
STATUTORY INSTRUMENTS

1995 No. 644

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service (Pharmaceutical
Services) Amendment Regulations 1995**

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| <i>Made</i> | - - - - | <i>8th March 1995</i> |
| <i>Laid before Parliament</i> | | <i>9th March 1995</i> |
| <i>Coming into force</i> | - - | <i>1st April 1995</i> |

The Secretary of State for Health, in exercise of powers conferred on her by sections 41, 42, 43 and 126(4) of the National Health Service Act 1977(1) and of all other powers enabling her in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Pharmaceutical Services) Amendment Regulations 1995 and shall come into force on 1st April 1995.

(2) In these Regulations “the principal Regulations” means the National Health Service (Pharmaceutical Services) Regulations 1992(2).

Amendment of regulation 16 of the principal Regulations

2. In regulation 16(2) of the principal Regulations (supplemental services), for sub-paragraph (a) there shall be substituted the following sub-paragraph—

(1) 1977 c. 49; see section 128(1), as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i), for the definitions of “prescribed” and “regulations”. Section 41 was amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), sections 1 and 20(1) and Schedule 1, paragraph 53 and Schedule 7; by S.I. 1985/39, article 7(13); by the 1990 Act, Schedule 9, paragraph 18(1) and Schedule 10; and by the Medicinal Products: Prescription by Nurses etc. Act 1992 (c. 28), section 2. Section 42 was substituted by the National Health Service (Amendment) Act 1986 (c. 66), section 3(1): extended by the Health and Medicines Act 1988 (c. 49), section 17; and amended by S.I. 1987/2202, article 4, and by the 1990 Act, section 12(3). Section 43 was amended by the 1980 Act, sections 1 and 21(2) and Schedule 1, paragraph 55; by S.I. 1985/39, article 7(15); and by the 1990 Act, Schedule 9, paragraph 18(2). Section 126(4) was amended by the 1990 Act, Section 65(2). See also section 7(4) of the Health and Social Security Act 1984 (c. 48).

(2) S.I. 1992/662, amended by S.I. 1993/2451, 1994/2402.

- “(a) in relation to homes registered under the Registered Homes Act 1984⁽³⁾ or in respect of which registration is, by virtue of section 1(5)(j) of that Act, not required—
- (i) giving advice, in connection with the safe keeping and correct administration of drugs provided to persons resident in such a home, to the person appearing to the chemist to be in charge of the home, or to the person authorised by that person to control such safe keeping and correct administration, and
 - (ii) keeping records of visits to such homes;”.

Amendment of regulation 16A of the principal Regulations

3. In regulation 16A(2)(b) of the principal Regulations (additional professional services)⁽⁴⁾, the words “, posters and publications” shall be omitted.

Amendment of regulation 18 of the principal Regulations

4.—(1) Regulation 18 of the principal Regulations (standards of, and payments for, drugs and appliances) shall be amended as follows.

(2) In paragraph (1), after the words “and which” there shall be inserted the words “(subject to paragraph (1A))”.

(3) After paragraph (1) there shall be inserted the following paragraph—

“(1A) The Drug Tariff may state in respect of any specified fee falling within paragraph (1)(g), or any other specified fee, allowance or other remuneration in respect of the provision of pharmaceutical services by chemists included in the pharmaceutical list of an FHSA, that the determining authority for that fee, allowance or other remuneration for those chemists is the FHSA, and in such a case paragraphs (4) and (5) shall apply.”.

(4) After paragraph (3) there shall be inserted the following paragraphs—

“(4) The FHSA shall consult the Local Pharmaceutical Committee before making any determination by virtue of paragraph (1A).

(5) A determination made by the FHSA by virtue of paragraph (1A) shall include the arrangements for claiming the specified fees, allowances or other remuneration, and shall be published by the FHSA in whatever way it thinks suitable for bringing that determination to the attention of the chemists included in its pharmaceutical list.”.

Amendment of regulation 22 of the principal Regulations

5. In regulation 22(1) of the principal Regulations (publication of particulars), the word “and” at the end of sub-paragraph (c) shall be omitted and at the end of sub-paragraph (d) there shall be inserted—

“and

(e) determinations made by the FHSA by virtue of regulation 18(1A);”.

Amendment of regulation 24 of the principal Regulations

6. At the end of regulation 24(1) of the principal Regulations (claims and overpayments), there shall be inserted the words “or, as the case may be, in accordance with any arrangements for claiming them included in a determination made by the FHSA by virtue of regulation 18(1A).”.

(3) 1984 c. 23 as amended by the Registered Homes (Amendment) Act 1991 (c. 20); see section 1 for the requirement of registration.

(4) Regulation 16A was inserted by S.I. 1993/2451.

Amendment of Part II of Schedule 2 to the principal Regulations

7.—(1) Part II of Schedule 2 to the principal Regulations (terms of service for chemists) shall be amended as follows.—

(2) In paragraph 3(3) (provision of pharmaceutical services), for the words “sub-paragraphs (3), (4) and (5)” there shall be substituted the words “sub-paragraphs (4) to (12)”.

(3) In paragraph 4 (premises and hours)—

- (a) at the end of sub-paragraph (2)(b) there shall be inserted the words “on working days between the hours of 09.00 and 17.30 (or 13.00 on an early closing day)”;
- (b) at the end of sub-paragraph (3) there shall be inserted the words “; “working day” means Monday to Saturday excluding a Good Friday, Christmas Day or a bank holiday which falls on any such day; and “an early closing day” means any working day when most shops in the neighbourhood are habitually closed after the hour of 13.00.”;
- (c) in sub-paragraph (4), after the words “such services” there shall be inserted the words “on working days between the hours of 09.00 and 17.30 (or 13.00 on an early closing day)”;
- (d) in sub-paragraph (7)(b), for the word “chemist” there shall be substituted the word “pharmacist”, and after the words “such services” there shall be inserted the words “on working days between the hours of 09.00 and 17.30 (or 13.00 on an early closing day)”;
- (e) in sub-paragraph (18), after the words “pharmaceutical services” there shall be inserted the words “on working days between the hours of 09.00 and 17.30 (or 13.00 on an early closing day)”;
- (f) in sub-paragraph (20)(b), after the words “pharmaceutical services” there shall be inserted the words “on working days between the hours of 09.00 and 17.30 (or 13.00 on an early closing day)”;
- (g) after sub-paragraph (24) there shall be inserted the following sub-paragraphs—

“(25) Where it appears to the FHSA, after consultation with the Local Pharmaceutical Committee, that the times at which a pharmacist is available—

- (a) on working days before the hour of 09.00 or after the hour of 17.30 (or 13.00 on an early closing day); or
- (b) on any Sunday, Good Friday, Christmas Day or bank holiday,

are not adequate to meet the needs of persons in the neighbourhood for pharmaceutical services at those times or on those days, the FHSA may (subject to sub-paragraphs (26) to (28)) direct the chemist to revise the times at which the pharmacist is to be available in the manner specified in the direction.

(26) No direction shall be given under sub-paragraph (25) unless a fee, allowance or other remuneration to be paid to any chemist so directed is included in the Drug Tariff or has been determined by the FHSA by virtue of regulation 18(1A) (as the case may be).

(27) Before giving any direction under sub-paragraph (25) the FHSA shall—

- (a) give notice to the chemist of the revised times at which it proposes the pharmacist is to be available; and
- (b) allow the chemist 30 days within which to make representations to the FHSA about its proposals,

and shall take any such representations into account.

(28) The FHSA shall notify the chemist in writing of a direction under sub-paragraph (25), and shall include with the notification of a statement in writing of the reasons for its direction and of the chemist’s right of appeal under sub-paragraph (29).

(29) A chemist may, within 30 days of receiving notification under sub-paragraph (28), appeal in writing to the Secretary of State against a direction under sub-paragraph (25).

(30) Sub-paragraphs (11) and (12) shall apply to any appeal made under sub-paragraph (29) but as though any reference to a determination—

- (a) in sub-paragraph (11) were to a direction; and
- (b) in sub-paragraph (12) were to a decision.

(31) A chemist in respect of whom a direction is given under sub-paragraph (25) shall revise the times of availability of the pharmacist so as to give effect to the direction—

- (a) where the direction is given by the FHSA and no appeal is made, not later than 8 weeks after the date on which he receives notification under sub-paragraph (28); or
- (b) where the direction is given or confirmed on appeal, not later than 8 weeks after the date on which he receives notification of the Secretary of State's decision.”.

(4) In paragraph 8 (remuneration of chemists)—

- (a) in sub-paragraph (2), after the words “Drug Tariff” there shall be inserted the words “or in accordance with any determination made by virtue of regulation 18(1A)”;
- (b) in sub-paragraph (2A), after the words “Drug Tariff” there shall be inserted the words “or by any determination made by virtue of regulation 18(1A)”.

(5) Paragraph 9 (fair wages for staff) shall be omitted.

Amendment of Part III of Schedule 2 to the principal Regulations

8. In paragraph 11A(3) of Schedule 2 to the principal Regulations (terms of service for doctors who provide pharmaceutical services), for the words “drugs, medicines,” there shall be substituted the words “drugs or medicines”.

Signed by authority of the Secretary of State for Health

8th March 1995

Gerald Malone
Minister of State,
Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Pharmaceutical Services) Regulations 1992, which govern the arrangements to be made by Family Health Services Authorities for the provision in their locality of pharmaceutical services under the National Health Services Act 1977.

Regulation 2 extends the scope of supplemental services so as to enable any chemist on the pharmaceutical list of an FHSA to provide advice as to the safekeeping and correct administration of drugs in any residential care home or any nursing home registered under the Registered Homes Act 1984 and in certain homes which are not required to be registered under that Act.

Regulation 3 removes the requirement that a chemist who has undertaken to provide additional professional services must display such posters and publications as the FHSA may require.

Regulations 4, 5 and 6 enable the Secretary of State to designate, in the Drug Tariff, Family Health Services Authorities as the determining authority for remuneration in respect of specified pharmaceutical services, and require the FHSA to consult the Local Pharmaceutical Committee prior to the making of such a determination and to publish any determinations made.

Regulation 7 amends chemists' terms of service relating to the hours within which pharmaceutical services are required to be provided and the hours that the FHSA may direct them to be provided, and provides for an appeal against such a direction of an FHSA. The days and times when a pharmacist may be required by an FHSA to be available to provide pharmaceutical services are Mondays to Saturdays, excluding specified days, between the hours of 09.00 and 17.30 (13.00 on an early closing day), and the FHSA may direct that a pharmacist be available for the provision of pharmaceutical services outside those hours in specified circumstances, provided that a fee or other remuneration to be paid to any chemist so directed has been determined.

Regulation 7(5) removes the provision relating to fair wages for staff.

These Regulations also make consequential and other minor amendments.