

1990 No. 2509 (S.211)

NATIONAL HEALTH SERVICE, SCOTLAND

**The National Health Service (General Medical and
Pharmaceutical Services) (Scotland) Amendment (No.2)
Regulations 1990**

Made - - - - - *10th December 1990*

Laid before Parliament *11th December 1990*

Coming into force *1st January 1991*

The Secretary of State, in exercise of the powers conferred on him by sections 19, 27, 105(7), 106(a) and 108(1) of 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 (No.2) Regulations 1990 and shall come into force on 1st January 1991.

(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 (interpretation) of the principal Regulations after the definition of “medical records” there shall be inserted the following:—

““minor relocation” has the meaning given by regulation 28(3C);”.

Amendments to regulation 28 of the principal Regulations

3.—(1) Regulation 28 (Pharmaceutical list)(c) of the principal Regulations shall be amended in accordance with the provisions of this regulation.

(2) At the end of paragraph (2) there shall be inserted the words “or, in the case of an application to which the applicant proposes that paragraph (3A) should apply, Form A (MR) set out in Part III of that Schedule”.

(3) For paragraph (3) there shall be substituted the following paragraphs:—

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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), Schedule 7, paragraph 2, by the Medical Act 1983 (c.54), Schedule 5, paragraph 17(a) and by the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), section 37; section 27 was amended by the 1980 Act, section 20(2), by the National Health Service (Amendment) Act 1986 (c.66) (“the 1986 Act”), section 3(3) and by the 1990 Act, Schedule 9, paragraph 19(7); 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, 1978/1762, 1981/56, 1982/1279, 1985/296, 534, 804, 1625 and 1713, 1986/303, 925, 1507 and 2310, 1987/385 and 1382, 1988/1073 and 2259, 1989/1883 and 1990 and 1990/883.
- (c) Regulation 28 was substituted by S.I. 1987/385 and amended by S.I. 1988/1073.

“(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, and

(b) the condition specified in paragraph (3B) is fulfilled,

the Board shall grant the application.

(3A) Where an application is made and—

(a) the applicant intends to relocate to new premises, within the neighbourhood in which he provides pharmaceutical services, from the premises already listed in relation to him, and to provide from those new premises the same pharmaceutical services which he is listed as providing from his existing premises,

(b) the Board is satisfied that the relocation is a minor relocation, and

(c) the condition specified in paragraph (3B) is fulfilled,

the Board shall grant the application.

(3B) The condition referred to in paragraphs (3)(b) and (3A)(c) is that in either case the provision of the particular pharmaceutical services by the applicant 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.

(3C) In this regulation the reference to a minor relocation is to one where there will be no significant change in the neighbourhood population in respect of which pharmaceutical services are provided by the applicant and other circumstances are such that there will be no appreciable effect on the pharmaceutical services provided by the applicant or any other person whose name is included in the pharmaceutical list of the Board.

(3D) Before satisfying itself that a relocation is a minor relocation the Board shall seek and take into account the views of the Area Pharmaceutical Committee and of the Chief Administrative Pharmaceutical Officer of the Board.

(3E) In the case of an application to which paragraph (3A)(a) applies, where the Board is not satisfied that the relocation is a minor relocation, it shall not grant the application but shall notify the applicant in writing of its decision and of its reasons.

(3F) Nothing in this regulation shall preclude or prevent an applicant from making an application in accordance with Form A or Form A(MR) in circumstances where the applicant considers that paragraph (3A) may apply to such an application.”

(4) In paragraph (4) for the words “paragraph (3)” there shall be substituted the words “paragraph (3) or (3A)”.

Amendments to regulation 28A of the principal Regulations

4.—(1) For paragraph (2) of regulation 28A of the principal Regulations (Provisional Pharmaceutical List)(a), there shall be substituted the following:—

“(2) Where in any application under paragraph (2) of regulation 28 to which paragraph (3A) or (4) of that regulation applies—

(a) any one or more of the statements in paragraph 2(b) of Form A or, as the case may be, Form A(MR), 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, in the case of an application to which paragraph 28(4) applies, shall notify and otherwise deal with the application in accordance with regulation 28(4) and Schedule 3A or, in the case of an application to which paragraph (3A) of that regulation applies, shall deal with it in accordance with that paragraph and in either case where the Board

(a) Regulation 28A was inserted by S.I. 1989/1883.

grants the application the Board may include the name of the applicant in the provisional pharmaceutical list for its area.”.

(2) In paragraph (4) of that regulation after the words “Form A” there shall be inserted the words “or, as the case may be, Form A(MR)”.

Amendments to Schedule 2A to the principal Regulations

5. 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 shall be deleted:–

“Trifyba”; and

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

“Amplex Mouthwash
Amplex Original Mint Capsules
Best Royal Jelly Capsules
Bisodol Extra Tablets
Boots Hard Lens Soaking Solution
Canderel Intense Sweetener Spoonful
Clorz Lubricating and Rewetting Eye Drops
Codalax
Codalax Forte
Copholcoids
Country Basket Rice Cakes
Cranberry Juice
Deltasoralen Bath Lotion
Dispirin Extra Tablets
Elgydium Toothpaste
Formulix
Goat’s Milk Spray Dried Powder
Healthilife Sunflower Seed Oil Capsules 500 mg
Importal
Lavender Bath
Lemsip Expectorant
Lemsip Linctus
Miraflow Cleaning Solution
Nilbite
Oxysept 1 Disinfecting Solution
Oxysept 2 Rinsing, Neutralising and Storing Solution
Panadol Extra Tablets
Pantene Hair Tonic
Pholcomed D Linctus
Pholcomed Pastilles
Plax Anti-Plaque Pre-Brushing Rinse
Poli-grip Denture Fixative Cream
Prymecare Tablets for Soft and Gas Permeable Lenses
Prymeclean Cleaning Solution for Soft Lenses
Prymesoak Soaking Solution for Soft Lenses
Rite-Diet Macaroni in Mushroom Sauce, Low Protein/Gluten Free
Rite-Diet Spaghetti with Tomato Sauce, Low Protein/Gluten Free

(a) Schedule 2A was inserted by S.I. 1985/296; relevant amending instruments are S.I. 1985/534, 804 and 1713, 1986/303, 925, 1507 and 2310, 1987/1382, 1988/1073 and 2259, 1989/1883 and 1990/883.

Rosemary Bath
 Selsun Soft Conditioner
 Sensodyne Toothpaste
 Sionon Sweetener
 Spectraban 4 Lotion
 Temazepam Gelthix Capsules
 Temazepam Planpak
 Unichem Chesty Cough Linctus
 Unichem Children's Dry Cough Linctus
 Unichem Dry Cough Linctus
 Vagisil Feminine Powder
 Zendium Toothpaste".

Amendments to Part III of Schedule 3 to the principal Regulations

6.—(1) Part III of Schedule 3 to the principal Regulations(a) shall be amended in accordance with the provisions of this regulation.

(2) In Form A (Application for inclusion in the Pharmaceutical List) the provisions of paragraph 5b(iii) shall be deleted.

(3) After Form A there shall be inserted a new Form A (MR) as follows:—

**“FOR USE BY CHEMISTS
 APPLICATION FOR MINOR RELOCATION OF PHARMACY
 PREMISES**

FORM A (MR)

TO THE

.....

HEALTH BOARD

1. I/WE

.....

of

apply to have my/our name(s) included in the pharmaceutical list for the provision of pharmaceutical services specified in paragraph 4 below: the application is in respect of the minor relocation of the premises from which I/we provide pharmaceutical services.

2. (a) The premises in the Board's area from which I/we propose to provide pharmaceutical services are 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

.....

(a) Part III of Schedule 3 was amended by S.I. 1987/385 and 1989/1883.

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

IMPORTANT NOTES

i. 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 for minor relocation (Form A (MR)) 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.

ii. 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.

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

Name

Registration No.

(d) The relocation is for the following reasons:- (see note iii below)

.....

(e) I/We consider the relocation to be minor for the following reasons:- (see note iv below)

.....

(f) 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)

.....

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 intend to continue to provide the pharmaceutical services currently provided and undertake to provide these services as may be approved by the Board in accordance with the terms of service for the time being in operation.

Signed

.....

.....

Date

NOTES:

iii. This application does not preclude an applicant from applying for relocation (other than a minor relocation) on Form A.

iv. A minor relocation is defined in regulation 28(3C) of the National Health Service (General Medical and Pharmaceutical Services) (Scotland) Regulations 1974 (as amended) as one where there will be no significant change in the neighbourhood population in respect of which pharmaceutical services are provided by the applicant and other circumstances are such that there will be no appreciable effect on the pharmaceutical services provided by the applicant or any other person whose name is included in the pharmaceutical list of the Board."

(4) Forms B and C shall be amended by the insertion after the words "Form A" wherever they occur of the words "/Form A(MR)**" and by the addition of a footnote as follows:-

"**Delete the words which do not apply."

(5) Form D shall be amended as follows(a):-

(a) after the words "Form A" there shall be inserted the words "/Form A(MR)**";

(a) Form D was added to S.I. 1989/1883.

(b) For the words from "Entry of your name" to "given on Form A." there shall be inserted the words—

"Entry of your name in the pharmaceutical list cannot be confirmed until you have submitted Form B as respects the matters in relation to which you were unable to make affirmative statements in paragraph 2(b) of Form A/Form A(MR).*".

(6) At the end there shall be added the words "*Delete the words which do not apply.".

Amendments to Schedule 3A to the principal Regulations

7.—(1) Schedule 3A to the principal Regulations (Provisions further to regulation 28)(a) shall be amended in accordance with this regulation.

(2) In sub-paragraph (4) of paragraph 2 for the words "paragraph (3)" there shall be substituted the words "sub-paragraph (3)".

(3) At the beginning of sub-paragraph (1) of paragraph 4 there shall be inserted the words "Subject to sub-paragraph (1A),".

(4) After sub-paragraph (1) of paragraph 4 there shall be inserted a new sub-paragraph as follows:-

"(1A) Any person mentioned in paragraph 1 who was notified of an application under that paragraph but made no written representations to the Board about it shall not be entitled to appeal against a decision of the Board in relation to that application."

(5) In paragraph 11(5) for the word "five" there shall be substituted the word "ten".

Transitional provisions

8. Where on or before 31st December 1990 an application has been made to which regulation 28 of the principal Regulations applies, or an appeal has been intimated in terms of paragraph 4 of Schedule 3A to the principal Regulations, such application or such appeal shall be dealt with in accordance with the principal Regulations as in force immediately before the coming into force of the amendments effected by these Regulations and as if these Regulations were not in force in relation to that application or that appeal.

St. Andrew's House, Edinburgh
10th December 1990

Ian Lang
One of Her Majesty's Principal
Secretaries of State

(a) Schedule 3A was inserted by S.I. 1987/385 and amended by S.I. 1989/1883.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st January 1991, amend the National Health Service (General Medical and Pharmaceutical Services) (Scotland) Regulations 1974 ("the principal Regulations") which make the arrangements whereby doctors and chemists provide general medical services and pharmaceutical services under the National Health Service (Scotland) Act 1978.

In general the Regulations amend provisions of the principal Regulations in relation to arrangements for the provision of pharmaceutical services.

Regulation 2 introduces the meaning of "minor relocation" and regulation 3 contains amendments that regulate the procedure for dealing with applications for minor relocation of pharmacy premises including the use of a special application form for such applicants.

Regulation 4 amends the principal Regulations to provide that where a Board approves an application for a minor relocation the name of the applicant can be included in the provisional pharmaceutical list. (The provisions relating to the provisional pharmaceutical list are in regulation 28A of the principal Regulations.)

Regulation 5 deletes one substance from, and adds other substances to, 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.

Regulation 6 introduces a new form to be used for applications for minor relocation and effects consequential and minor amendments to the wording of other forms used in connection with applications for entry to pharmaceutical lists.

Regulation 7 makes minor amendments to Schedule 3A to the principal Regulations in relation to the procedure for appeals and regulation 8 makes transitional provisions in relation to applications and appeals made on or before 31st December 1990.