

1989 No. 1883 (S.135)

**NATIONAL HEALTH SERVICE, SCOTLAND**

**The National Health Service (General Medical and  
Pharmaceutical Services) (Scotland) Amendment  
Regulations 1989**

<i>Made</i>	- - - - -	<i>12th October 1989</i>
<i>Laid before Parliament</i>		<i>16th October 1989</i>
<i>Coming into force</i>		
<i>for all purposes—except regulation 6</i>		<i>7th November 1989</i>
<i>for the purposes of regulation 6</i>		<i>1st December 1989</i>

The Secretary of State, in exercise of the powers conferred on him by sections 19, 27, 28, 105(7), 106(a) 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, 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 1989 and shall come into force for all purposes except regulation 6 on 7th November 1989 and for the purposes of regulation 6 on 1st December 1989.

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

**Amendments to the principal Regulations**

2. In regulation 2(1) (interpretation) of the principal Regulations after the definition of “practice area” there shall be inserted the following definition:—

““provisional pharmaceutical list” means the list referred to in regulation 28A;”.

**Amendment to regulation 27**

3.—(1) For regulation 27 of the principal Regulations there shall be substituted the following regulation:—

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(a) 1978 c.29; section 19 was amended by the Health Services Act 1980 (c.53) (“the 1980 Act”), section 7, by the Health and Social Services and Social Security Adjudications Act 1983 (c.41) (“the 1983 Act”), Schedule 7, paragraph 2, and by the Medical Act 1983 (c.54), Schedule 5, paragraph 17(a); section 27(1) and Schedule 1, paragraph 11 were amended by the 1980 Act, 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); the provisions of sections 19 and 27 are subject to the Health and Medicines Act 1988 (c.49), section 17; section 105(7) which was amended by the 1983 Act, Schedule 9, paragraph 24, contains provisions, and section 108(1) contains definitions of “prescribed” and “regulations”, relevant to the exercise of the statutory powers under which these Regulations are made.

(b) S.I. 1974/506; relevant amending instruments are S.I. 1975/696, 1976/733, 1981/56, 1985/296, 534, 804, 1713, 1986/303, 925, 1507, 2310, 1987/385, 1382, 1988/1073 and 2259.

**“Terms of service**

27.—(1) The arrangements for the provision of pharmaceutical services shall include arrangements for—

- (a) the supply of contraceptive substances and appliances; and
- (b) the provision of supplemental services.

(2) The arrangements referred to in paragraph (1) shall incorporate as appropriate the terms of service for chemists as set forth in Part I or, as the case may be, Part II of Schedule 3 to these Regulations.

(3) In this Part of these Regulations “supplemental services” means—

- (a) where a chemist regularly supplies drugs and medicines to be taken by persons resident in a home, the giving of advice by him or, where he is not a pharmacist, by a pharmacist employed by him, following a visit to that home in connection with procedures there for the safe keeping and correct administration of those drugs and medicines;
- (b) the keeping of records of such visits as are referred to in sub-paragraph (a);
- (c) the keeping of records in connection with drugs and medicines supplied to or to be taken by any person—
  - (i) who claims exemption under regulation 7(1)(c) of the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 1989(a) (exemption from charges for drugs and appliances), or
  - (ii) who, in the opinion of the pharmacist dispensing the drug or medicine, is likely to have difficulty understanding the nature and dosage of the drug or medicine dispensed and the times at which it is to be taken, in circumstances where the nature of the drug or medicine is such that, in the opinion of the pharmacist who dispenses it, the same or a similar drug or medicine is likely to be prescribed for that person regularly on future occasions.

(4) In paragraph (3)—

- (a) “home” means any one of—
  - (i) a nursing home within the meaning of the Nursing Homes Registration (Scotland) Act 1938(b), or
  - (ii) a residential or other establishment within the meaning of Part IV of the Social Work (Scotland) Act 1968(c), or
  - (iii) a private hospital within the meaning of Part IV of the Mental Health (Scotland) Act 1984(d);
- (b) “pharmacist” means a pharmacist within the meaning of section 132(1) of the Medicines Act 1968(e);
- (c) “records” shall include—
  - (i) in the case of those kept pursuant to paragraph (3)(b), a record of the name and address of the home, of the date of each visit and of the nature of any advice given in the course of or following each such visit and to whom it was given, and
  - (ii) in the case of those kept pursuant to paragraph (3)(c), a record of the name and address of the person to or for whom the drug or medicine is supplied, of the name, quantity, and dosage of the drug or medicine supplied and of the date on which the supply was made and any advice given in relation to the use of the drugs and medicines supplied.

(5) A chemist may at any time give notice in writing to the Board that he wishes to be—

- (a) included in or excluded from any arrangements for the supply of contraceptive services and appliances, or
- (b) included in any arrangements for the provision of supplemental services.”.

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(a) S.I. 1989/326.

(b) 1938 c.73.

(c) 1968 c.49; Part IV was amended by the Registered Establishments (Scotland) Act 1987 (c.40).

(d) 1984 c.36.

(e) 1968 c.67.

#### **New regulation 28A**

4.—(1) Regulation 28A of the principal Regulations(a) shall be renumbered 28B and there shall be inserted the following new regulation:—

##### **“Provisional Pharmaceutical List**

28A.—(1) The Board may also in accordance with this regulation prepare a list, to be called “the provisional pharmaceutical list” in which there shall be included the name of any person, other than a doctor or dentist, who undertakes provisionally to provide pharmaceutical services. The provisional pharmaceutical list shall state the particulars required under regulation 28(1) in relation to any such person and also the date (“the provisional date”) from which such person undertakes to provide pharmaceutical services at the premises specified in an application under regulation 28(2).

(2) Where in an application to which regulation 28(4) applies—

- (a) any one or more of the statements in paragraph 2(b) of Form A is negative, and
- (b) the Board is satisfied on the basis of such information as may be submitted with the application that the applicant intends to commence business at the premises specified in the application in the event of his name being included in the pharmaceutical list,

the Board shall notify and otherwise deal with the application in accordance with regulation 28(4) and Schedule 3A and where the Board grants the application in accordance with that regulation, the Board may include the name of the applicant in the provisional pharmaceutical list for its area.

(3) Where an application is determined by the inclusion of the name of the applicant in the provisional pharmaceutical list, the Board shall give notification of the decision to the applicant in Form D, and in this regulation any reference to “the date of inclusion” is to the date of inclusion in the provisional pharmaceutical list as stated on Form D.

(4) Subject to paragraph (5) the applicant shall, as soon as reasonably possible after the date of inclusion and in any event not later than either—

- (a) the date six months after the date of inclusion, or
- (b) if earlier, the provisional date,

submit Form B with the information required but not given in paragraph 2(b) of Form A and on receipt of such information the Board shall include the name of the applicant in the pharmaceutical list and remove it from the provisional pharmaceutical list.

(5) Where a person whose name has been included in the provisional pharmaceutical list applies in writing to the Board not later than twenty eight days before the date by which, in terms of paragraph (4), he is required to submit Form B, that he wishes the Board to extend the period for submission of that Form and the Board is satisfied that, due to circumstances outwith that person’s control and which could not reasonably have been anticipated at the date of the application, there is no reasonable prospect of his being able to submit that Form by that date, the Board may extend the period for submission of Form B by a further period not exceeding nine months.

(6) Where an applicant, whose name is included in the provisional pharmaceutical list, has not submitted Form B in accordance with paragraphs (4) or (5), his name shall be removed from the provisional list.”

#### **Amendment to regulation 32 (payments to chemists and standards of drugs and appliances)**

5. There shall be inserted after paragraph (d) of regulation 32 of the principal Regulations, the following sub-paragraph:—

“(dd) arrangements for claiming fees, allowances and remuneration in connection with the making and implementation of arrangements for the provision of pharmaceutical services.”

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(a) Regulation 28A was inserted by S.I. 1987/385, regulation 4.

### Amendments to Schedule 2A

6. In Schedule 2A to the principal Regulations (drugs and other substances not to be supplied by general medical practitioners or prescribed for supply under pharmaceutical services)(a)–

(a) the following entry shall be deleted:–

Ener-G Gluten-free and Yeast-free Brown Rice Bread; and

(b) each of the following entries shall be inserted at the appropriate point in alphabetical order:

Alexitol Sodium Tablets  
Anadin Paracetamol Tablets  
Aspirin Tablets, Effervescent Soluble  
Aspro Clear Extra Tablets  
Banimax Tablets  
Boots Hard Lens Wetting Solution  
Calamage  
Colgate Disclosing Tablets  
Contactasol 02 Care Solution  
Contactasol Complete Care all-in-one Solution  
Cow & Gate Premium Baby Food  
Evident Disclosing Cream  
Ferrol  
Innoxia Finishing Touch Loose Powder  
Innoxia Moisturised Liquid Make-Up  
Lucozade  
Milupa Aptamil Baby Milk  
Milupa Camomile Infant Drink  
Milupa Fennel Variety Infant Drink  
Milupa Modified Yoghurt  
Minoxidil Cream  
Minoxidil Ointment  
Minoxidil Solution (for external use)  
Oral B Plaque Check Disclosing Tablets  
Rabenhorst Tomato Juice  
Ribena  
RoC Eye Make-Up Remover Lotion  
Senlax Tablets  
Setlers Extra Strength Tablets.

### Amendments to Schedule 3 to the principal Regulations

7. In Part I of Schedule 3 (terms of service for chemists),

(a) after paragraph 2 there shall be inserted the following paragraph:–

**“Professional standards**

2A. Without prejudice to any rule or implication of law to that effect, a chemist who provides pharmaceutical services in accordance with arrangements made in the Regulations shall do so in conformity with standards generally accepted in the pharmaceutical profession.”;

(b) after paragraph 7 there shall be inserted the following paragraph:–

**“Records to be made available**

7A. A chemist who has undertaken to provide supplemental services within the meaning of paragraph (3) of regulation 27 shall on request make available to the Board all records kept in accordance with sub-paragraphs (b) and (c) of that paragraph.”.

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(a) Schedule 2A was inserted by S.I. 1985/296; relevant amending instrument is S.I. 1988/2259.

### **Amendment of Schedule 3A to the principal Regulations**

8. In Part I of Schedule 3A(a) for the heading and sub-paragraph (1) there shall be substituted the following:-

#### **“Receipt and notification of applications**

1.—(1) The Board shall, within five working days of receiving an application to which regulation 28(4) applies, 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 or the provisional 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) any local health council whose area is affected by the application,

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

(2) In paragraph 1(2)(c) after the words “pharmaceutical list” there shall be added the words “and the provisional pharmaceutical list”.

(3) After paragraph 2(1)(a) there shall be added a new sub-paragraph as follows:-

- “(aa) pharmaceutical services to be provided in the neighbourhood at these premises by any person whose name is included in the provisional pharmaceutical list”.

9. For Part III of Schedule 3 to the principal Regulations there shall be substituted that Part as set out in the Schedule to these Regulations.

#### **Transitional**

10. Any application by a person for inclusion in the pharmaceutical list, received by a Health Board on or after 7th November 1989, shall be determined in accordance with the principal Regulations as amended by these Regulations and any application so received before that date shall be determined in accordance with the principal Regulations as then in force.

St. Andrew's House, Edinburgh  
12th October 1989

*James Douglas-Hamilton*  
Parliamentary Under Secretary of State,  
Scottish Office

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(a) Schedule 3A was inserted by S.I. 1987/385, Schedule 2.

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 Royal Pharmaceutical Society of Great Britain in my/our name(s) YES/NO\*

If the answer to (ii) is no, submit such further information as will indicate that the applicant intends to commence business from the premises.....

If the answer to (iii) is yes, state reference number .....

If the answer to (iii) is no, give date of application for registration .....

NOTE

Please note that medicines cannot be dispensed from the premises until they are registered by the Royal Pharmaceutical Society of Great Britain under the Medicines Act 1968. Although an application to be included in the pharmaceutical list (Form A) can be considered in advance of such registration, registration details and any other information required but not given on this Form must subsequently be provided on Form B before inclusion in the list is confirmed.

(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 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

5. (a) (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)

(b) (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)

(c) (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:-

(d) (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 INFORMATION NOT GIVEN ON FORM A\*

FORM B

TO THE .....  
HEALTH BOARD

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

2. (a) The application related to premises at .....

(b) The premises are now  
(i) constructed  
(ii) leased/conveyed to me/us and I/we took possession of them on .....  
(iii) registered by the Royal Pharmaceutical Society of Great Britain in my/our name with effect from ..... and the reference number is .....

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

4. I/We undertake to commence provision of those services at the above premises on ..... (date)  
and it is proposed that the premises will be open during the following hours  
.....

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

6. I/We undertake 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 INCLUSION IN PHARMACEUTICAL LIST**

**FORM C**

To [applicant(s)]

I acknowledge receipt of your Form A and, where required and submitted, Form B notifying information not previously given on Form A.

Your name(s) and premises have been included 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 .....

Date .....

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

**FOR NOTIFICATION TO CHEMISTS**  
**NOTIFICATION OF DATE OF INCLUSION IN PROVISIONAL**  
**PHARMACEUTICAL LIST**

**FORM D**

To [applicant(s)]

I acknowledge receipt of your Form A applying for your name to be included in the pharmaceutical list.

Your name(s) and premises have been included as at ..... (the date of inclusion) in the Board's provisional pharmaceutical list to provide the following pharmaceutical services.

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

as from (date) ..... (the provisional date)

Entry of your name in the pharmaceutical list cannot be confirmed until you have submitted a Form B giving the information which was required but not given on Form A.

The information required is .....

Provisional entry in the list does not entitle you to dispense medicines from the premises nor to receive payment for the provision of pharmaceutical services under the NHS.

Signed .....

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

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the National Health Service (General Medical and Pharmaceutical Services) (Scotland) Regulations 1974 ("the principal Regulations") which provide the arrangements to be made by Health Boards for the provision in their areas of general medical services and pharmaceutical services.

Regulations 3 and 7 amend the principal Regulations so as to enable a Health Board to make arrangements for the provision of advice to residential and nursing homes by a registered pharmacist, and for the keeping by chemists of records about drugs supplied to certain categories of person. The principal Regulations are also amended to provide for any chemist who has undertaken to provide these new services to make his records available to the Health Board.

Regulation 4 amends the principal Regulations to provide for a list (to be known as the provisional pharmaceutical list) of the names of persons whose applications for inclusion in the pharmaceutical list omit certain information about the premises from which it is intended to provide pharmaceutical services, for such applications to be notified and considered by Health Boards in accordance with the existing provisions and, where the application is granted, for the names of such persons to be transferred to the pharmaceutical list on receipt of the omitted information, and for removal of the names of persons from the provisional pharmaceutical list should such information not be provided within the periods specified in the regulations.

Regulation 6 amends Schedule 2A to the principal Regulations which lists drugs and other substances which cannot be supplied by doctors, or prescribed for supply under pharmaceutical services. The amendments effected by this regulation add some drugs to, and delete one from, that list.

Regulations 8, 9 and the Schedule to these Regulations amend the forms and procedures for applying for entry to the pharmaceutical list which are set out in Part III of Schedule 3 and in Schedule 3A to the principal Regulations.