

SCHEDULE 5

OTHER CONTRACTUAL TERMS

PART 3

Prescribing and Dispensing

Provision of dispensing services

44.—(1) A contractor may secure the provision of dispensing services to its registered patients only if it is authorised or required to do so by the Health Board in accordance with this paragraph.

(2) Where the Health Board, is satisfied, after consultation with the area pharmaceutical committee, that a person, by reason of—

- (a) distance;
- (b) inadequacy of means of communication; or
- (c) other exceptional circumstances,

will have serious difficulty in obtaining from a pharmacist any drugs, medicines or appliances, other than scheduled drugs, required for that person's treatment, the Health Board shall require or authorise the contractor with whom the person is a registered patient to supply such drugs, medicines and appliances to that person until further notice.

(3) Notwithstanding anything contained in sub-paragraph (2)—

- (a) a contractor shall not be required to undertake the supply of drugs, medicines, and appliances under sub-paragraph (2) if the contractor satisfies the Health Board that the contractor is not in the habit of dispensing drugs, medicines, and appliances for the contractor's patients;
- (b) a contractor shall be entitled to receive reasonable notice from the Health Board that the contractor is required to undertake the supply of drugs, medicines and appliances under sub-paragraph (2) or that such supply is to be discontinued.

(4) Subject to sub-paragraph (6), a contractor, who is required by the Health Board to supply drugs, medicines and appliances under sub-paragraph (2) to a patient, in the course of treating that patient under these Regulations—

- (a) shall, subject to sub-paragraph (7), record on a prescription form completed in accordance with paragraph 39, an order for supply of any drugs, medicines or appliances which are needed for the treatment of that patient, but shall not be required to issue that form to that patient;
- (b) shall supply those drugs, medicines or appliances for that patient under sub-paragraph (2) but—
 - (i) shall not supply under sub-paragraph (2) for that patient any Scheduled drug specified as being a drug, medicine or other substance which may not be ordered for patients in the provision of medical services under the contract, except that, where the contractor has ordered a drug which has an appropriate non-proprietary name either by that name or by its formula, the contractor may supply a drug which has the same specification notwithstanding that it is such 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);

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- (ii) shall supply under sub-paragraph (2) for that patient any Scheduled drug specified as being a drug, medicine or other substance which may only be ordered for specific patients and purposes only where—
 - (aa) that patient is a person of the specified description; and
 - (bb) that drug, medicine or other substance is supplied to that patient only for the specified purpose;
 - (iii) shall supply under sub-paragraph (2) for that patient a restricted availability appliance only if it is for a patient in a category of person or a purpose specified in the Drug Tariff;
 - (c) may supply for that patient with the contractor's consent, in respect of that treatment but otherwise than under sub-paragraph (2), any Scheduled drug.
- (5) A contractor shall comply with any arrangements made by the Scottish Ministers, or made by the Health Board after consultation with the area medical committee (if any) and the area pharmaceutical committee and approved by the Scottish Ministers, under which the contractor may obtain and have available any drugs, medicines or appliances which the contractor is required or entitled to supply in terms of this paragraph.
- (6) Sub-paragraph (4) does not apply to drugs, medicines or appliances ordered on a prescription form by a supplementary prescriber or an independent nurse prescriber.
- (7) Where a patient presents an order on a prescription form for listed drugs or medicines, or appliances, signed by a supplementary prescriber or an independent nurse prescriber, to a contractor who is required under sub-paragraph (2) to provide drugs or appliances to that patient, the contractor may provide to the patient such drugs, medicines or appliances so ordered as the contractor supplies in the normal course of the contractor's practice.
- (8) A drug supplied by a contractor unless administered in person shall be supplied in a suitable container.
- (9) Before supplying the drugs, medicines or appliances recorded on a prescription form in accordance with sub-paragraph (4) or providing the drugs or medicines or appliances ordered on a prescription form signed by a supplementary prescriber or an independent nurse prescriber in accordance with sub paragraph (7) a contractor who is required by the Health Board under sub-paragraph (2) to provide drugs, medicines 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 National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001(1) ("the 2001 Regulations") or charge remission under the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No 2) Regulations 2003(2) to provide evidence of the patient's entitlement to such exemption or remission.
- (10) Sub-paragraph (9) shall not apply in respect of claims for exemption under regulation 7(1) (a) to (f) of the 2001 Regulations where the dispensing contractor has information in the contractor's possession at the time of supplying the item which confirms that the patient is entitled to the exemption claimed.
- (11) Where the person presenting the prescription form does not show valid evidence of entitlement and the dispensing contractor, in respect of a claim for exemption made under regulation 7(1)(a) to (f) of the 2001 Regulations does not have evidence in the contractor's possession to confirm that the patient is entitled to make that claim, the dispensing contractor shall mark the patient's prescription form accordingly before supplying the prescribed item.

(1) S.S.I. 2001/430, as amended by S.S.I. 2002/100 and 2003/130 and 295.
(2) S.S.I. 2003/460.

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(12) The provisions of regulation 24 (fees and charges) apply in respect of the provision of any drugs, medicines or appliances by a contractor providing dispensing services as they apply in respect of prescriptions for drugs, medicines or appliances.

(13) Nothing in this paragraph shall prevent a contractor providing a Scheduled drug or a restricted availability appliance in the course of treating a patient under a private arrangement.