

2007 No. 205

NATIONAL HEALTH SERVICE

**The National Health Service (Primary Medical Services Section
17C Agreements) (Scotland) Amendment Regulations 2007**

<i>Made</i> - - - -	<i>6th March 2007</i>
<i>Laid before the Scottish Parliament</i>	<i>8th March 2007</i>
<i>Coming into force</i> - -	<i>1st April 2007</i>

The Scottish Ministers in exercise of the powers conferred conferred by sections 17E, 28(1), 105(7), 106 and 108(1) 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 and commencement

1. These Regulations may be cited as the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Amendment Regulations 2007 and shall come into force on 1st April 2007.

Amendment of the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004

2.—(1) The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004(b) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) insert the following definitions in the appropriate alphabetical places—

“the 2007 Regulations” means the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2007(c);

“advanced electronic signature” means an electronic signature which is—

- (a) uniquely linked to the signatory;
 - (b) capable of identifying the signatory;
 - (c) created using means that the signatory can maintain under his or her sole control;
- and

(a) 1978 c.29; section 17E was inserted by the National Health Service (Primary Care) Act 1997 (c.46), section 22(2) and amended by the Health Act 1999 (c.8), Schedule 4, paragraph 47, and the Primary Medical Services (Scotland) Act 2004 (asp 1), section 2(4); section 28 was amended by the National Health Service (Amendment) Act 1986 (c.66), section 3(4) and the National Health Service and Community Care Act 1990 (c.18), Schedule 9, paragraph 19(8); section 105(7) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5(1) and Schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 9, Part I, paragraph 24 and the Health Act 1999 (c.8), Schedule 4, paragraph 60; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.S.I. 2004/116. There are no relevant amending instruments.

(c) S.S.I. 2007/139.

- (d) linked to the data to which it relates in such a manner that any subsequent change of data is detectable;
- “electronic communication” has the same meaning as in section 15 of the Electronic Communications Act 2000^(a);
- “electronic prescription form” means a prescription form as defined in paragraph (b) of the definition of “prescription form”;
- “electronic signature” has the meaning attributed to it in section 7(2) of the Electronic Communications Act 2000;
- “ePharmacy service” means the electronic system provided by the Agency by which electronic prescription forms are transmitted;
- “non-electronic prescription form” means a prescription form as defined in paragraph (a) of the definition of “prescription form”[”]; and
- (b) for the definition of “prescription form” substitute–
 - ““prescription form” means–
 - (a) a form provided by the Health Board and issued by a prescriber; or
 - (b) data that are created in an electronic form and which are signed with a prescriber’s advanced electronic signature and transmitted as an electronic communication through the ePharmacy service,
 to enable a person to obtain pharmaceutical services.”.
- (3) In paragraph (10) (prescribing) of Schedule 1 after “issued” insert “or created”.
- (4) In paragraph (11) (prescribing) of Schedule 1–
 - (a) in sub-paragraph (1) for “issuing” to the end, substitute–
 - “(a) issuing to that patient a non-electronic prescription form; or
 - (b) creating and transmitting an electronic prescription form,
 and such a non-electronic prescription form or electronic prescription form shall not be used in any other circumstances.”;
 - (b) in sub-paragraph (2)–
 - (i) for “such” substitute “non-electronic”;
 - (ii) omit from “,and:” to the end of the sub-paragraph;
 - (c) after sub-paragraph (2) insert–
 - “(2A) A prescription form shall not refer to any previous prescription form.
 - (2B) A separate prescription form shall be used for each patient.”;
 - (d) in each of sub-paragraphs (3) and (4)–
 - (i) after “issued” insert “or created”[”]; and
 - (ii) in sub-sub-paragraph (c) after “sub-paragraph (2)” insert “or with an electronic prescription form”[”];
 - (e) insert a new sub-paragraph (5) as follows–
 - “(5) A prescriber may only order drugs, medicines or appliances by means of an electronic prescription form if the prescription is not for 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 4 or 5 to the Misuse of Drugs Regulations 2001^(c).”[”]; and

(a) 2000 c.7.

(b) 1971 c.38.

(c) S.I. 2001/3998. Schedule 4 was amended by S.I. 2003/1432 and S.I. 2005/3372. Schedule 5 was amended by S.I. 2005/2864.

- (f) insert a new sub-paragraph (6) as follows–
- “(6) A prescriber who orders drugs, medicines or appliances by means of an electronic prescription form shall issue the patient with a written record of the prescription which has been created.”.
- (5) In paragraph 12 of Schedule 1 (restrictions on prescribing by medical practitioners)–
- (a) in sub-paragraph (2)(c) for “endorses the form with” substitute “includes on the prescription form”; and
- (b) in sub-paragraph (3)(b) for “endorses the face of the form with” substitute “includes on the prescription form”.
- (6) In paragraph 13 (restrictions on prescribing by supplementary prescribers) of Schedule 1–
- (a) in sub-paragraph (1)(a) for “give” substitute “issue or create”;
- (b) in each of sub-paragraphs (2)(d)(iii) and (4)(e)(iii) and (h)(iii) for “giving a prescription, the supplementary prescriber endorses the face of the form with” substitute “issuing or creating the prescription, the supplementary prescriber includes on the prescription form”; and
- (c) in sub-paragraph (3) for “give” substitute “issue or create”.
- (7) In paragraph 15 (provision of dispensing services) of Schedule 1–
- (a) in sub-paragraph (7)–
- (i) after “order on a” insert “non-electronic”; and
- (ii) after “that patient,” insert “or a provider who is required under sub-paragraph (2) to provide drugs or appliances to a patient receives from the ePharmacy service an electronic prescription form which contains an order for listed drugs or medicines, or appliances in respect of that patient, signed by a supplementary prescriber or an independent nurse prescriber,”;
- (b) in sub-paragraph (9)–
- (i) for “on the prescription form” substitute “(which shall be in writing if the provider so requires)”; and
- (ii) for “the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001 (“the 2001 Regulations”)” substitute “the 2007 Regulations”.
- (c) in sub-paragraph (10) for “the 2001 Regulations” substitute “the 2007 Regulations”; and
- (d) in sub-paragraph (11)–
- (i) for “presenting the prescription form”, substitute “making the claim for exemption”;
- (ii) for “the 2001 Regulations” substitute the 2007 Regulations; and
- (iii) for “mark” substitute “make an entry on”.

LEWIS MACDONALD

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
6th March 2007

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004 (“the principal Regulations”) which regulate the provision of primary medical services under agreements under section 17C of the National Health Service (Scotland) Act 1978.

The Regulations amend the principal Regulations to make provision for the electronic transmission of prescriptions, and to make amendments consequential on the revocation of the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001, and their replacement by the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2007 (“the 2007 Regulations”).

Regulation 2(2) inserts into the principal Regulations definitions of “the 2007 Regulations”, “advanced electronic signature”, “electronic communication”, “electronic prescription form”, “electronic signature”, “e-Pharmacy Service”, and “non-electronic prescription form”, and substitutes a new definition of “prescription form”.

Regulation 2(7)(b)(i) amends paragraph 15(9) of Schedule 1 to the principal Regulations to take account of the possibility that a declaration of entitlement to exemption or remission from charges may be separate from the prescription form.

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