

1987 No. 385 (S. 35)

NATIONAL HEALTH SERVICE, SCOTLAND

**The National Health Service (General Medical and
Pharmaceutical Services) (Scotland) Amendment
Regulations 1987**

<i>Made</i>	<i>9th March 1987</i>
<i>Laid before Parliament</i>	<i>11th March 1987</i>
<i>Coming into force</i>	<i>1st April 1987</i>

The Secretary of State, in exercise of powers conferred on him by sections 27, 28, 105(7) and 108(1) of and Schedule 1 paragraph 11(b) and (c) to the National Health Service (Scotland) Act 1978(a), and of all other powers enabling him in that behalf, and after consultation with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971(b), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (General Medical and Pharmaceutical Services) (Scotland) Amendment Regulations 1987 and shall come into force on 1st April 1987.

(2) In these Regulations “the principal regulations” means the National Health Service (General Medical and Pharmaceutical Services) (Scotland) Regulations 1974(c).

Amendments to the principal regulations

2. In regulation 2 (interpretation) of the principal regulations—

(1) in paragraph (1) there shall be inserted at the appropriate points in the alphabetical order the following definitions:—

““person” includes firm or body corporate;

“pharmaceutical list” has the meaning assigned to it in regulation 28(1);

“pharmaceutical services” means those services as defined by section 27 of the National Health Service (Scotland) Act 1978(d);”

(2) in paragraph (2)(c)(e) the words “,firm or body corporate” shall be deleted.

3. In regulation 27 (terms of service for chemists) of the principal regulations(f) the words “which it is the duty of the Board to make under section 40 of the Act,” shall be deleted.

(a) 1978 c.29; section 27(1) and Schedule 1, paragraph 11 were amended by the Health Services Act 1980 (c.53), section 20(2), and Schedules 6 and 7 respectively; sections 27(2) and 28 were amended by the National Health Service (Amendment) Act 1986 (c.66), section 3(3) and (4); section 108(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.

(b) 1971 c.62.

(c) S.I. 1974/506; relevant amending instruments are S.I. 1975/696, 1976/733, 1981/56, 1985/296 and 804.

(d) Section 27 was amended by the Health Services Act 1980 (c.53), section 20(2), and by the National Health Service (Amendment) Act 1986 (c.66), section 3(3).

(e) Paragraph (2)(c) was inserted by S.I. 1981/56.

(f) Regulation 27 was amended by S.I. 1975/696: see also S.I. 1981/56 which extended scope of *inter alia* regulation 27.

4. Regulation 28 (pharmaceutical list) of the principal regulations(a) shall be deleted and the following inserted—

“Pharmaceutical list

28.—(1) The Board shall prepare a list to be called “the pharmaceutical list” of the names of persons, other than doctors and dentists, who undertake to provide pharmaceutical services and of the addresses of the premises within the Board’s area from which these persons undertake to provide such services. The said list shall also state the nature of the pharmaceutical services to be provided, and the days and hours during which the premises are open, and show chemists as a separate category of persons within that list.

(2) A person (hereinafter referred to in this regulation as an “applicant”)—

- (a) who wishes to be included in the pharmaceutical list for the provision of pharmaceutical services; or
- (b) whose name is already included in the pharmaceutical list, but who intends—
 - (i) to open within the Board’s area additional premises from which to provide pharmaceutical services, or
 - (ii) to relocate within the Board’s area the premises from which he provides pharmaceutical services, or
 - (iii) to provide pharmaceutical services other than those already listed in relation to him from premises which are already included in the pharmaceutical list,

shall apply to the Board in accordance with whichever version of Form A set out in Part III (chemists) or Part IV (persons other than chemists) of Schedule 3 is appropriate.

(3) Where an application is made and -

- (a) the applicant intends to provide the same pharmaceutical services from premises from which, at the time of the application, another person whose name is included in the pharmaceutical list provides those services, in place of that person, or
- (b) the applicant intends to relocate, within the neighbourhood in which he provides pharmaceutical services, the premises already listed in relation to him and to provide from those premises the same pharmaceutical services, and the Board is fully satisfied that the relocation is minor,

and, in either case, the provision of those particular pharmaceutical services will not be interrupted, except for any period during which, in terms of any scheme made under regulation 29(2) that applies to him, or any such longer period as the Board may for good cause allow, the provision of such services is not required, the application shall be granted by the Board.

(4) An application made in any case other than one to which paragraph (3) applies shall be granted by the Board, after the procedures set out in Schedule 3A have been followed, only if it is satisfied that the provision of pharmaceutical services at the premises named in the application is necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located by persons whose names are included in the pharmaceutical list.

(5) Where an application is granted, it shall be in accordance with whichever version of Form C set out in Part III (chemists) or Part IV (persons other than chemists) of Schedule 3 is appropriate.

(6) Where an application is granted in accordance with paragraph (4), it shall be competent for the Board to grant it in respect of some only of the pharmaceutical services specified in that application.

(7) Where an application is granted, the Board shall make the relevant entries in the pharmaceutical list only after the expiry of the period within which an appeal against the decision to grant the application might be intimated or the conclusion of all the appeal procedures, whichever is appropriate.”.

(a) Regulation 28(3) was inserted by S.I. 1975/696.

5. After regulation 28 (pharmaceutical list) of the principal regulations there shall be inserted the following regulation:-

"Removal from pharmaceutical list

28A.—(1) Where the Board determines in accordance with paragraph (2) that a person whose name has been included for the preceding six months in the pharmaceutical list has not during that period provided pharmaceutical services the Board shall remove that person's name from the said list.

(2) Before making a determination under paragraph (1), the Board shall-

- (a) give the person 28 days' notice of its intention so to do,
- (b) afford the person an opportunity of making written representations to the Board,
- (c) consult the area pharmaceutical committee.

(3) Nothing in paragraphs (1) and (2) shall-

- (a) prejudice the right of a person to apply to be included again in the pharmaceutical list, or
- (b) affect a person who is performing a period of relevant service and in such a case no removal under paragraphs (1) and (2) shall be effected in respect of any such person until six months after he has completed that service,
- (c) apply before 1st October 1987 to a person whose name was in the pharmaceutical list on 31st March 1987."

6. In regulation 29 (schemes for securing proper pharmaceutical service) of the principal regulations-

(a) in paragraph (2) the words "each district" shall be deleted and the words "the area of the Board" inserted in their place;

(b) in paragraph (3) the words "the said schemes" shall be deleted and the words "schemes prepared under paragraph (2)" inserted in their place;

(c) in paragraph (4), after the words "of a scheme", there shall be inserted the words "to be prepared under paragraph (2)";

(d) paragraph (5) shall be deleted and the following inserted:-

"(5) Where the Board after consultation with the area pharmaceutical committee, amends the provisions of a scheme approved under paragraph (2), the area pharmaceutical committee or any person whose name is included in the pharmaceutical list may appeal in respect of any such amendment, and any such appeal-

(a) shall be made in writing and received by the Board within 21 days from the date on which notification of that amendment was published; and

(b) may be determined by the Secretary of State, or if he so decides, in accordance with paragraph 4(3) to (5) and paragraphs 14 to 20 of Schedule 3A."

7. In regulation 32 (payments to chemists and standards of drugs and appliances) of the principal regulations, there shall be inserted after sub-paragraph (i) the following sub-paragraph:-

(j) A chemist whose name is included in the pharmaceutical list shall supply, in response to a request from the Secretary of State and within one month of the notification of the request, any information which the Secretary of State may require for the purpose of conducting any inquiry into the prices, payments, fees, allowances and remuneration specified in this regulation."

8. In Part I of Schedule 3 (terms of service for chemists other than those employed by a health board at a health centre) to the principal regulations-

(a) in paragraph 3(1) (place and hours of business) for the expressions "place", "place or places of business" and "place or places", there shall be substituted the word "premises";

(b) paragraph 3(2) shall be deleted and the following inserted:-

"(2) At every premises at which pharmaceutical services are provided there shall be exhibited a notice to be provided by the Board in the form prescribed in Part V or Part VI of this Schedule. There shall also be exhibited at such premises, at times when those premises are not open, and in such a manner as to be visible at such times, a notice in a form approved by the Board, indicating the facilities available for securing the dispensing of medicines urgently required.";

(c) in paragraph 4 (dispensing of medicines) the words from "disqualified for inclusion" to the end shall be deleted and the words "disqualified under section 29 of the National Health Service (Scotland) Act 1978 for inclusion in a pharmaceutical list." inserted in their place.

9. For Parts III (form of application for inclusion in pharmaceutical list for use by chemists) and IV (form of application for inclusion in pharmaceutical list for use by persons other than chemists) of Schedule 3 to the principal regulations there shall be substituted Parts I and II respectively of Schedule 1 to these Regulations.

10. After Schedule 3 to the principal regulations there shall be inserted therein as Schedule 3A the Schedule set out in Schedule 2 to these Regulations.

Transitional provisions

11.—(1) Subject to paragraph (2) below where, before the date of the coming into force of these Regulations, there is received by the Board an application to which the principal regulations, as in force immediately before that date, apply, but such application is not determined before that date, that application shall be determined by the Board in accordance with the provisions of the principal regulations as in force immediately before that date, but such a determination may be made in accordance with this paragraph only if made within a period of six months from the date of the coming into force of these Regulations.

(2) Where an application to which paragraph (1) above applies is granted, it shall be a condition of such grant that the applicant shall commence to provide pharmaceutical services, in accordance with the terms of service for the time being in operation, within six months of the date of the coming into force of these Regulations, otherwise the said grant shall immediately upon expiry of the period of six months be thereby revoked and the applicant's name shall be removed forthwith from the pharmaceutical list in respect of the premises and services which were the subject of such application.

New St. Andrew's House, Edinburgh
9th March 1987

Glenarthur
Minister of State, Scottish Office

PART I

PART III OF SCHEDULE 3 TO THE PRINCIPAL REGULATIONS AS
SUBSTITUTED BY THESE REGULATIONS

“PART III

FOR USE BY CHEMISTS

APPLICATION FOR INCLUSION IN THE PHARMACEUTICAL LIST**

FORM A

TO THE
HEALTH BOARD

1. I/We

of

apply to have my/our name(s) included in the pharmaceutical list for the provision of the pharmaceutical services specified in paragraph 4 below: the application is in respect of

- * (a) the provision of services from premises from which the pharmaceutical services specified in paragraph 4 below are already provided (complete paragraphs 2, 3, 4 and 5a and sign the application)
- * (b) the relocation of the premises from which I/we provide pharmaceutical services (complete paragraphs 2, 3, 4 and 5b and sign the application)
- * (c) the opening of premises for the provision of pharmaceutical services specified in paragraph 4 below (complete paragraphs 2, 3, 4 and 5c and sign the application)
- * (d) the provision of pharmaceutical services other than those already listed from currently listed premises (complete paragraphs 2, 3, 4, 5c and 5d and sign the application)

2. (a) The premises from which I/we propose to provide pharmaceutical services are/will be at

.....
.....

(b) The premises from which it is proposed to provide pharmaceutical services are:

- (i) already constructed YES/NO*
- (ii) already in our possession (through lease or ownership) YES/NO*
- (iii) registered by the Pharmaceutical Society of Great Britain in my/our name(s) YES/NO*

If yes, state reference number

NOTE

Please note that no application can be granted in respect of premises which are not registered by the Pharmaceutical Society of Great Britain under the Medicines Act 1968. Although an application to be included on the pharmaceutical list (Form A) can be lodged in advance of registration, registration details must subsequently be provided on Form B.

(c) The pharmacist in charge at the said premises will be:-

Name

Registration No.

NOTE

Payment cannot be made for NHS services provided before the date of entry in the pharmaceutical list recorded in Form C as issued by the Board.

3. I/We expect to be in a position to undertake to provide the pharmaceutical services specified below from the said premises from (date)

and it is proposed that the premises will be open during the following hours:

4. I/We propose to provide the following pharmaceutical services, and undertake to provide such of these services as may be approved by the Board in accordance with the terms of service for the time being in operation:-

Dispensing of medicines, and supplying of drugs and of listed appliances as specified in the Drug Tariff
* Supplying a domiciliary oxygen therapy service YES/NO

5a. (To be completed only by persons applying under paragraph 1(a) above who are proposing to provide services at premises from which such services are already provided.)

(i) The name of the person who is currently providing services from the premises named in paragraph 2(a) above is

.....
.....

(ii) There will be no change in the pharmaceutical services provided and those services from the said premises will be continuous/interrupted for the period of (state period)

.....

5b. (To be completed only by persons whose names are included in the pharmaceutical list applying under paragraph 1(b) above).

(i) The premises in the Board's area from which I am/we are providing pharmaceutical services are at

.....
.....

(ii) The relocation is for the following reasons:-

.....
.....

(iii) (To be completed only if the applicant considers relocation to be minor. A minor relocation is one where there will be no significant change in the neighbourhood population served, and other circumstances are such that there will be no appreciable effect on the NHS pharmaceutical services provided by the applicant or any other person on the Board's list.)

I/We consider the relocation to be minor for the following reasons:-

.....
.....

(iv) There will be no change in the pharmaceutical services provided and the provision of services by me/us will be continuous/interrupted for the period of (state period)

.....

5c. (To be completed only by persons applying under paragraph 1(c) or (d) above.)
In my/our view the provision of the pharmaceutical services specified above at the premises named in paragraph 2(a) above is necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood of the said premises for the following reasons:-

.....
.....

5d. (To be completed only by persons proposing to provide other pharmaceutical services from premises from which some pharmaceutical services are already provided by them.)

(i) My/our NHS services shall be those pharmaceutical services granted in respect of this application.

(ii) The other pharmaceutical services proposed for provision are (specify)

.....
.....

Signed

.....

Date

* Delete the sections or words which do not apply.
** An application as in Form A will be required by any person already included in the pharmaceutical list who wishes to undertake to supply pharmaceutical services from additional or alternative premises or to vary the pharmaceutical services provided from currently listed premises.

FOR USE BY CHEMISTS
NOTIFICATION OF COMMENCEMENT DATE*
FORM B

TO THE
HEALTH BOARD

1. I/we
of
made an application dated to be included in the pharmaceutical list.

2. The application related to premises at
.....
.....

3. The services specified in the application were
.....
.....
.....

4. I/We propose to commence provision of those services at the above premises on
(date)

NOTE

Payment cannot be made for NHS Services provided before the date of entry in the pharmaceutical list recorded in Form C as issued by the Board.

5. The premises have been registered by the Pharmaceutical Society of Great Britain in my/our name and their reference no. is

6. The pharmacist in charge at the said premises will be
Name
Registration No.

7. I/We propose to provide the said services and undertake to provide such of these services as may be approved by the Board in accordance with the terms of service for the time being in operation.

Signed
.....
.....
Date

* Where all the information sought in Form A was not provided when Form A was submitted, Form B shall be submitted with all the outstanding information.

FOR NOTIFICATION TO CHEMISTS
NOTIFICATION OF DATE OF ENTRY ON PHARMACEUTICAL LIST
FORM C

To [applicant(s)]

I acknowledge receipt of your Form A and, where required and submitted, Form B intimating the date from which you propose to commence provision of pharmaceutical services.

Your name(s) and premises have been entered in the Board's pharmaceutical list to provide the following pharmaceutical services

.....
.....
.....
.....

as from (date)

A copy of the terms of service for the time being in operation is attached, together with a copy of your entry in the list, detailing the services and premises in respect of which your application has been granted.

Signed
On behalf of
..... Health Board."

PART II
PART IV OF SCHEDULE 3 TO THE PRINCIPAL REGULATIONS AS
SUBSTITUTED BY THESE REGULATIONS

“PART IV
FOR USE BY PERSONS OTHER THAN CHEMISTS
APPLICATION FOR INCLUSION IN THE PHARMACEUTICAL
LIST**

FORM A

TO THE
HEALTH BOARD

1. I/We
of

apply to have my/our name(s) included in the pharmaceutical list for the provision of the pharmaceutical services specified in paragraph 4 below: the application is in respect of

- * (a) the provision of services from premises from which the pharmaceutical services specified in paragraph 4 below are already provided (complete paragraphs 2, 3, 4 and 5a and sign the application)
- * (b) the relocation of the premises from which I/we provide pharmaceutical services (complete paragraphs 2, 3, 4 and 5b and sign the application)
- * (c) the opening of premises for the provision of pharmaceutical services specified in paragraph 4 below (complete paragraphs 2, 3, 4 and 5c and sign the application)
- * (d) the provision of pharmaceutical services other than those already listed from currently listed premises (complete paragraphs 2, 3, 4, 5c and 5d and sign the application)

2. (a) The premises from which I/we propose to provide pharmaceutical services are/will be at
.....
.....

(b) I/We propose to provide pharmaceutical services from those premises from
(date)

NOTE
Payment cannot be made for NHS services provided before the date of entry in the pharmaceutical list recorded in Form C as issued by the Board.

3. The premises from which it is proposed to provide pharmaceutical service are:
(a) already constructed YES/NO*
(b) already in our possession (through lease or ownership) YES/NO*

4. I/We propose to provide the following pharmaceutical services and undertake to provide such of these services as may be approved by the Board in accordance with the terms of service for the time being in operation:-

- (a) supplying only those medicinal products included in any general sale list as defined in the Medicines Act 1968 YES/NO*
 - (b)(i) supplying all listed appliances as specified in the Drug Tariff YES/NO*
 - OR
 - (ii) supplying only the following range of appliances as listed and specified in the Drug Tariff
- (Specify)
-
-

5a. (To be completed only by persons applying under paragraph 1(a) above who are proposing to provide services at premises from which such services are already provided.)

(i) The name of the person who is currently providing services from the premises named in paragraph 2(a) above is

.....
.....

(ii) There will be no change in the pharmaceutical services provided and those services from the said premises will be continuous/interrupted for the period of (state period)

.....

5b. (To be completed only by persons whose names are included in the pharmaceutical list applying under paragraph 1(b) above.)

(i) The premises in the Board's area from which I am/we are providing pharmaceutical services are at

.....
.....

(ii) The relocation is for the following reasons:-

.....
.....

(iii) (To be completed only if the applicant considers relocation to be minor. A minor relocation is one where there will be no significant change in the neighbourhood population served, and other circumstances are such that there will be no appreciable effect on the NHS pharmaceutical services provided by the applicant or any other person on the Board's list.)

I/We consider the relocation to be minor for the following reasons:-

.....
.....

(iv) There will be no change in the pharmaceutical services provided and the provision of services by me/us will be continuous/interrupted for the period of (state period)

.....

5c. (To be completed only by persons applying under paragraph 1(c) or (d) above.)

In my/our view the provision of the pharmaceutical services specified above at the premises named in paragraph 2(a) above is necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood of the said premises for the following reasons:-

.....
.....
.....

5d. (To be completed only by persons proposing to provide additional services from premises from which some pharmaceutical services are already provided by them.)

(i) My/our NHS services shall be those pharmaceutical services granted in respect of this application.

(ii) The other pharmaceutical services proposed for provision are (specify)

.....
.....

Signed

.....

.....

Date

* Delete the sections or words which do not apply.

** An application in Form A will be required by any person already included in the pharmaceutical list who wishes to undertake to supply pharmaceutical services from additional or alternative premises, or to vary the pharmaceutical services provided from currently listed premises.

FOR USE BY PERSONS OTHER THAN CHEMISTS

NOTIFICATION OF COMMENCEMENT DATE*

FORM B

To the
HEALTH BOARD

I/we
of.....

made an application dated to be included in the pharmaceutical list.

2. The application related to premises at
.....

3. The services specified in the application were
.....
.....

4. I/we propose to commence provision of those services at the above premises on.....(date)

NOTE

Payment cannot be made for NHS Services provided before the date of entry in the pharmaceutical list recorded in Form C as issued by the Board.

5. I/we propose to provide the said services and undertake to provide such of these services as may be approved by the Board in accordance with the terms of service for the time being in operation.

Signed
.....
.....

Date

* Where all the information sought in Form A was not provided when Form A was submitted, Form B shall be submitted with all the outstanding information.

FOR NOTIFICATION TO PERSONS OTHER THAN CHEMISTS

NOTIFICATION OF DATE OF ENTRY ON PHARMACEUTICAL LIST

FORM C

To [applicant(s)]

I acknowledge receipt of your Form A and, where required and submitted, Form B intimating the date from which you propose to commence provision of pharmaceutical services.

Your name(s) and premises have been entered in the Board's pharmaceutical list to provide the following pharmaceutical services:-

.....
.....

as from (date)

A copy of the terms of service for the time being in operation is attached, together with a copy of your entry in the list, detailing the services and premises in respect of which your application has been granted.

Signed

On behalf of
..... Health Board."

SCHEDULE 3A TO THE PRINCIPAL REGULATIONS AS INSERTED BY
THESE REGULATIONS

"SCHEDULE 3A

Regulation 28(4)

PROVISIONS FURTHER TO REGULATION 28

PART I

PROCEDURE ON APPLICATIONS

Notification of applications

1.—(1) On receipt of a properly completed application to which regulation 28(4) applies, the Board shall, within 5 working days, give written notice of the application to -

- (a) the area pharmaceutical committee;
- (b) the area medical committee;
- (c) any person whose name is included in the pharmaceutical list and whose interests may, in the opinion of the Board, be significantly affected if the application were granted;
- (d) any Board whose boundary is within one mile of the proposed premises;
- (e) every local health council serving the area of the Board,

and any person so notified may, within 30 days from the date on which the notification was sent to him, make written representations to the Board.

(2) Any Board which is notified under sub-paragraph (1)(d) above shall, within 5 working days, give written notice of the application to -

- (a) its area pharmaceutical committee;
- (b) its area medical committee;
- (c) any person whose name is included in its pharmaceutical list and whose interests may, in the opinion of the said Board, be significantly affected if the application were granted;
- (d) every local health council serving its area,

and any person so notified may, within 30 days from the date on which the notification was sent to the said Board, make written representations to the Board to whom the application was made.

(3) Any notice given under sub-paragraph (1) or (2) above shall include a statement of the right to make representations in accordance with that sub-paragraph.

Determination of applications

2.—(1) In considering an application to which regulation 28(4) applies, the Board shall have regard to -

- (a) the pharmaceutical services already provided in the neighbourhood of the premises named in the application by persons whose names are included in a pharmaceutical list;
- (b) any representations received by the Board under paragraph 1 of this Schedule; and
- (c) any information available to the Board which, in its opinion, is relevant to the consideration of the application.

(2) The Board may, in accordance with Parts II and III of this Schedule, determine an application in such manner as it thinks fit and may, if it considers that oral representations are unnecessary, determine the application without hearing any oral representations.

(3) In any case in which the Board decides to hear oral representations, it shall give the applicant and any person from whom it received representations under paragraph 1 reasonable notice of the meeting at which such representations are to be heard.

(4) The applicant and any person mentioned in paragraph (3) shall be permitted to be assisted in making representations at any such meeting by some other person, but that other person shall not appear in the capacity of counsel, solicitor or paid advocate, nor shall he be entitled to speak on behalf of the applicant or any person mentioned in paragraph (3).

(5) The procedure by which representations are heard shall be such as the Board may determine.

Notification of decisions

3. The Board shall, within 5 working days of having been notified in accordance with paragraph 11, intimate to the applicant and the persons mentioned in paragraph 1 the decision on the application, the reasons for it, and of any right of appeal applicable under paragraph 4.

Appeals

4.—(1) The applicant or any person mentioned in paragraph 1 may appeal against the decision of the Board on the application, and notice of any such appeal shall be received by the Board within 21 days from the date on which notification of the Board's decision was sent to him.

(2) Any notice of appeal under this paragraph shall contain a concise statement of the facts and contentions upon which the appellant intends to rely.

(3) The Board shall refer a notice of appeal under this paragraph to the chairman of the National Appeal Panel appointed in accordance with Part IV of this Schedule.

(4) If the chairman, after considering the notice of appeal, is of the opinion that the notice discloses no reasonable grounds of appeal, or that the appeal is otherwise frivolous or vexatious, he may determine the appeal by dismissing it forthwith, in which case he shall inform the Board accordingly.

(5) In any other case the National Appeal Panel shall be convened in accordance with Part IV and the said Panel shall thereafter determine the appeal.

PART II

PHARMACY PRACTICES COMMITTEE

Establishment and procedure

5.—(1) The Board shall, in accordance with regulation 8 of the National Health Service Health Boards: Membership, Procedure and Payment of Subscriptions (Scotland) Regulations 1975(a) and the provisions of this Part of this Schedule establish a committee (to be known as “the pharmacy practices committee”), the majority of whose members shall be members of the Board.

(2) The provisions of Part III of this Schedule shall apply to the proceedings of the pharmacy practices committee.

Functions

6. The pharmacy practices committee shall on behalf of the Board exercise the functions of the Board in terms of regulation 28(4) and paragraph 2 of this Schedule.

Membership

7.—(1) The pharmacy practices committee shall consist of seven members of whom -

(a) two shall be the chairman and vice chairman respectively and be appointed as such by the Board; and both shall be members of the Board but neither shall be a doctor, dentist, ophthalmic optician, pharmacist or person, or the employee of a person, whose name is included in a pharmaceutical list;

(b) three shall be pharmacists of whom -

(i) one shall be a pharmacist whose name is not included in any pharmaceutical list and who is not the employee of a person whose name is so listed; and he shall be appointed by the Board from persons nominated by the Pharmaceutical Society of Great Britain; and

(ii) two shall be pharmacists each of whom is included in a pharmaceutical list or is an employee of a person whose name is so listed; and each shall be appointed by the Board from persons nominated by the area pharmaceutical committee;

(c) two shall be members of the Board and be appointed by it, but neither shall be a pharmacist, or a person, or an employee of a person, whose name is included in a pharmaceutical list, or be a doctor who is required to supply drugs and appliances in terms of regulation 30; and not more than one of the two members so appointed shall be a doctor, dentist or ophthalmic optician.

(2) Persons to act as deputies for, and corresponding in number to, each of those categories of person appointed pursuant to sub-paragraph (1)(b)(i), (b)(ii), and (c) shall, provided they satisfy the criteria specified in the relevant sub-paragraph, be appointed by the Board, and in the absence of any of those persons a deputy from the appropriate category shall be entitled to act in his place.

(3) If a nomination sought for the purposes of sub-paragraph (1)(b)(i) or (ii) above is not made before such date as the Board may determine, the Board may appoint as a member a person who satisfies the criteria specified in the relevant sub-paragraph.

8. The Board shall prepare and maintain lists of the persons who have been appointed, in accordance with paragraph 7(1)(a), or (b)(i), or (b)(ii), or (c), as the case might be, and who currently serve as members of the pharmacy practices committee, and shall provide the Secretary of State with a copy of such lists from time to time.

PART III

PROCEDURE AT MEETINGS OF THE PHARMACY PRACTICES COMMITTEE

Declaration of interest

9.—(1) Before any meeting of the pharmacy practices committee begins the chairman, or vice chairman if acting as chairman, shall ask the members intending to be present whether, in respect of any matter to be considered at the meeting, any of them -

(a) S.I. 1975/197, amended by S.I. 1981/147.

(a) has an interest to declare; or

(b) is associated with a person who has any personal interest,

and any such member who has or, as the case may be, is associated with a person who has, any such interest shall disclose it accordingly.

(2) Any member who has, pursuant to the provisions of sub-paragraph (1) above, disclosed an interest or who, in the opinion, expressed to the meeting, of the chairman or vice chairman if acting as chairman as the case may be, should have disclosed such an interest, shall not be present at the consideration or discussion of that matter or the voting on it, and a deputy who has no such interest may act in his place.

Quorum

10. No business shall be transacted at a meeting of the pharmacy practices committee unless the chairman or vice chairman if acting as chairman, one member appointed under each of paragraph 7(1)(b)(i) and (ii), and two other members appointed under paragraph 7(1)(a) or (c) are present.

Voting

11.—(1) Subject to sub-paragraphs (2), (3) and (4) below, every application considered by the pharmacy practices committee shall be considered by all members present, but be determined only by a majority of votes of the members present who are entitled to vote.

(2) A member appointed by virtue of paragraph 7(1)(b)(i) and the vice chairman provided he is not acting as chairman are entitled to vote.

(3) A member appointed by virtue of paragraph 7(1)(b)(ii) is not entitled to vote and shall withdraw immediately before a decision on an application by voting takes place.

(4) The chairman, or vice chairman if acting as chairman, shall not be entitled to vote at any meeting except in the case of an equality of votes of the other persons present and voting, in which case he shall have a casting vote.

(5) The pharmacy practices committee shall within five working days of taking its decision give written notification of it to the Board with reasons for that decision.

Standing orders

12. Subject to the provisions of these Regulations and of this Schedule, the Board may make, vary or revoke standing orders with the respect to the terms of office of members of the pharmacy practices committee, the procedure of that committee and the making of reports of its proceedings to the Board.

Vacancy

13. The proceedings of the pharmacy practices committee shall not be invalidated by any vacancy in its membership, or any defect in a member's appointment.

PART IV

NATIONAL APPEAL PANEL

Nominees for the National Appeal Panel

14.—(1) The Board shall submit the names of its nominees for the National Appeal Panel to the Secretary of State and shall advise him from time to time of any changes in such nominees.

(2) At the request of the Secretary of State, the Scottish Department of the Pharmaceutical Society of Great Britain and the Pharmaceutical General Council (Scotland) shall submit the names of their nominees for the National Appeal Panel.

Chairman of National Appeal Panel

15.—(1) After consultation with all Health Boards, the Scottish Department of the Pharmaceutical Society of Great Britain and the Pharmaceutical General Council (Scotland), the Secretary of State shall appoint a person as chairman of the National Appeal Panel.

(2) The person so appointed shall not be a doctor, dentist, ophthalmic optician, pharmacist, or person, or employee of a person, whose name is on any pharmaceutical list.

Membership

16.—(1) In any case in which paragraph 4(5) falls to be applied, the Secretary of State shall arrange to convene in accordance with the succeeding sub-paragraphs the National Appeal Panel, the members of which shall be drawn from -

(a) the lists maintained in accordance with paragraph 8 and

(b) the nominees proposed in accordance with paragraph 14.

(2) No member of the National Appeal Panel shall be a member of -

(a) the Board or the pharmacy practices committee of the Board which considered the application, or

(b) any Board which was notified in terms of paragraph 1(1)(d) and which submitted representations in accordance with that paragraph.

(3) The National Appeal Panel shall consist of nine members of whom -

- (a) one shall be chairman appointed as provided for in paragraph 15;
- (b) one shall be vice chairman and likewise be appointed as such in accordance with terms of paragraph 15;
- (c) four shall be pharmacists, one of whom has been nominated by the Scottish Department of the Pharmaceutical Society of Great Britain and the other three by the Pharmaceutical General Council (Scotland); and of the said four members two shall be persons whose names are, or who are employees of persons whose names are, included in a pharmaceutical list;
- (d) three shall each be a member of a Board and have been nominated by a Board, but none shall be a pharmacist or a person, or employee of a person, whose name is included in a pharmaceutical list, or be a doctor who is required to supply drugs and appliances under regulation 30; and not more than one of the three may be a doctor, dentist or ophthalmic optician.

Declaration of interest

17.—(1) Before the start of any meeting of the National Appeal Panel the chairman, or vice chairman if acting as chairman, shall ask the members intending to be present whether, in respect of the appeal to be considered at the meeting, any of them -

- (a) has an interest to declare;
- (b) is associated with a person who has any personal interest,

and any such member who has or, as the case may be, is associated with the person who has, any such interest shall disclose it accordingly.

(2) Any member who has, pursuant to the provisions of sub-paragraph (1) above, disclosed an interest or who, in the opinion, expressed to the meeting, of the chairman or vice chairman as the case may be, should have disclosed such an interest, shall not be present at the consideration or discussion of that appeal or the voting on it.

Quorum

18. No business of the National Appeal Panel shall be transacted unless the chairman, or vice chairman if acting as chairman, and two members who are appointed under sub-paragraph 3(c) and are in terms of paragraph 19 entitled to vote, and two members appointed under sub-paragraph 3(d) are present.

Voting

19.—(1) Subject to sub-paragraphs (2), (3) and (4) below, every appeal considered by the National Appeal Panel shall be considered by all members present, but be determined only by a majority of votes of the members present who are entitled to vote.

(2) A member appointed by virtue of paragraph 16(3)(c) and whose name is not included in any pharmaceutical list and who is not an employee of a person who is so listed, and the vice chairman provided he is not acting as chairman are entitled to vote.

(3) A member appointed by virtue of paragraph 16(3)(c) and whose name is included in any pharmaceutical list, or who is an employee of a person so listed, is not entitled to vote and shall withdraw immediately before a decision on an appeal by voting takes place.

(4) The chairman, or vice chairman if acting as chairman, shall not be entitled to vote at any meeting except in the case of an equality of votes of the other persons present and voting, in which case he shall have a casting vote.

Decisions by the National Appeal Panel

20.—(1) The National Appeal Panel shall determine an appeal in such manner as it thinks fit and its decision in respect of that appeal shall be final.

(2) The National Appeal Panel shall within 5 working days of taking its decision, give written notification of that decision with reasons for it to the Board to whom the original application was made.

(3) The Board shall, within 5 working days, of receipt of such notification, intimate to the applicant and all persons mentioned in paragraph 1 that decision and the reasons for it."

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (General Medical and Pharmaceutical Services) (Scotland) Regulations 1974 ("the principal regulations") regulating the terms upon which pharmaceutical services are provided under the National Health Service (Scotland) Act 1978.

Regulation 2 inserts definitions for the purposes of the principal regulations.

Regulation 4 inserts into the principal regulations a new regulation 28 which relates to the pharmaceutical list kept by each Health Board ("the Board"), and provides for applications to be made to the Board for inclusion in that list in respect of pharmaceutical services to be provided, or the use of additional premises or their relocation. Schedule 3 to the principal regulations substitutes new prescribed forms of application. Applications are - subject to minor exceptions - to be granted only if the Board is satisfied that the provision of pharmaceutical services at the premises named in the application is necessary or desirable in order to ensure adequate provision of such services in the neighbourhood of the premises.

Further provisions concerning applications are made in the new Schedule 3A inserted into the principal Regulations. Schedule 3A details the constitution and procedures of pharmacy practice committees and the National Appeal Panel. Each Board is to establish a pharmacy practice committee which will on behalf of the Board consider and take decisions on applications. Appeals with respect to applications are to be considered by a National Appeal Panel, whose decision is final.

Regulation 5 inserts a new regulation 28A into the principal regulations which specifies the grounds upon and procedure by which names may be removed from the pharmaceutical list.

Regulation 6 amends regulation 29 of the principal regulations by making provision for an appeal against a Board's decision to vary the terms of a scheme directed at ensuring the proper provision of pharmaceutical services within the Board's area.

Regulation 7 amends regulation 32 of the principal regulations and provides that the Secretary of State may obtain information from chemists whose names are included in the pharmaceutical list.

Transitional provisions are contained in regulation 11. Where an application with respect to entry on the pharmaceutical list has been lodged before, but granted after, 1st April 1987, then such a grant is to be governed by the principal regulations as in force immediately before that date but only if that grant is made within 6 months from that date. Additionally, where that transitional provision has been made use of, the applicant must begin to provide pharmaceutical services within 6 months of 1st April 1987, otherwise his name will be removed from the list on 1st October 1987.

Regulations 3 and 8 make minor amendments to the text of the principal regulations.

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