

2002 No. 551

NATIONAL HEALTH SERVICE, ENGLAND

**The National Health Service (Pharmaceutical Services)
and (General Medical Services) (No. 2) Amendment
Regulations 2002**

<i>Made</i>	- - - -	<i>10th March 2002</i>
<i>Laid before Parliament</i>		<i>11th March 2002</i>
<i>Coming into force</i>		<i>1st April 2002</i>

The Secretary of State for Health, in exercise of the powers conferred on him by sections 29, 41, 42 and 43 of the National Health Service Act 1977(a) hereby makes the following Regulations:

Citation, commencement and extent

1.—(1) These Regulations may be cited as the National Health Service (Pharmaceutical Services) and (General Medical Services) (No. 2) Amendment Regulations 2002 and shall come into force on 1st April 2002.

(2) These Regulations extend to England only(b).

Amendment of the National Health Service (Pharmaceutical Services) Regulations 1992

2.—(1) The National Health Service (Pharmaceutical Services) Regulations 1992(c) are amended as follows.

(2) In paragraph (1) of regulation 2 (interpretation)—

(a) in the definition of “dispensing doctor list”(d), for “regulation 11” substitute “regulation 21B”(e);

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- (a) 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); and by the Health Act 1999 (c.8) (“the 1999 Act”), Schedule 4, paragraph 38(2), for the definitions of “prescribed” and “regulations”. Section 29 was extended by the Health and Medicines Act 1988 (c.49), section 17 (“the 1988 Act”); and amended by the Health Services Act 1980 (c.53) (“the 1980 Act”), sections 1 and 7 and Schedule 1, paragraph 42(b); by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 6, paragraph 2; by the Medical Act 1983 (c.54), section 56(1) and Schedule 5, paragraph 16(a); by S.I. 1985/39, article 7(3); by the Health Authorities Act 1995 (c.17) (“the 1995 Act”), Schedule 1, paragraph 18; and by the National Health Service (Primary Care) Act 1997 (c.46) (“the 1997 Act”), Schedule 2, paragraph 8. Section 41 was substituted by the Health and Social Care Act 2001 (c.15) (“the 2001 Act”), section 42(1). Section 42 was substituted by the National Health Service (Amendment) Act 1986 (c.66), section 3(1); extended by the 1988 Act, section 17; and amended by S.I. 1987/2202, article 4; by the 1990 Act, section 12(3); by the 1995 Act, Schedule 1, paragraph 30; and by the 2001 Act, section 43(2), (3) and (4). 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); by the 1990 Act, Schedule 9, paragraph 18(2); by the 1995 Act, Schedule 1, paragraph 31; by the 1997 Act, section 29(1) and Schedule 2, paragraph 14; and by the 2001 Act, sections 42(2) and 43(5).
- (b) As regards Wales, the functions of the Secretary of State under sections 29, 41 and 42 of the 1977 Act were transferred to the National Assembly for Wales under S.I. 1999/672, article 2 and Schedule 1, as amended by the Health Act 1999, section 66.
- (c) S.I. 1992/662. Relevant amending instruments are S.I. 1994/2402, 1995/644, 1998/681, 1998/2224, 1999/696, 1999/2563, 2000/121, 2000/593, 2001/1396 and 2001/2888.
- (d) The definition of “dispensing doctor list” was inserted by S.I. 1998/681.
- (e) Regulation 21B was inserted by S.I. 1998/681.

- (b) omit the definition of “listed drugs”**(a)**;
- (c) for the definition of “nurse prescriber”**(b)** substitute—
 - ““nurse prescriber” means a person who is registered in Parts 1, 3, 5, 8, 10, 11, 12, 13, 14 or 15 of the register maintained by the Nursing and Midwifery Council**(c)** pursuant to paragraph 10 of Schedule 2 to the Nursing and Midwifery Order 2001**(d)** and against whose name is recorded in that register an annotation signifying that he is qualified to order drugs, medicines and appliances for patients;”; and
- (d) after the definition of “Remission of Charges Regulations” insert—
 - ““restricted availability appliance” means an appliance which is approved for particular categories of persons or particular purposes only;”.
- (3) Omit paragraphs (1A)**(e)** and (1C)**(f)** of regulation 2.
- (4) In regulation 18(1) (standards of, and payments for, drugs and appliances), in sub-paragraph (a), at the end, insert “and, in the case of a restricted availability appliance, the categories of persons for whom or purposes for which the appliance is approved”.
- (5) In regulation 19**(g)** (provision of pharmaceutical services for immediate treatment or personal administration), at the end add “but shall, in either case, provide a restricted availability appliance only if it is for a person or a purpose specified in the Drug Tariff.”.
- (6) In Schedule 2 (terms of service)—
 - (a) in paragraph 3(1)**(h)**—
 - (i) in sub-paragraph (a), after “or appliances,” insert “not being restricted availability appliances,”;
 - (ii) after sub-paragraph (b), insert—
 - “(bb) an order for a restricted availability appliance, signed by and endorsed on its face with the reference “SLS” by a doctor; or”;
 - (iii) for sub-paragraph (d), substitute—
 - “(d) an order for drugs or medicines, or listed appliances, not being restricted availability appliances, signed by a nurse prescriber”; and
 - (iv) after sub-paragraph (d), insert—
 - “or
 - (e) an order for a restricted availability appliance, signed by and endorsed on its face with the reference “SLS” by a nurse prescriber,”
 - (b) in paragraph 11**(i)**—
 - (i) in sub-paragraph (b), delete “and”;
 - (ii) in sub-paragraph (c), at the end, insert “; and”; and
 - (iii) after sub-paragraph (c), add—
 - “(d) he shall provide for the patient a restricted availability appliance only if the patient is a person, or it is for a purpose, specified in the Drug Tariff.”;
 - (c) in paragraph 11A**(j)**—
 - (i) for sub-paragraph (2), substitute—
 - “(2) Where a patient presents an order on a prescription form for drugs or medicines or listed appliances signed by a nurse prescriber, or an order for a

(a) The definition of “listed drugs” was amended by S.I. 1994/2402.
 (b) The definition of “nurse prescriber” was inserted by S.I. 1994/2402.
 (c) See article 3 of the Nursing and Midwifery Order 2001, S.I. 2002/253.
 (d) S.I. 2002/253.
 (e) Paragraph (1A) was inserted by S.I. 1994/2402, and amended by S.I. 2000/121 and 2000/593.
 (f) Paragraph (1C) was inserted by S.I. 1998/2224.
 (g) Regulation 19 was amended by S.I. 1998/681.
 (h) Paragraph 3(1) was amended by S.I. 1994/2402.
 (i) Paragraph 11 was amended by S.I. 1994/2402.
 (j) Paragraph 11A was inserted by S.I. 1994/2402 and amended by S.I. 1995/644.

restricted availability appliance signed by and endorsed on its face with the reference “SLS” by a nurse prescriber, to a doctor who is authorised or required by regulation 20 to provide drugs or appliances to that patient, the doctor may provide to the patient such of the drugs, medicines or appliances so ordered as he supplies in the normal course of his practice.”; and

- (ii) in sub-paragraph (3), omit the word “listed” the first time it occurs;
- (d) in paragraph 11B(a), omit the word “listed” the second time it occurs.
- (e) in paragraph 12(2), after “in this paragraph”; insert “or paragraph 11” and, after “a scheduled drug”, insert “or a restricted availability appliance”.

Amendment of the National Health Service (General Medical Services) Regulations 1992

3.—(1) Schedule 2 to the National Health Service (General Medical Services) Regulations 1992(b) (terms of service for Doctors) is amended as follows.

(2) In paragraph 1 (interpretation), after the definition of “chemical reagent” insert—

““restricted availability appliance” means an appliance which is approved for particular categories of persons or particular purposes only;”

(3) In paragraph 43, in sub-paragraph (5), omit the words “or an appliance” and after that sub-paragraph add—

“(6) In a case of urgency a doctor may request a chemist to dispense an appliance before a prescription form is issued only if—

- (a) that appliance does not contain a Scheduled drug or a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 5 to the Misuse of Drugs Regulations 1985;
- (b) in the case of a restricted availability appliance, the patient is a person, or it is for a purpose, specified in the Drug Tariff; and
- (c) he undertakes to furnish the chemist, within 72 hours, with a prescription form completed in accordance with sub-paragraph (2).”

(4) In paragraph 44, after sub-paragraph (2), add—

“(3) In the course of treating such a patient a doctor shall not order on a prescription form a restricted availability appliance unless—

- (a) the patient is a person, or it is for a purpose, specified in the Drug Tariff; and
- (b) the doctor endorses the face of the form with the reference “SLS”,

but may otherwise prescribe such an appliance for that patient in the course of that treatment.”.

Signed by authority of the Secretary of State for Health

10th March 2002

Hunt
Parliamentary Under Secretary of State,
Department of Health

(a) Paragraph 11B was inserted by S.I. 1999/696, and amended by S.I. 1999/2563, 2001/1396 and 2001/2888.
(b) S.I. 1992/635. Relevant amending instrument is S.I. 2001/706.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Pharmaceutical Services) Regulations 1992 (“the Pharmaceutical Services Regulations”) and the National Health Service (General Medical Services) Regulations 1992 to take account of the fact that certain appliances may be available for prescription within the NHS only in circumstances specified by the Secretary of State.

Regulation 2(2)(c) amends the definition of “nurse prescriber” in the Pharmaceutical Services Regulations to reflect the extended prescribing responsibilities granted to certain nurses. The Secretary of State’s determination as to those drugs, medicines and listed appliances which may be ordered by nurse prescribers is currently set out in Part XVIIB of the Drug Tariff, copies of which may be obtained from the Stationery Office, PO Box 29, Norwich NR3 1GN.

Regulation 2(2)(b), (3) and (6) also make changes to the Pharmaceutical Services Regulations consequential upon the commencement of section 42 of the Health and Social Care Act 2001, which substituted section 41 of the National Health Service Act 1977. Regulation 2(2)(a) corrects a numbering error in the Pharmaceutical Services Regulations.

As a result of the transfer of certain functions of the Secretary of State in relation to Wales to the National Assembly for Wales, these amendments apply to England only.

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