
STATUTORY INSTRUMENTS

1995 No. 165 (S.5)

NATIONAL HEALTH SERVICE, SCOTLAND

**The National Health Service (General
Medical and Pharmaceutical Services)
(Scotland) Amendment Regulations 1995**

<i>Made</i>	- - - -	<i>24th January 1995</i>
<i>Laid before Parliament</i>		<i>3rd February 1995</i>
<i>Coming into force</i>	- -	<i>28th February 1995</i>

The Secretary of State, in exercise of the powers conferred on him by sections 19, 27, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(1) 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 1995 and shall come into force on 28th February 1995.

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

Amendment of Part I of Schedule 1 to the principal Regulations

2.—(1) Part I of Schedule 1 to the principal Regulations (terms of service for doctors) is amended in accordance with paragraphs (2) to (6) below.

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- (1) 1978 c. 29; section 19 was amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), section 7, the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) (“the 1983 Act”), Schedule 7, paragraph 2, 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; the provisions of section 19 are subject to the Health and Medicines Act 1988 (c. 49), section 17; section 27 was amended by the 1980 Act, section 20(2), by the National Health Service (Amendment) Act 1986 (c. 66), section 3(3) and by the 1990 Act, Schedule 9, paragraph 19(7); 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.
- (2) S.I. 1974/506, relevant amending instruments are 1975/696, 1976/1574, 1981/56, 1982/1279, 1985/296, 1985/1625, 1986/303, 1987/386, 1989/1990, 1991/572, 1993/521 and 1994/884.

(2) In paragraph 10 (treatment of patients) for sub-paragraphs (3) and (4)(3) there shall be substituted the following:—

“(3) Subject to the following provisions of this paragraph, a doctor shall render the services referred to in paragraph 9 (in this paragraph called the “relevant services”) during the hours for which he is normally available pursuant to paragraph 13A(4) (in this paragraph referred to as “normal hours”)—

- (a) at his practice premises; or
- (b) in the case of a patient whose condition is such that in the doctor’s reasonable opinion it would be inappropriate for the patient to attend at the practice premises, at whichever is appropriate of the places set out in sub-paragraph (4B).

(4) Outside normal hours the doctor shall consider, in the light of the patient’s medical condition, whether a consultation is needed, and if so, when.

(4A) If in the doctor’s reasonable opinion a consultation is needed before the next time at which the patient could be seen during normal hours, he shall render the relevant services—

- (a) at his practice premises;
- (b) at such other place as the Board has agreed, pursuant to paragraph 13D and he has informed the patient, pursuant to paragraph 13D(5), is a place where he will treat patients outside normal hours; or
- (c) in the case of a patient whose condition is such that in the doctor’s reasonable opinion it would be inappropriate for the patient to attend either at the practice premises or at such other place, at whichever is appropriate of the places set out in sub-paragraph (4B).

(4B) The places referred to in sub-paragraphs (3)(b) and (4A)(c) are—

- (a) the place where the patient was residing when he was accepted by the doctor pursuant to paragraph 6 or, as the case may be, when he was assigned to the doctor pursuant to regulation 16(5) or, in the case of a patient who was previously on the list of a doctor in a practice declared vacant, when the doctor succeeded to the vacancy;
- (b) such other place as the doctor has informed the patient and the Board is the place where he has agreed to visit and treat the patient;
- (c) some other place in the doctor’s practice area.

(4C) Nothing in this paragraph prevents the doctor from—

- (a) arranging for the referral of a patient pursuant to paragraph 9(1A)(e)(6) without first seeing the patient, in a case where the medical condition of the patient makes that course of action appropriate; or
- (b) visiting the patient in circumstances where this paragraph does not place him under an obligation to do so.”.

(3) Paragraph 12 (absences, deputies, assistants and partners) shall be amended as follows:—

(a) for sub-paragraph (2A)(7) there shall be substituted the following sub-paragraph:—

“(2A) Where a doctor whose name is included in the medical list of any Board or of a Family Health Services Authority established under section 10(1) of the National Health

(3) Sub-paragraphs (3) and (4) of paragraph 10 were substituted by [S.I. 1989/1990](#).

(4) Paragraph 13A was inserted by [S.I. 1989/1990](#) and amended by [S.I. 1991/572](#).

(5) Regulation 16 was substituted by [S.I. 1991/572](#).

(6) Paragraph 9(1A)(e) was substituted by [S.I. 1989/1990](#).

(7) Sub-paragraph (2A) was substituted by [S.I. 1994/884](#).

Service Act 1977(8) is acting as deputy to another doctor whose name is included in the medical list of a Board the deputy alone is responsible for—

- (a) his own acts and omissions in relation to the obligations under these terms of service of the doctor for whom he acts as deputy; and
 - (b) the acts and omissions of any person employed by him or acting on his behalf.”;
- (b) after sub-paragraph (6) there shall be inserted the following:—

“(6A) A doctor acting as a deputy for another doctor may not treat the other doctor’s patients at any place approved under paragraph 13D below unless it is so approved for the other doctor.”.

- (4) For paragraph 13 (arrangements at practice premises), there is substituted—

“13.—(1) A doctor shall—

- (a) provide proper and sufficient accommodation—
 - (i) at his practice premises, having regard to the circumstances of his practice, and
 - (ii) at any other premises at which the Board, in accordance with paragraph 13D, has agreed he may treat his patients; and
- (b) on receipt of a written request from the Board, allow inspection of those premises at a reasonable time by a member or officer of the Board or the Area Medical Committee or both, authorised by the Board for the purpose.

(2) The accommodation referred to in sub-paragraph (1) shall not except with the consent of the Board or, on appeal, of the Secretary of State, be in premises occupied by a chemist.”.

- (5) After paragraph 13C (variation of doctors' availability to patients), there is inserted—

“Availability to patients outside normal hours

13D.—(1) Subject to the provisions of this paragraph, a doctor may apply to the Board for approval to treat patients at premises other than his practice premises outside the hours for which he is normally available pursuant to paragraph 13A(9) (in this paragraph referred to as “normal hours”).

(2) An application under sub-paragraph (1) shall be made in writing and shall state the address of the premises.

(3) An application under sub-paragraph (1) shall not be approved by the Board unless it is satisfied that—

- (a) having regard to the fact that the premises are for the treatment of patients outside normal hours and to all other relevant circumstances, the premises to which the application relates are likely to be reasonably convenient to the doctor’s patients; and
- (b) the location of those premises is in accordance with any condition imposed in relation to the doctor making the application pursuant to section 23(4)(b)(10) of the Act (distribution of general medical services).

(4) Sub-paragraphs (8) to (13) of paragraph 13A shall apply to an application under sub-paragraph (1) of this paragraph as they apply to an application under paragraph 13A(1).

(8) 1977 c. 49; section 10 was substituted by the Health and Social Security Act 1984 (c. 48), section 5(1) and amended by the National Health Service and Community Care Act 1990 (c. 19), section 2.

(9) Paragraph 13A was inserted by S.I. 1989/1990 and amended by S.I. 1991/572.

(10) Section 23(4) was amended by the National Health Service and Community Care Act 1990 (c. 19), section 39.

(5) Where the Board determines an application under sub-paragraph (1) by granting approval (with or without conditions), the doctor shall inform his patients by displaying a notice at his practice premises, stating the address of the premises for which approval has been granted.

(6) A doctor may apply to the Board for a variation of any approval granted under this paragraph, and any such application shall be made and determined as if it were the first application for the purposes of this paragraph.

(7) Where it appears to the Board that premises which it has approved under this paragraph may no longer be reasonably convenient to the doctor's patients, it may give notice to the doctor that it proposes to review the terms of the approval.

(8) On any review under sub-paragraph (7), the Board shall allow the doctor a period of 30 days beginning with the date on which he receives the notice within which to make representations to the Board about its proposals.

(9) After considering any representations made in accordance with sub-paragraph (8), the Board may determine to—

- (a) continue its approval;
- (b) continue its approval subject to such new or varied conditions as it sees fit to impose;
or
- (c) withdraw its approval.

(10) The Board shall notify the doctor in writing of its determination under sub-paragraph (9); and where it determines to withdraw its approval or to continue it subject to new or varied conditions, it shall include with the notice a statement in writing of the reasons for its determination and of the doctor's right of appeal under sub-paragraph (11).

(11) A doctor may, within the period of 30 days beginning with the date on which he receives the notice referred to in sub-paragraph (10), appeal in writing to the Secretary of State against the withdrawal of approval or against any condition imposed pursuant to sub-paragraph (9); and sub-paragraphs (12) and (13) of paragraph 13A shall apply to any such appeal as they apply to an appeal under that paragraph.”.

(6) In paragraph 20(1) (which prohibits a doctor from charging a fee except for the services listed in that paragraph)—

- (a) there shall be inserted in head (1), after the word “for” where it occurs for the second time, the words “drugs for chemoprophylaxis or for”, and
- (b) there shall be inserted at the end—
 - “(q) for prescribing or providing drugs for malaria chemoprophylaxis.”.

Amendment of Part IC of Schedule 1 to the principal Regulations

3. In Part IC(11) of Schedule 1 to the principal Regulations (information to be included in practice leaflets) there is inserted after paragraph 9—

“**9A.** The address of any premises approved under paragraph 13D of Part I of this Schedule at which patients may be invited to attend for treatment outside the hours for which the doctor is normally available pursuant to paragraph 13A of that Part.”.

St Andrew's House,
Edinburgh
24th January 1995

Fraser of Carmyllie
Minister of State, Scottish Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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, which regulate the terms on which general medical and pharmaceutical services are provided under the National Health Service (Scotland) Act 1978.

The Regulations amend doctors' terms of service—

- (a) to enable doctors to treat patients at premises other than their practice premises outside their normal hours of availability. They must first obtain Health Board approval and must inform their patients of the address of any such premises. The premises must be proper and sufficient and may be inspected by the Board or the Area Medical Committee;
- (b) to make it clear that where a doctor engages as a deputy another doctor who is on the medical list of any Health Board or Family Health Services Authority, the deputy alone will be responsible under the terms of service for his acts and omissions and those of any person employed by him or acting on his behalf;
- (c) to provide that a deputy doctor may not treat patients at any premises approved under the new provision unless the doctor for whom he is acting has obtained the necessary approval; and
- (d) to add providing or prescribing drugs against developing malaria to the list of services for which a doctor may charge a fee.