) of the 1995 Regulations;

“medical practitioner” means a registered medical practitioner;

“Medical Register” shall be construed in accordance with section 34 of the Medical Act 1983(f);

“minor surgery services” has the meaning assigned to it by regulation 2(1) of the 1995 Regulations;

(a) 1978 c.29. Section 19 was amended by the Health Services Act 1980 (c.53) (“the 1980 Act”), section 7, the Health and Social Services and Social Security Adjudications Act 1983 (c.41) (“the 1983 Act”), Schedule 7, paragraph 2, the Medical Act 1983 (c.54) Schedule 5, paragraph 17(c) and the National Health Service and Community Care Act 1990 (c.19), section 37 and is to be read with the Health and Medicines Act 1988 (c.49) section 17; section 24B and 24C(2) was inserted by section 18(2) of the Community Care and Health (Scotland) Act 2002 (asp 5); section 105(7) was amended by the 1980 Act, Schedule 6, paragraph 5 and Schedule 7 and by the 1983 Act, Schedule 9 paragraph 24; section 108(1) defines “prescribed” and “regulations”.

(b) S.I. 1995/416; amended by S.I. 1995/3199, 1996/842, 1504, 1997/943, 1473, 1998/4, 660, 1600, 1667, 1999/749, 1057, and 1999/1620 and by S.S.I. 2000/28, 153 and 2003/11.

(c) S.I. 1995/414.

(d) Command Paper 2073 and O.J. No. L 1, 3.1.1994, p.3.

(e) Command Paper 2183 and O.J. No. L 3, 1 1994, p.572.

(f) 1983 c.54.

“nationally disqualified” means disqualified for inclusion in all lists by the Tribunal in accordance with section 29(3) of the Act or in accordance with any corresponding provisions in force in England, Wales or Northern Ireland;

“nurse prescriber” has the meaning assigned to it by regulation 1(1A) of the 1995 Regulations;

“pharmacist” means a registered pharmacist within the meaning of the Medicines Act 1968(a) who provides pharmaceutical services, or a person lawfully conducting a retail pharmacy business in accordance with section 69 of that Act who provides such services;

“principal” means the medical practitioner, who is assisted in the provision of general medical services by a person whose name is included in a supplementary list;

“relevant service” means whole time service in the armed forces of the Crown in a national emergency, as a volunteer or otherwise, or compulsory whole-time service in those forces, including any service resulting from any reserve liability, or any equivalent service by a person liable for compulsory whole-time service in those forces;

“scheduled drug” means a drug or other substance specified in Schedule 10 or, except where the conditions specified in paragraph 10(2) of Schedule 1 to these Regulations are satisfied, Schedule 11 to the 1995 Regulations;

“suspended” means suspended as respects the provision of general medical services by a direction of the Tribunal made pursuant to section 32A(2) or 32B(1) of the Act or under or by virtue of any provisions corresponding thereto in England, Wales or Northern Ireland;

“Tribunal” means the Tribunal constituted under section 29 of the Act.

Supplementary lists

3. A medical practitioner whose name is included in a supplementary list shall comply with the terms and conditions for inclusion in a supplementary list set out in Schedule 1 to these Regulations.

Contents of supplementary lists

4.—(1) Each Board shall prepare a supplementary list of all medical practitioners approved by it to assist in the provision of general medical services which it has arranged in accordance with section 19(1) of the Act.

(2) A medical practitioner’s name may be included in a supplementary list for the purpose of assisting in the provision of general medical services which may include either or both of the following:—

- (a) child health surveillance services;
- (b) minor surgery services.

(3) A supplementary list shall contain—

- (a) the name and professional registration number in the Medical Register of each medical practitioner approved;
- (b) if appropriate, the services set out in paragraph (2)(a) or (b) which each such medical practitioner will provide; and
- (c) provided that the medical practitioner consents to its inclusion, the practitioner’s date of birth or, if there is no consent, the date of first full registration as a medical practitioner (whether pursuant to the Medical Act 1983 or otherwise).

Amendment of or withdrawal from supplementary list

5.—(1) A medical practitioner shall, unless it is impracticable to do so, give notice to the Board within 30 days of any occurrence requiring a change in the information recorded in the supplementary list.

(2) A medical practitioner shall, unless it is impracticable to do so, give notice in writing to the Board at least 90 days in advance of any date on which the practitioner intends either—

- (a) to withdraw from the supplementary list; or
- (b) to cease to assist in providing child health surveillance services, or minor surgery services.

(a) 1968 c.67.

- (3) Subject to paragraph (5) the Board shall—
- (a) on receiving notice from any practitioner pursuant to paragraph (1), so amend the supplementary list; and
 - (b) in the case of a notice pursuant to paragraph (2), so amend the supplementary list, either—
 - (i) on the date which falls 90 days after the date of the notice or, if later, the date with effect from which the practitioner has indicated in the notice pursuant to paragraph (2) of withdrawal; or
 - (ii) on the date from which the Board has agreed that the withdrawal or cessation shall take effect,whichever is the earlier.
- (4) Any notice pursuant to paragraph (2) may not be withdrawn except with the consent of the Board.

Removal from supplementary list of names of medical practitioners not providing services

6.—(1) Where a Board, with a view to securing that arrangements are such that all persons in the area who avail themselves of general medical services receive adequate personal care and attendance, has determined in accordance with the provisions of this regulation that a medical practitioner whose name is included in a supplementary list has for the preceding 12 months not assisted in the provision of general medical services personally for persons in the area, it may, after giving 30 days' notice in writing of its intention to do so, remove the practitioner's name from such list, unless the Scottish Ministers direct to the contrary, in accordance with the following provisions.

(2) In calculating the period of 12 months referred to in paragraph (1) the Board shall disregard any period during which the medical practitioner was suspended

- (3) If in the case of a medical practitioner whose name is included in the supplementary list—
- (a) a Board has determined that the practitioner has not for the preceding 12 months assisted in the provision of general medical services personally for persons in the area, and
 - (b) section 19(7) (which deals with suspension of the registration of a doctor) of the Act applies,

the Board may after giving the medical practitioner 30 days' notice in writing of its intention to do so, remove his name from the supplementary list, unless the Scottish Ministers direct to the contrary, in accordance with the following provisions.

(4) Before making any determination under paragraphs (1) or (3) the Board shall afford the medical practitioner an opportunity to make representations to it in writing or, if requested, orally, to a committee appointed by the Board for the purpose, of which committee at least one-third of the members shall be medical practitioners.

(5) A medical practitioner to whom notice has been given under paragraphs (1) or (3) may within 21 days of receiving such notice appeal to the Scottish Ministers against the decision of the Board and, pending the decision on any such appeal, the Board shall not remove the practitioner's name from the list by reason of the determination against which appeal has been so lodged. The notice of appeal shall be in writing and shall set out the facts and contentions on which the practitioner intends to rely. If the Scottish Ministers allow the appeal, they shall direct the Board not to remove the name of the practitioner from the list by reason of the determination appealed against.

(6) Nothing in this regulation shall affect a medical practitioner who is performing a period of relevant service and no determination under this regulation shall be made in respect of any such doctor until 6 months after he has completed the said relevant service.

Removal from supplementary list on grounds of death etc.

7. Where a Board determines that a medical practitioner whose name has been included in a supplementary list—

- (a) has died;
- (b) is no longer a medical practitioner;
- (c) is the subject of a direction given by the Professional Conduct Committee under section 36 of the Medical Act 1983 (erasure of name from the register or suspension of

registration) or of an order made by that Committee under section 38(1) of that Act (immediate suspension);

- (d) has been convicted in the United Kingdom of murder; or
- (e) has been convicted in the United Kingdom of a criminal offence and sentenced to a term of imprisonment of at least six months,

it shall remove the practitioner's name from the supplementary list with effect from the date of its determination or, in the case of (c) above, the date on which the direction or order takes effect, if that date is later than the date of the Board's determination.

Application for inclusion in supplementary list

8.—(1) Application by a medical practitioner for inclusion in a supplementary list shall be made to the appropriate Board in writing and shall include the information and undertakings specified in Schedule 2 to these Regulations.

(2) An application under this regulation by a medical practitioner who is a national of an EEA state shall be accompanied by evidence that the doctor has a knowledge of English which, in the interests of himself and his patients, is necessary for assisting in the provision of general medical services.

(3) A medical practitioner may apply to be approved to assist in the provision of child health surveillance services or minor surgery services at the same time as the practitioner applies for inclusion in the supplementary list.

- (4) Where paragraph (3) applies the applicant shall provide—
- (a) details of medical experience and qualifications relevant to any such services after first date of registration; and
 - (b) where practicable, at least one reference relative to such experience in relation to any such services.

(5) A Board shall consider and determine an application to assist in the provision of any such services at the same time as it considers and determines an application under paragraph (1) and shall give reasons for its determination.

Consideration of applications

9.—(1) Before determining an application in accordance with this regulation, a Board shall check, so far as practicable, the information provided by the applicant and any relevant documents.

- (2) A Board shall refuse to include the name of an applicant in its supplementary list if—
- (a) it is not satisfied that the applicant either is suitably experienced within the meaning of section 21 of the Act or is a GP Registrar;
 - (b) it is not satisfied that he has the knowledge of English which, in the applicant's own interests and those of patients, is necessary for assistance in the provision of general medical services;
 - (c) the applicant has been convicted in the United Kingdom of murder;
 - (d) the applicant has been convicted in the United Kingdom of a criminal offence and sentenced to a term of imprisonment of at least six months;
 - (e) the applicant has been nationally disqualified; or
 - (f) having contacted referees provided by the applicant, it is not satisfied with the references.

(3) If a Board refuses to include an applicant's name in its list, it shall notify the applicant of its decision and the reasons for it (including any facts on which it has relied) and of any right of appeal under regulation 14.

- (4) A Board shall defer determination of an application for inclusion in a supplementary list—
- (a) where the applicant is the subject of criminal proceedings in the United Kingdom, conviction in respect of which would be likely to lead to refusal to include in, or removal from, a supplementary list;
 - (b) where the applicant is the subject of investigation or proceedings relating to the applicant's professional conduct by any regulatory body in the United Kingdom the outcome of which could result in refusal to include in, or removal from, a supplementary list;

- (c) where the applicant is the subject of proceedings in the United Kingdom which could result in the applicant being removed, or suspended, from a medical list or any corresponding or similar list in England, Wales or Northern Ireland;
 - (d) where the applicant is suspended; or
 - (e) where the applicant has appealed against a suspension referred to in sub-paragraph (d),
- and the Board shall notify the applicant of the deferral and its reasons in writing.

(5) A Board shall defer a determination under paragraph (4) only until the outcome of the relevant event is known.

(6) Once the outcome of the relevant event is known, the Board shall require the applicant to update the application within 28 days (or such longer period as the Board specifies) with any further relevant information and on the expiry of the relevant period shall again consider the application and notify the applicant of its determination and the reasons for it (including any facts relied on) and any right of appeal.

Reinclusion in supplementary list

10. Where a medical practitioner's name has been removed from a supplementary list on grounds of conviction of a criminal offence and that conviction is overturned on appeal, the Board may include that medical practitioner's name in its supplementary list without a full application being made in accordance with regulation 8 if it is satisfied that there are no other matters which it should consider and provided that it receives undertakings to comply with these Regulations.

Publication of particulars

11.—(1) A Board shall make available for inspection at its office copies of—

- (a) the supplementary list; and
- (b) the terms and conditions for medical practitioners included the supplementary list as set out (from time to time) in Schedule 1 to these Regulations,

and shall keep them up-to-date.

(2) A Board may make either of the documents described in paragraph (1) available for inspection at such other places as appear convenient for informing all persons interested, or may publish at such places a notice of the places and times at which copies of any of those documents may be inspected.

(3) Subject to paragraph (4), the Board shall—

- (a) send a copy of the supplementary list to the Scottish Ministers, the Area Medical Committee and the Area Pharmaceutical Committee and to all pharmacists providing pharmaceutical services in the area; and
- (b) at intervals of not more than 90 days notify them of any alterations.

(4) If the Board considers that only parts of the medical list, or that only some alterations, are likely to concern the Area Medical and Pharmaceutical Committees or pharmacists, it may send to them a copy of those parts or alterations only.

Arrangements for supply of drugs and appliances

12. Where a Board has required a principal, in accordance with regulation 34 of the 1995 Regulations (arrangements for supply by doctors of drugs and appliances), to supply drugs and appliances to a person for whose treatment he is responsible, a medical practitioner who assists that principal in the supply of such drugs and appliances shall comply with any requirement imposed on the principal by the Board or by these Regulations.

Payments

13.—(1) Where the Agency considers that—

- (a) a payment made by it in accordance with regulation 35 of the 1995 Regulations was not due; and
- (b) a medical practitioner whose name is included in a supplementary list has assisted in relation to any matter related to the claim made in respect of it,

the Board may draw the overpayment to the attention of that practitioner and invite that practitioner to make representations in relation to it or the assistance which that practitioner may have rendered.

(2) Where the Board decide that there has been an overpayment for which the practitioner is responsible, in whole or in part, the amount overpaid or such part shall be recoverable from the practitioner as a debt.

Appeal to the Scottish Ministers

14.—(1) A medical practitioner whose—

- (a) application for inclusion in a supplementary list is refused under regulation 9; or
- (b) application to be approved to assist in the provision of services under regulation 8(3) is refused,

may appeal on a point of law to the Scottish Ministers.

(2) A practitioner may appeal by sending to the Scottish Ministers a notice of appeal within 21 days, or within such longer period as the Scottish Ministers may for reasonable cause allow, of the date on which notice of the decision of the Board is given to that practitioner.

(3) A notice of appeal shall contain a concise statement of the point or points of law in respect of which the practitioner contends that the decision of the Board is erroneous.

(4) If it appears to the Scottish Ministers that the appeal is of such a nature that it can properly be determined without a hearing, they may determine the appeal summarily without a hearing and shall send their decision to the appellant and the Board.

(5) If the Scottish Ministers are of the opinion that a hearing is required, they shall appoint—

- (a) a person who is an advocate or a solicitor; and
- (b) where they see fit, one or more other persons,

to hear the appeal.

(6) A hearing shall take place at such time and place as the Scottish Ministers may direct and notice of the hearing shall be sent by post to the appellant and the Board not less than 14 days before the date fixed for the hearing.

(7) The appellant may attend and be heard in person or by counsel or solicitor or other representative and the Board may be represented at the hearing by any duly authorised member or official or by counsel or solicitor.

(8) Subject to the provisions of this regulation, the procedure at the hearing shall be such as the person or persons hearing the appeal may determine.

(9) The person or persons hearing the appeal shall report thereon to the Scottish Ministers, stating the relevant facts and conclusions, and the Scottish Ministers after taking such report into consideration shall give their decision and send it to the appellant and the Board.

(10) Where, on allowing an appeal, the Scottish Ministers remit an application to the Board for reconsideration—

- (a) they shall give to the Board such directions as appear to them to be desirable with a view to ensuring the proper determination of the application in accordance with the relevant law; and
- (b) the Board shall redetermine the application and in so doing shall comply with any directions given by the Scottish Ministers under sub-paragraph (a).

Consequential amendments

15. Schedule 1 to the 1995 Regulations is amended as follows—

- (a) in paragraph 18(1) there is inserted after “sub-paragraph (2),” “(2A),”;
- (b) after paragraph 18(2) there is inserted—

“(2A) The practitioner shall only appoint an assistant or deputy whose name is included in the appropriate medical list or supplementary list.”;

- (c) in paragraph 18(5) there is inserted after “sub-paragraph (6),” “or (6AA)”;
- (d) there is inserted after paragraph 18(6A),

“(6AA) Where a doctor whose name is included in the supplementary list of a Board or primary care NHS trust assists another doctor whose name is included in the medical list of that Board or trust in the provision of general medical services, the first named doctor shall alone be responsible for his acts and omissions in relation to the obligations under the terms and conditions applying by virtue of the inclusion of that doctor’s name in that supplementary list and for the acts and omissions of any person employed or acting on behalf of that doctor.”.

(e) in paragraph 19 there is inserted after sub-paragraph (2)(a)(iv)–

“and

(v) will be included in the appropriate medical list or supplementary list; and”.

St Andrew’s House,
Edinburgh
5th February 2003

MALCOLM CHISHOLM
A member of the Scottish Executive

SCHEDULE 1

TERMS AND CONDITIONS FOR MEDICAL PRACTITIONERS INCLUDED IN
SUPPLEMENTARY LIST**Interpretation**

1. In this Schedule, unless the context otherwise requires—
- “practitioner” means a medical practitioner whose name is included in a supplementary list;
- “patient” means a person for whose treatment a practitioner is responsible under paragraph 3 of these terms of service;
- “prescription form” means a form provided by the Board or, where the doctor is on the supplementary list of more than one Board, by the Board which is responsible for the supply of that form for issue by a doctor to enable a person to obtain pharmaceutical services as defined by section 27 of the Act;
- “the 2001 Regulations” means the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001(a).

Incorporation of provisions of regulations, etc.

2. Any provisions of the following affecting the rights and obligations of practitioners shall be deemed to form part of these terms of service:—
- (a) these Regulations; and
 - (b) any Statement made under regulation 35 of the 1995 Regulations.

Performance of services

3.—(1) A practitioner shall be responsible for the treatment of such of the principal’s patients as the principal requires and subject to and in accordance with any requirements or conditions imposed on the principal by the 1995 Regulations; and the practitioner shall in so assisting be expected to display the skill, knowledge and care appropriate to the nature of the assistance which the practitioner provides.

(2) The skill, knowledge and care which a practitioner shall be expected to display in any circumstances required by this Schedule shall not be higher than that which a principal might reasonably be expected to exercise.

(3) If requested to provide treatment, and available, a practitioner shall provide treatment immediately required, by reason of accident or other emergency, to a person who is not on the list of, and who has not been accepted as a temporary resident by or assigned to, any medical practitioner practising in the locality, or who is on the list of or has been accepted as a temporary resident by or assigned to, such a practitioner, but neither the said practitioner nor any deputy who may have been appointed is available.

(4) Notwithstanding anything contained in this paragraph, a practitioner shall not be responsible under these terms of service for the treatment in hospital of a person admitted thereto for treatment by the staff of the hospital.

(5) In its application to a practitioner who is a GP Registrar, this paragraph shall only require the performance of services under the supervision, or in accordance with the instructions, of the principal and the level of skill, knowledge and care expected shall only be that normally expected of a GP Registrar at the appropriate level of training.

Services to patients

4.—(1) Subject to paragraphs 3, 5 and 10, a practitioner shall provide to the principal’s patients all necessary and appropriate medical services of the type usually provided by general medical practitioners.

(a) S.S.I. 2001/430.

(2) The services which a practitioner is required by sub-paragraph (1) to provide shall include—

- (a) the administration of anaesthetics or the provision of any other assistance at an operation performed by, and of the kind usually performed by, a general medical practitioner;
- (b) where appropriate, giving advice personally to patients, either individually or in groups, relating to their general health, and in particular on the significance of diet, exercise, the use of tobacco, the consumption of alcohol and the misuse of drugs and solvents;
- (c) offering to patients consultations and where appropriate, physical examinations for the purpose of identifying, or reducing the risk of, disease or injury;
- (d) offering to patients, where appropriate, vaccination or immunisation against Measles, Mumps, Rubella, Pertussis, Poliomyelitis, Diphtheria and Tetanus;
- (e) arranging for the referral of patients, as appropriate, for the provision of any other services provided under the Act; and
- (f) giving advice, as appropriate, to enable patients to avail themselves of social work services provided by a local authority.

(3) A practitioner shall not be required under sub-paragraph (1) or (2) to provide to any person—

- (a) services which involve the application of such special skill or experience of a degree or kind which general medical practitioners as a class cannot reasonably be expected to possess;
- (b) the administration of an anaesthetic at an operation performed by a medical practitioner in the course of providing maternity medical services; or
- (c) child health surveillance services or minor surgery services unless the practitioner has previously applied for and been authorised to assist in the provision of such services.

(4) In the case of emergency, the practitioner is required to render whatever services are, having regard to the circumstances, in the best interest of the patient.

(5) In determining whether a particular service involves the application of such special skill and experience as aforesaid, regard is to be had to the question whether services of the kind are or are not usually undertaken by general medical practitioners practising in the area in which the question arose.

Treatment of patients

5.—(1) If the condition of a patient is such that the patient requires treatment which is not within the scope of the practitioner's obligations under these terms of service, but such treatment is to the knowledge of the practitioner available under the National Health Service, the practitioner shall inform the patient of the fact and if the patient so wishes, shall take all necessary steps to enable the patient to receive such treatment. The practitioner shall also give patients such advice or assistance as the practitioner considers appropriate to enable them to take advantage of other medical services available under the National Health Service.

(2) Subject to the following provisions of this paragraph, a practitioner shall render the services referred to in paragraph 4 during the hours for which the principal is normally available (in this paragraph referred to as "normal hours") in accordance with paragraph 24 of Schedule 1 to the 1995 Regulations—

- (a) at the practice premises; or
- (b) in the case of a patient whose condition is such that in the practitioner's reasonable opinion it would be inappropriate for the patient to attend at the practice premises, at whichever is appropriate of the places set out in paragraph 13(5) of Schedule 1 to the 1995 Regulations.

(3) Outside normal hours the practitioner shall consider, in the light of the patient's medical condition, whether a consultation is needed, and if so, when and where it should take place having regard to the requirements imposed on the principal under paragraph 13 of Schedule 1 to the 1995 Regulations.

(4) A practitioner shall issue to a patient or the patient's personal representatives free of charge any certificate of a description prescribed in the first column of Schedule 9 to the 1995 Regulations which is reasonably required under or for the purposes of the enactments specified in

the second column of the said Schedule opposite and in relation to the description of the certificate in the first column.

(5) The provisions of sub-paragraphs (2) and (3) above shall not apply in the case of a patient who attends when an appointment system is in operation and who has not previously made, and is not given, an appointment. In such a case the practitioner may decline to attend the patient during that surgery period, if the patient's health would not thereby be jeopardised and the patient is offered an appointment to attend within a reasonable time having regard to all circumstances. The practitioner shall take all reasonable steps to ensure that a consultation is not so deferred except in accordance with his instructions.

Prescribing and dispensing

6.—(1) Subject to sub-paragraph (2), a practitioner shall supply any drugs, not being a scheduled drug, or appliances for the immediate treatment of a patient if such treatment is necessary before a supply can be obtained otherwise, and may supply any other drug, not being a scheduled drug, which the practitioner administers in person, or an appliance listed in the Drug Tariff or a pessary which is an appliance.

(2) A practitioner shall supply a restricted availability appliance only if it is for a patient in a category of person specified in the Drug Tariff.

(3) Where the principal is required by the Board to supply drugs and appliances under regulation 34 of the 1995 Regulations to a patient, in the course of treating that patient under these terms of service a practitioner—

- (a) shall, subject to paragraph 7, record on a prescription form completed in accordance with paragraph 9(2), an order for supply of any drugs or appliances which are needed for the treatment of that patient, but shall not be required to issue that form to the patient;
- (b) shall supply those drugs and appliances for that patient but—
 - (i) shall not supply for that patient any scheduled drug except that, where the practitioner has ordered a drug which has an appropriate non-proprietary name either by that name or by its formula, a drug may be supplied which has the same specification notwithstanding that it is a scheduled drug (but, in the case of a drug which combines more than one drug, only if the combination has an appropriate non-proprietary name);
 - (ii) shall supply for that patient a drug specified in Schedule 11 to the 1995 Regulations only where the conditions in paragraph 10 are satisfied;
 - (iii) shall supply for that patient a restricted availability appliance only if it is for a patient in a category of person or purpose specified in the Drug Tariff;
- (c) may supply for that patient with his consent, in respect of that treatment but otherwise than in accordance with regulation 34 of the 1995 Regulations, any scheduled drug.

(4) A practitioner shall comply with any arrangements made by the Scottish Ministers, or made by the Board after consultation with the Area Medical Committee and the Area Pharmaceutical Committee and approved by the Scottish Ministers, under which the principal may obtain and have available any drugs or appliances which are required or entitled to be supplied in terms of this paragraph.

(5) A drug supplied by a practitioner unless administered in person shall be supplied in a suitable container.

7.—(1) Paragraph 9(2) does not apply to drugs, medicines or appliances ordered in a prescription form by a nurse prescriber.

(2) Where a patient presents an order on a prescription form for listed drugs or medicines, or listed appliances, signed by a nurse prescriber, to a practitioner whose principal is required under regulation 34 of the 1995 Regulations to provide drugs or appliances to that patient, the practitioner may provide to the patient such of the drugs, medicines or appliances so ordered as are supplied in the normal course of practice.

(3) A drug supplied under this paragraph shall be provided in a suitable container.

8.—(1) Before supplying the drugs or appliances recorded on a prescription form in accordance with paragraph 6(3)(a) or providing the listed drugs or medicines or listed appliances ordered on a prescription form signed by a nurse prescriber in accordance with paragraph 7(2) a practitioner whose principal is required by the Board under regulation 34 of the 1995 Regulations to provide drugs or appliances to a patient shall request any person who makes a declaration on the prescription form claiming either charge exemption under regulation 7 of the 2001 Regulations or charge remission under the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988(a) to provide evidence of the patient's entitlement to such exception or remission.

(2) Sub-paragraph (1) shall not apply in respect of claims for exemption under regulation 7(1)(a) to (g) of the 2001 Regulations where the dispensing practitioner has information in his possession at the time of supplying the item which confirms that the patient is entitled to the exemption claimed.

(3) Where the person presenting the prescription form does not show valid evidence of entitlement and the dispensing practitioner, in respect of a claim for exemption made under regulation 7(1)(a) to (g) of the 2001 Regulations does not have evidence to confirm that the patient is entitled to make that claim, the dispensing practitioner shall mark the patient's prescription form accordingly before supplying the prescribed item.

9.—(1) Subject to paragraphs 6 and 10 a practitioner shall order any drugs or appliances which are needed for the treatment of any patient to whom treatment is provided under these terms of service by issuing for that patient a prescription form, and such a form shall not be used in any other circumstances.

(2) A prescription form shall be signed by the practitioner and shall not be written in such a manner as to necessitate reference on the part of the person supplying the drugs or appliances to a previous order, and in the case of an appliance which requires to be of a size suitable for the individual patient shall include the necessary measurements. A separate prescription form shall be used for each patient.

(3) In a case of urgency a practitioner may request a pharmacist to dispense a drug before a prescription form is issued, only if—

- (a) that drug is not a scheduled drug;
- (b) that drug is not a controlled drug within the meaning of the Misuse of Drugs Act 1971(b) other than a drug which is for the time being specified in Schedule 5 to the Misuse of Drugs Regulations 2001(c); and
- (c) in any case, the practitioner undertakes to furnish the pharmacist, within 72 hours, with a prescription form completed in accordance with sub-paragraphs (1) and (2).

(4) In the case of urgency a practitioner may request a pharmacist 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 other than a drug which is, for the time being, specified in Schedule 5 to the Misuse of Drugs Regulations 2001;
- (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 practitioner undertakes to furnish the pharmacist, within 72 hours, with a prescription form completed in accordance with sub-paragraphs (1) and (2).

10.—(1) In the course of treating a patient to whom treatment is provided under these terms of service, a practitioner shall not order on a prescription form a scheduled drug, but may with the consent of the patient otherwise prescribe such a drug or other substance for that patient in the course of that treatment.

(a) S.I. 1988/546; as amended by S.I. 1995/700, 1196/429, 2391 and 1997/1012 and S.S.I. 1999/63.

(b) 1971 c.38.

(c) S.I. 2001/3998.

- (2) In the course of treating such a patient, a practitioner shall not order on a prescription form a drug specified in Schedule 11 to the 1995 Regulations unless—
- (a) that patient is a person mentioned in column 2 of that entry; and
 - (b) that drug is prescribed for that patient only for the purpose specified in column 3 of that entry; and
 - (c) the practitioner endorses the face of that form with the reference “SLS”,
- but with the consent of the patient may otherwise prescribe such a drug for that patient in the course of that treatment.

Acceptance of fees

11.—(1) A practitioner shall not demand or accept any fee, remuneration or charge, other than payments due to the practitioner’s principal under the 1995 Regulations, or any charge payable in accordance with the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001, in respect of any treatment rendered or any drug or appliance supplied, whether under these terms of service or not, to a patient except—

- (a) from any statutory body for services rendered for the purpose of that body’s statutory functions;
- (b) from any school, employer or body for the medical examination of persons for whose welfare that school, employer or body is responsible, such examination being either a routine medical examination or for the purpose of advising the school, employer or body of any administrative action they might take;
- (c) for treatment not included within the range of service defined in paragraph 4 given—
 - (i) pursuant to the provisions of section 57 of the Act^(a) (accommodation and services for private patients), or
 - (ii) in a registered nursing home which is not providing services under the Act, if in either case the practitioner is serving on the staff of a hospital providing services under the Act as a specialist providing treatment of the kind required by the patient and if within 7 days after the date on which the treatment is given the practitioner gives the Board, on a form to be supplied by it for the purpose, such information about the treatment as it may require;
- (d) under section 158 of the Road Traffic Act 1988^(b);
- (e) from a dental practitioner in respect of the provision of an anaesthetic for a person for whom the dental practitioner is providing general dental services;
- (f) from the principal or other member of the principal’s practice in respect of the provision of an anaesthetic to a patient of theirs;
- (g) for attending and examining (but not otherwise treating) at a patient’s request at a police station;
- (h) for treatment consisting of an immunisation in connection with travel abroad when no fee is payable by the Board under the Statement referred to in regulation 35(1) of the 1995 Regulations;
- (i) for circumcising a patient for whom such an operation is requested on religious grounds and is not needed on any medical ground;
- (j) for providing a prescription (other than by way of an order under paragraph 9) for drugs for chemoprophylaxis or for medicine for a patient who intends to take the medicine abroad in circumstances where the medicine is required solely in respect of an ailment that might occur while the patient is abroad and that will then,
 - (i) be occurring for the first time; or
 - (ii) has previously occurred but from which the patient is not suffering at the time of going abroad;
- (k) for a medical examination to enable a decision to be made whether or not it is inadvisable on medical grounds for a person to wear a seat belt;
- (l) where the principal has been required by the Board to supply any drugs and appliances for a patient under regulation 34 of the 1995 Regulations and the practitioner supplies for that patient in accordance with paragraph 6(3)(c) any scheduled drug;

^(a) Section 57 was substituted by the Health and Medicines Act 1988 (c.49), section 7(11) and amended by the National Health Service and Community Care Act 1990 (c.19) Schedule 9, part 19(10) and Schedule 10.

^(b) 1998 c.52.

- (m) where the person is not one to whom any of paragraphs (a), (b) and (c) of section 26(1) of the Act^(a) applies, including any person to whom any of those paragraphs does not apply by virtue of regulations made under section 26(1E) of the Act^(b), for testing the sight of that person; and
- (n) for prescribing or providing drugs for malaria chemoprophylaxis.

(2) In this paragraph, the expression “treatment” includes the provision of medical services during and following pregnancy and labour in respect of conditions arising therefrom.

(a) Section 26 was amended by the Health and Social Security Act 1984 (c.48) Schedules 1 and 8 and by the Health and Medicines Act 1988 (c.49) section 13(4).

(b) Section 26(1E) was inserted by the Health and Medicines Act 1988 (c.49) section 13(4).

SCHEDULE 2

INFORMATION AND DECLARATIONS TO BE INCLUDED IN AN APPLICATION FOR INCLUSION IN A SUPPLEMENTARY LIST

1. An application shall contain the following information:—
 - (a) full name, sex, date of birth and private address and telephone number;
 - (b) medical qualifications and the institution which awarded them;
 - (c) where appropriate evidence concerning the applicant's qualifications and experience in accordance with the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998(a);
 - (d) professional registration number in the Medical Register and date of first registration;
 - (e) details of professional experience (including start and finish dates for each appointment together with explanation of gaps between appointments) divided into—
 - (i) general practice experience;
 - (ii) hospital appointments; and
 - (iii) other (including obstetric) experience,
 together with additional supporting particulars including reasons for dismissal from any post;
 - (f) details of any medical list (or equivalent or similar list in any country outside Scotland) from which the applicant has been removed or suspended or to which admission was refused together with reasons for removal, suspension or refusal;
 - (g) name and addresses of two referees who are willing to provide clinical references relating to two recent posts as a medical practitioner which lasted at least 3 months without a significant break and which may include a current post, or, where this is not possible a full explanation and an alternative referee or referees;
 - (h) such other information which the Board may reasonably require in order to determine the application; and
 - (i) whether in assisting in the provision of contraceptive services, intra uterine devices will be fitted.
2. An application shall contain the following declarations:—
 - (a) that the applicant's name is included in the Medical Register;
 - (b) whether the applicant has been convicted of a criminal offence, bound over or cautioned in the United Kingdom or elsewhere, and if so, as to approximate dates of what the action or proceedings were, or are to be, brought, the nature of that action or proceedings and any outcome;
 - (c) whether the applicant has been or is currently, subject to any action by any professional body, or by any licensing or regulatory body, in the United Kingdom or elsewhere, and if so, as to approximate dates of what the action or proceedings were, or are to be, brought, the nature of that action or proceedings and any outcome;
 - (d) whether the applicant has been, or is the subject of proceedings which might result in the applicant being removed or suspended from or refused admission to a medical list (or any equivalent or similar list in England, Wales or Northern Ireland);
 - (e) that the applicant consents to a request being made to any employer or former employer and any regulatory or other body, wherever they may be, for information relating to any of the matters referred to in this paragraph or paragraph (1);
 - (f) that in assisting in the provision of contraceptive services the applicant shall be guided by modern authoritative medical opinion and contraceptive practice; and
 - (g) that the applicant will comply with the National Health Service (General Medical Services Supplementary Lists) (Scotland) Regulations 2003.

(a) S.I. 1998/5.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the preparation and keeping, by Health Boards, of lists of medical practitioners approved to assist in the provision of general medical services. Under section 24B(3) of the National Health Service (Scotland) Act 1978 only practitioners whose names are included in such a list may assist in the provision of such services under arrangements made by Boards.

In particular the Regulations provide for—

- (a) terms and conditions of service (analogous to those applying to the principal provider of those services) with which persons whose names are included in such a list must comply (regulation 3 and Schedule 1);
- (b) the matters to be specified in a supplementary list (regulation 4);
- (c) changes in information listed or withdrawal from a list (regulation 5);
- (d) removal of names from a list when no assistance has been provided (regulation 6);
- (e) removal of names from a list on grounds of death, ceasing or suspension from practice and conviction for certain offences (regulation 7);
- (f) the form and content of application for inclusion of a name in a supplementary list (regulation 8 and Schedule 2);
- (g) the circumstances in which application must be refused or deferred (regulation 9);
- (h) reinclusion of a name in a supplementary list in certain circumstances (regulation 10);
- (i) the publication and updating of supplementary lists (regulation 11);
- (j) the arrangements for the supply of drugs and appliances by practitioners whose names are included in a supplementary list (regulation 12);
- (k) repayment of sums overpaid, by practitioners whose names are included in supplementary lists (regulation 13);
- (l) appeals against refusal of applications for inclusion of a name in a supplementary list and against refusal of approval to supply certain services (regulation 14); and
- (m) certain consequential amendments of the National Health Service (General Medical Services) (Scotland) Regulations 1995.

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