

SCHEDULE 1

TERMS OF SERVICE OF PHARMACISTS

PART 3

HOURS OF OPENING

Determination of pharmacy opening hours instigated by the pharmacist

25.—(1) A pharmacist may apply to a Primary Care Trust for it to change the days on which or times at which he is obliged to provide pharmaceutical services at his pharmacy in a way that—

- (a) reduces the total number of hours for which the pharmacist is obliged to provide pharmaceutical services each week; or
- (b) keeps that total number of hours the same.

(2) Where a pharmacist makes an application under paragraph (1), as part of that application he shall provide the Primary Care Trust with such information as the Primary Care Trust may reasonably request in respect of any changes to the needs of the people in the neighbourhood, or other likely users of the pharmacy, for pharmaceutical services that are material to the application.

(3) The Primary Care Trust shall determine an application under sub-paragraph (1) within 60 days of receiving it (including any information required of the applicant in accordance with paragraph (2)).

(4) In determining the application, the Primary Care Trust shall—

- (a) issue a direction (which will replace any existing direction) which meets the requirements of sub-paragraphs (5) and (6) and which has the effect of either granting the application under this paragraph or granting it only in part;
- (b) confirm any existing direction in respect of the times at which the pharmacist must provide pharmaceutical services at the pharmacy, provided that the existing direction, whether issued under this Part or paragraph 4 of Schedule 2 to the 1992 Regulations, would meet the requirements of sub-paragraphs (5) and (6);

(c) either—

- (i) revoke (without replacing it) any existing direction in respect of the times at which the pharmacist must provide pharmaceutical services at the pharmacy, whether issued under this Part or paragraph 4 of Schedule 2 to the 1992 Regulations, where this has the effect of granting the application under this paragraph or granting it only in part, or

(ii) in a case where there is no existing direction, issue no direction, in which case, by virtue of paragraph 22(1)(a), the pharmacy will need to be open for not less than 40 hours each week.

(5) Where a Primary Care Trust issues a direction under sub-paragraph (4) in respect of a pharmacy that is to be required to be open—

- (a) for more than 40 hours each week, it shall set out in that direction—
 - (i) the total number of hours each week for which the pharmacist shall provide pharmaceutical services at the pharmacy, and
 - (ii) as regards the additional hours for which he is to provide pharmaceutical services, the days on which and the times at which he is required to provide those services during those additional hours,

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but it shall not set out in that direction the days on which or times at which he is to provide pharmaceutical services during hours which are not additional hours; or

- (b) for less than 40 hours each week, it shall set out in that direction the days on which and times at which pharmaceutical services are to be provided at that pharmacy.

(6) The Primary Care Trust shall not issue a direction under sub-paragraph (4) that has the effect simply of requiring a pharmacy to be open for 40 hours each week on set days and at set times (that is, the direction must have the effect of requiring a pharmacy to be open for either more or less than 40 hours each week).

(7) Where the Primary Care Trust is considering taking action under sub-paragraph (4)(a) or (c) (i), it shall consult the Local Pharmaceutical Committee before determining the application.

(8) A Primary Care Trust shall notify the pharmacist in writing of any direction issued or any other action taken under sub-paragraph (4), and where this has the effect of refusing an application under this paragraph or granting it in part, it shall send the pharmacist a statement in writing setting out—

- (a) the reasons for the refusal or, as the case may be, for granting the application only in part; and
- (b) the pharmacist's right of appeal under sub-paragraph (9).

(9) A pharmacist may, within 30 days of receiving a notification pursuant to sub-paragraph (8), appeal in writing to the Secretary of State against any action under sub-paragraph (4) which has the effect of refusing an application under this paragraph or granting it only in part.

(10) The Secretary of State may, when determining an appeal, either confirm the action taken by the Primary Care Trust or take any action that the Primary Care Trust could have taken under sub-paragraph (4).

(11) The Secretary of State shall notify the pharmacist in writing of his determination and shall in every case include with the notification a written statement of the reasons for the determination.

(12) If the days on which or times at which a pharmacist is to provide pharmaceutical services at a pharmacy have been changed in accordance with this paragraph, the pharmacist shall introduce the changes—

- (a) if he has not appealed under sub-paragraph (9), not earlier than 30 days after the date on which he receives his notification under sub-paragraph (4); or
- (b) if he has appealed under sub-paragraph (9), not earlier than 30 days after the date on which he receives his notification under sub-paragraph (11).

(13) Where an application under sub-paragraph (1)—

- (a) is received by 1st July 2005; and
- (b) is in respect of a direction under paragraph 4 of Schedule 2 to the 1992 Regulations to require the applicant to provide pharmaceutical services at a pharmacy for more than 40 hours per week, and at set times and on set days,

if the Primary Care Trust fails to determine the application within 60 days of receiving it, in accordance with sub-paragraph (3), that application shall be deemed to have been granted, as from three months from the date on which the application was received by the Primary Care Trust.

(14) Where an application under sub-paragraph (1)—

- (a) is received by 1st July 2005; and
- (b) is in respect of a direction under paragraph 4 of Schedule 2 to the 1992 Regulations to require the applicant to provide pharmaceutical services at a pharmacy for more than 40 hours per week, and at set times and on set days,

until that application (including any appeal) is determined or deemed to have been granted, paragraph 22(1)(a) shall apply in respect of the application as if for "40" there were substituted "30".