SCHEDULE 5

Regulation 11(2)(a)(i)

Terms of service of NHS appliance contractors

Division of responsibilities between individuals and corporate bodies

1.—(1) To the extent that this Schedule imposes a requirement on an NHS appliance contractor in respect of an activity which could only, or would normally, be undertaken by a natural person—

(a) if the NHS appliance contractor is a natural person—

(i) that person must comply with that requirement, or

(ii) if the NHS appliance contractor employs or engages other natural persons in connection with the provision of pharmaceutical services, the NHS appliance contractor must either comply with that requirement or secure compliance with that requirement by the other natural persons whom the NHS appliance contractor employs or engages; or

(b) if the NHS appliance contractor is not a natural person, that NHS appliance contractor must secure compliance with that requirement by the natural persons whom the NHS appliance contractor employs or engages in connection with the provision of pharmaceutical services.

(2) Where in this Schedule reference is made to an NHS appliance contractor—

(a) being the subject of any activity, and it is an activity to which a natural person could only, or would normally, be subject; or

(b) forming a view,

that reference is to be construed, as referring, as appropriate to the NHS appliance contractor (if a natural person) or to the NHS appliance contractor's staff.

(3) References in this Schedule to an NHS appliance contractor are to be construed in accordance with sub-paragraphs (1) and (2).

Breaches by directors

2. Where this Schedule imposes a requirement on the director of a body corporate that is included in a pharmaceutical list, a breach of that requirement is to be deemed to be a breach by the body corporate of its terms of service.

Dispensing services

3. An NHS appliance contractor must, to the extent that paragraphs 4 to 8 require and in the manner described in those paragraphs, provide proper and sufficient appliances to persons presenting prescriptions for appliances ordered by health care professionals in pursuance of their functions in the health service, the Scottish health service or the Northern Ireland health service.

Dispensing of appliances

4.—(1) In this Part, "signed" includes signature with a prescriber's advanced electronic signature.

(2) Subject to the following provisions of this Schedule, where—

(a) any person presents to an NHS appliance contractor (C) a non-electronic prescription form which contains—

(i) an order for an appliance, not being a restricted availability appliance, signed by a prescriber, or

(ii) an order for a restricted availability appliance, signed by a prescriber and including the reference "SLS"; [F1]...

(b) C receives **[**[F2]as a nominated dispensing contractor**]** from the Electronic Prescription Service an electronic prescription form which contains an order of a kind specified in paragraph (a)(i) and (ii) and—

(i) any person requests the provision of an appliance in accordance with that prescription, or

(ii) C has previously arranged with the patient that C will dispense that prescription on receipt**[**[F3]; or**]**

[[F4](c) any person—

(i) presents C with an EPS token that relates to an order of a kind specified in paragraph (a)(i) or (ii), and

(ii) requests the provision of an appliance in accordance with the related electronic prescription form,**]**

C must, with reasonable promptness, provide the appliance so ordered if C supplies it in the normal course of business.

(3) Subject to the following provisions of this Schedule, where—

(a) any person presents to C a non-electronic repeatable prescription which contains—

(i) an order for appliances, not being restricted availability appliances, signed by a prescriber, or

(ii) an order for a restricted availability appliance, signed by a prescriber and including the reference "SLS",

and also presents an associated batch issue; [F5]...

(b) C receives **[**[F6]as a nominated dispensing contractor**]** from the Electronic Prescription Service an electronic repeatable prescription which contains an order of a kind specified in paragraph (a)(i) or (ii) and—

(i) any person requests the provision of appliances in accordance with that prescription, or

(ii) C has previously arranged with the patient that the supplier will dispense that prescription on receipt**[**[F7]; or**]**

[[F8](c) any person—

(i) presents C with an EPS token that relates to an order of a kind specified in paragraph (a)(i) or (ii), and

(ii) requests the provision of appliances in accordance with the related electronic repeatable prescription,**]**

C must, with reasonable promptness, provide such of the appliances so ordered as C supplies in the normal course of business.

(4) For the purposes of this paragraph, a non-electronic repeatable prescription for appliances shall be taken to be presented even if the person who wishes to obtain the appliances does not present that prescription, where—

(a) C has that prescription in the supplier's possession; and

(b) that person presents, or C has in C's possession, an associated batch issue.

F1 Word in Sch. 5 para. 4(2)(a) omitted (26.11.2018) by virtue of The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **8(2)(a)(i)**

F2 Words in Sch. 5 para. 4(2)(b) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **8(2)(a)(ii)**

F3 Word in Sch. 5 para. 4(2)(b) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **8(2)(a)(iii)**

F4 Sch. 5 para. 4(2)(c) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **8(2)(a)(iv)**

F5 Word in Sch. 5 para. 4(3)(a) omitted (26.11.2018) by virtue of The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **8(2)(b)(i)**

F6 Words in Sch. 5 para. 4(3)(b) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **8(2)(b)(ii)**

F7 Word in Sch. 5 para. 4(3)(b) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **8(2)(b)(iii)**

F8 Sch. 5 para. 4(3)(c) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **8(2)(b)(iv)**

[F9Supply in accordance with a SSP

4A.—(1) This sub-paragraph applies where—

(a) any person requests an appliance from an NHS appliance contractor (C) in accordance with a prescription form or repeatable prescription; and

(b) a SSP has effect in respect of—

(i) the requested appliance, or

(ii) appliances of a specified description, and the requested appliance is of that description.

(2) Where sub-paragraph (1) applies, C must consider whether it is reasonable and appropriate to supply in accordance with the SSP instead of in accordance with the prescription form or repeatable prescription.

(3) Where sub-paragraph (1) applies, C may provide a different product or quantity of product to the product or quantity of product ordered on the prescription form or repeatable prescription, where—

(a) C is able to do so with reasonable promptness;

(b) to do so is in accordance with the SSP; and

(c) C is of the opinion that supplying a different product or quantity of product to that ordered by the prescriber is reasonable and appropriate.

(4) Where C, in accordance with sub-paragraph (3), provides a different product or quantity of product to that ordered by the prescriber—

(a) C must endorse the prescription or the associated batch issue accordingly (if the manner for making the endorsement is provided for in the Drug Tariff, in the manner provided for in the Drug Tariff), and the prescription or associated batch issue as thus endorsed is

treated as being the prescription for product reimbursement purposes (even though the supply is not in pursuance of that prescription); and

(b) if—

(i) the patient to or for whom the product is provided is on a patient list, and

(ii) the supply is of a type in relation to which the Secretary of State and the person who is, for the time being, the person consulted under section 165(1)(a) of the 2006 Act in respect of pharmaceutical remuneration of NHS appliance contractors, acting jointly, have issued and publicised in such manner as they see fit a recommendation to the effect that, for clinical reasons, in the case of supplies of that type, providers of primary medical services should be notified of a supply to a patient on its patient list that is in accordance with a SSP instead of in accordance with a prescription form or repeatable prescription,

C must notify the provider of primary medical services on whose patient list the patient is of the supply in accordance with a SSP instead of in accordance with a prescription form or repeatable prescription.

(5) Where—

(a) sub-paragraph (1) applies;

(b) C is of the opinion that supplying a different product or quantity of product to that ordered by the prescriber is unreasonable or inappropriate; and

(c) C is able to supply the product or quantity of product ordered by the prescriber within a reasonable timescale but not with reasonable promptness,

the requirements to act with reasonable promptness in paragraph 4(2) and (3) are to be read as requirements to act within a reasonable timescale.**]**

F9 Sch. 5 para. 4A inserted (1.7.2019) by The National Health Service (Amendments Relating to Serious Shortage Protocols) Regulations 2019 (S.I. 2019/990), regs. 1, **5(2)**

Urgent supply without a prescription

5.—(1) This paragraph applies where, in a case of urgency, a prescriber requests an NHS appliance contractor (C) to provide an appliance.

(2) C may provide the appliance requested before receiving a prescription form or repeatable prescription in respect of that appliance, provided that the prescriber undertakes to—

(a) give C a non-electronic prescription form or non-electronic repeatable prescription in respect of the appliance within 72 hours of the request being made; or

(b) transmit an electronic prescription to the Electronic Prescription Service within 72 hours of the request being made.

Preliminary matters before providing appliances

6.—(1) If a person specified in sub-paragraph (2) asks an NHS appliance contractor (C) to do so—

(a) C must give an estimate of the time when the appliance will be ready; and

(b) if it is not ready by then, P must give a revised estimate of the time when it will be ready (until it is ready).

(2) A person specified in this sub-paragraph is a person—

(a) presenting a non-electronic prescription form or non-electronic repeatable prescription; or

(b) requesting the provision of appliances in accordance with an electronic prescription form or an electronic repeatable prescription.

(3) Before providing an appliance in accordance with a prescription form or repeatable prescription—

(a) C must ask any person who makes **[**F10or duly completes a declaration as or on behalf of the person named on the prescription form or repeatable prescription**]** that the person named on the prescription form or repeatable prescription does not have to pay the charges specified in regulation 3(1) **[**F11or (2)**]** of the Charges Regulations M1 (supply of drugs and appliances by chemists) by virtue of either—

(i) entitlement to exemption under **[**F12regulation 10(1)**]** of the Charges Regulations M2 (exemptions), or

(ii) entitlement to remission of charges under regulation 5 of the Remission of Charges Regulations M3 (entitlement to full remission and payment),

to produce satisfactory evidence of such entitlement, unless the declaration is in respect of entitlement to exemption by virtue of sub-paragraph (a), (c), (d), (e), (f) or (g) of **[**F12regulation 10(1)**]** of the Charges Regulations or in respect of entitlement to remission by virtue of regulation 5(1)(e) or (2) of the Remission of Charges Regulations, and at the time of the declaration C already has such evidence available to C;

(b) if, in the case of a non-electronic prescription form or non-electronic repeatable prescription, no satisfactory evidence, as required by paragraph (a), is produced to C, C must endorse the form on which the declaration is made to that effect; and

(c) in the case of an electronic prescription form or an electronic repeatable prescription, C must **[**F13ensure that the following information is duly entered into the records managed by **[**F14NHS England**]** that are accessible as part of the Electronic Prescription Service (if either it is not already recorded in those records or a check, known as real time exemption check, has not produced satisfactory evidence as mentioned in sub-paragraph (a))**]**—

(i) in a case where exemption from or remission of charges is claimed, a record of—

(aa) the exemption category specified in **[**F12regulation 10(1)**]** of the Charges Regulations or the ground for remission under regulation 5 of the Remission of Charges Regulations which it is claimed applies to the case; and

(bb) whether or not satisfactory evidence was produced to C as required by sub-paragraph (a), and

(ii) in any case where a charge is due, confirmation that the relevant charge was paid.

[F15(3A) For the purposes of sub-paragraph (3), satisfactory evidence includes evidence derived from a check, known as a real time exemption check, of electronic records that are managed by the NHS BSA for the purposes (amongst other purposes) of providing advice, assistance and support to patients or their representatives in respect of whether a charge is payable under the Charges Regulations.**]**

[F16(3B) Sub-paragraphs (3) and (3A) apply to the provision of an appliance in accordance with a SSP as they apply to the provision of an appliance in accordance with a prescription form or a repeatable prescription (or an associated batch issue), and for these purposes the prescription for product reimbursement purposes, as mentioned in paragraph 4A(4)(a), is treated as being the prescription in accordance with which the appliance is provided (even though the supply is not in pursuance of that prescription).**]**

F10 Words in Sch. 5 para. 6(3)(a) substituted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **8(3)(a)**

F11 Words in Sch. 5 para. 6(3) substituted (1.4.2015) by The National Health Service (Charges for Drugs and Appliances) Regulations 2015 (S.I. 2015/570), reg. 1, **Sch. 2 para. 5(5)(a)**

F12 Words in Sch. 5 para. 6 substituted (1.4.2015) by The National Health Service (Charges for Drugs and Appliances) Regulations 2015 (S.I. 2015/570), reg. 1, **Sch. 2 para. 5(5)(b)**

F13 Words in Sch. 5 para. 6(3)(c) substituted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **8(3)(b)**

F14 Words in Sch. 5 para. 6(3)(c) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 47(4)** (with reg. 3)

F15 Sch. 5 para. 6(3A) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **8(3)(c)**

F16 Sch. 5 para. 6(3B) inserted (1.7.2019) by The National Health Service (Amendments Relating to Serious Shortage Protocols) Regulations 2019 (S.I. 2019/990), regs. 1, **5(3)**

Marginal Citations

M1 Regulation 3 has been amended by S.I. 2002/2352, 2003/1084, 2004/865, 2005/578, 2008/571, 2009/411, 2010/1727, 2011/518 and 2012/470.

M2 Regulation 7 has been amended by S.I. 2000/3189, 2002/2352, 2004/696, 2005/578 and 2009/29.

M3 Regulation 5 has been amended by S.I. 2004/663 and 936, 2006/562, 2008/1697 and 2009/411.

Providing appliances

7.—(1) Where an NHS appliance contractor (C) is presented with, or receives from the Electronic Prescription Service, a prescription form or a repeatable prescription, C must only provide the appliances so ordered—

(a) if the prescription form or repeatable prescription is duly signed and completed as described in paragraph 4; and

(b) in accordance with the order on the prescription form or repeatable prescription,

subject to any regulations in force under the Weights and Measures Act 1985 [M4] and the following provisions of this Schedule.

(2) If the order is for**[**[F17], or a product to be provided in accordance with a SSP is,**]** an appliance of a type requiring measuring and fitting (for example a truss), C must make all necessary arrangements for—

(a) measuring the person named on the prescription form for the appliance; and

(b) fitting the appliance.

(3) If the order is for**[**[F18], or a product to be provided in accordance with a SSP is,**]** an appliance included in the Drug Tariff, the British National Formulary (including any Appendix published as part of that Formulary), the Dental Practitioner's Formulary, the European Pharmacopoeia or the British Pharmaceutical Codex, the appliance provided must comply with the standard or formula specified therein.

[[F19](4) Where C provides an appliance under paragraph 4A, C must include with it in a written note, for the patient's benefit, information to the effect that the product is being supplied in accordance with a SSP, identifying the particular SSP.**]**

F17 Words in Sch. 5 para. 7(2) inserted (1.7.2019) by The National Health Service (Amendments Relating to Serious Shortage Protocols) Regulations 2019 (S.I. 2019/990), regs. 1, **5(4)(a)**

F18 Words in Sch. 5 para. 7(3) inserted (1.7.2019) by The National Health Service (Amendments Relating to Serious Shortage Protocols) Regulations 2019 (S.I. 2019/990), regs. 1, **5(4)(b)**

F19 Sch. 5 para. 7(4) inserted (1.7.2019) by The National Health Service (Amendments Relating to Serious Shortage Protocols) Regulations 2019 (S.I. 2019/990), regs. 1, **5(4)(c)**

Marginal Citations

M4 1985 c. 72.

Refusal to provide appliances ordered

8.—(1) An NHS appliance contractor (C) may refuse to provide an appliance ordered on a prescription form or repeatable prescription where—

(a) C reasonably believes that it is not a genuine order for the person named on the prescription form or repeatable prescription (for example because C reasonably believes it has been stolen or forged);

(b) it appears to C that there is an error on the prescription form or on the repeatable prescription or, in the case of a non-electronic repeatable prescription, its associated batch issue (including a clinical error made by the prescriber) or that, in the circumstances, providing the appliance would be contrary to C's clinical judgement;

(c) C or other persons on the premises are subjected to or threatened with violence by the person presenting the prescription form or repeatable prescription or requesting the provision of appliances in accordance with an electronic prescription form or repeatable prescription, or by any person accompanying that person

(d) the person presenting the prescription form or requesting the provision of appliances in accordance with an electronic prescription form or repeatable prescription, or any other person accompanying that person, commits or threatens to commit a criminal offence; or

(e) the prescription form or repeatable prescription is incomplete because it does not include information relating to the identification of the prescriber that the NHSCB (or a person exercising its functions) requires in order to perform its functions relating to—

(i) the remuneration of persons providing pharmaceutical services, and

(ii) any apportionment of, or any arrangements for recharging in respect of, that remuneration,

unless C (or the person who employs or engages C) is to receive no pharmaceutical remuneration of any kind in respect of the appliances.

[F20(1A) C may refuse to provide an appliance ordered on an electronic prescription if the access that C has to the Electronic Prescription Service is not such as to enable C to dispense that prescription promptly (or at all).**]**

[F21(1B) C must refuse to provide an appliance ordered on a prescription form or a repeatable prescription where—

(a) a SSP has effect in respect of—

(i) the requested appliance; or

(ii) appliances of a specified description, and the requested appliance is of that description; and

(b) alternative provision has already taken place in accordance with the SSP.

(1C) C may refuse to provide an appliance ordered on a prescription form or a repeatable prescription where—

(a) a SSP has effect in respect of—

(i) the requested appliance, or

(ii) appliances of a specified description, and the requested appliance is of that description;

(b) C is of the opinion that supplying a different product or quantity of product to that ordered by the prescriber is unreasonable or inappropriate; and

(c) C is unable to provide the appliance within a reasonable timescale,

but if C does refuse to do so, C must provide the patient or the person requesting the appliance on behalf of a patient with appropriate advice, as necessary, about reverting to the prescriber for the prescriber to review the patient's treatment.**]**

(2) C must refuse to provide appliances ordered on a repeatable prescription where—

(a) C has no record of that prescription (other than on the first occasion on which the prescription is presented);

(b) C does not, in the case of a non-electronic repeatable prescription, have any associated batch issue and it is not presented to the supplier;

(c) it is not signed by a prescriber;

(d) to do so would not be in accordance with any intervals specified in the prescription;

(e) it would be the first time an appliance had been provided pursuant to the prescription and the prescription was signed (whether electronically or otherwise) more than 6 months previously;

(f) the repeatable prescription was signed (whether electronically or otherwise) more than one year previously;

(g) the expiry date on the repeatable prescription has passed; or

(h) C has been informed by the prescriber that the prescription is no longer required.

(3) Where a patient requests the supply of appliances ordered on a repeatable prescription (other than on the first occasion that the request is made), C must only provide the appliance ordered if C is satisfied that—

(a) the patient to whom the prescription relates—

(i) is using and is likely to continue to use the appliance appropriately, and

(ii) is not suffering from any side effects of the treatment which indicate the need or desirability of reviewing the patient's treatment;

(b) the manner of utilisation of the appliance by the patient to whom the prescription relates has not altered in a way which indicates the need or desirability of reviewing the patient's treatment; and

(c) there have been no changes to the health of the patient to whom the prescription relates which indicate the need or desirability of reviewing the patient's treatment.

F20 Sch. 5 para. 8(1A) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **8(4)**

F21 Sch. 5 para. 8(1B)(1C) inserted (1.7.2019) by The National Health Service (Amendments Relating to Serious Shortage Protocols) Regulations 2019 (S.I. 2019/990), regs. 1, **5(5)**

Further activities to be carried out in connection with the provision of dispensing services

9.—(1) In connection with the services provided under paragraph 3, an NHS appliance contractor (C) must—

(a) ensure that appropriate advice is given to patients about any appliances provided to them—

(i) to enable them to utilise the appliances appropriately, and

(ii) to meet the patient's reasonable needs for general information about the appliances;

(b) provide appropriate advice to patients to whom they provide appliances on the safe keeping of the appliances;

(c) when providing appliances to patients in accordance with a prescription form or repeatable prescription—

(i) provide appropriate advice in particular on the importance of only requesting those items which they actually need, and

(ii) for those purposes, have regard to the details contained in the records maintained under paragraph (f) in respect of the provision of appliances and prescribing pattern relating to the patient in question;

(d) provide a patient with a written note of any appliance which is owed, and inform the patient when it is expected that the appliance will become available;

(e) provide a patient with a written note of C's name, address and telephone number;

(f) keep and maintain records—

(i) of appliances provided, in order to facilitate the continued care of the patient,

(ii) in appropriate cases, of advice given and any interventions or referrals made (including clinically significant interventions in cases involving repeatable prescription), and

(iii) of notes provided under paragraph (d);

(g) undertake appropriate training in respect of repeat dispensing having regard to any recommendations in respect of such training set out in the Drug Tariff;

(h) if C takes possession of a non-electronic repeatable prescription or an associated batch issue, securely store that repeatable prescription or associated batch issue;

(i) if C provides an appliance under an electronic prescription, provide the patient, if the patient so requests, with a written record of the appliances ordered on that prescription and, in the case of an electronic repeatable prescription, of the number of occasions on which it can be dispensed;

(j) maintain records of repeatable prescriptions in such a form as to provide a clear audit trail of supplies under the repeatable prescription (including dates and quantities supplied);

(k) destroy any surplus batch issues relating to appliances—

(i) which are not required, or

(ii) where a patient is refused an appliance pursuant to paragraph 8;

(l) ensure that where a person is refused appliances pursuant to paragraph 8(1)(b), (2) or (3), the patient is referred back to the prescriber for further advice;

(m) where a patient is provided with appliances under a repeatable prescription, notify the prescriber of any clinically significant issues arising in connection with the prescription and keep a record of that notification;

(n) notify the prescriber of any refusal to provide appliances pursuant to paragraph 8(4); and

(o) when providing specified appliances, comply with the additional requirements set out in paragraph 11.

(2) Where, on presentation of a prescription form or repeatable prescription in connection with the dispensing of appliances under paragraph 4, C is unable to provide an appliance, or stoma appliance customisation is required and C is unable to provide that, C must—

(a) if the patient consents, refer the prescription form or repeatable prescription to another NHS appliance contractor or to an NHS pharmacist; or

(b) if the patient does not consent to a referral, provide the patient with contact details of at least 2 people who are NHS pharmacists or NHS appliance contractors who are able to provide the appliance or stoma appliance customisation (as the case may be), if these details are known to C.

Additional requirements in relation to electronic prescribing

10.—(1) An NHS appliance contractor (C) must, if requested to do so by any person—

(a) explain to that person the Electronic Prescription Service, whether or not it is a service which is available through C's appliance contractor premises; and

(b) where the Electronic Prescription Service is not available through C's appliance contractor premises, provide that person with the names of at least 2 NHS appliance contractors through whom the Electronic Prescription Service is available, if these details are known to C.

(2) Where the Electronic Prescription Service is available through C's appliance contractor premises, C must, if requested to do so by any person, enter in that person's PDS patient details—

(a) where the person does not have a nominated dispensing contractor, **[**F22a nominated dispensing contractor**]**; or

(b) where the person does have a nominated dispensing contractor—

(i) a replacement dispensing contractor, or

(ii) a further dispensing contractor,

chosen by that person.

(3) Sub-paragraph (2)(b)(ii) does not apply if the number of nominated dispensing contractors would thereby exceed the maximum number permitted by the Electronic Prescription Service.

(4) Regulation 116(a) to (c) applies to a request under this paragraph as it applies to an application to an NHS chemist for pharmaceutical services.

(5) If C is a nominated dispensing contractor for a person (X) but the nomination was made before C became the person listed in a pharmaceutical list in relation to the appliance contractor premises nominated in X's PDS patient details, C must within 6 months of C becoming the person so listed—

(a) explain to X that the ownership of the appliance contractor premises has changed; and

(b) ask X whether X wishes to maintain the nomination in respect of those appliance contractor premises.

[F23(6) If C dispenses an electronic prescription or makes an urgent supply without a prescription, C must send the form duly completed by or on behalf of the patient, if one is required under regulation 3(3)(b), (5C) or (5E) of the Charges Regulations in respect of that prescription (which may be the associated EPS token), to the NHS BSA.**]**

F22 Words in Sch. 5 para. 10(2)(a) substituted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **8(5)(a)**

F23 Sch. 5 para. 10(6) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **8(5)(b)**

Additional requirements in relation to specified appliances

11.—(1) This paragraph sets out the additional requirements referred to in paragraph 9(1)(o) relating to the provision of specified appliances.

(2) An NHS appliance contractor (C) who dispenses specified appliances in the normal course of business must provide a home delivery service in respect of those appliances and, as part of that service—

(a) C must offer to deliver the specified appliance to the patient's home;

(b) if the patient accepts that offer, the delivery must be made with reasonable promptness and at such time as is agreed with the patient;

(c) the specified appliance must be delivered in a package which displays no writing or other markings which could indicate its content; and

(d) the manner of delivery of the package and any supplementary items required by sub-paragraph (3) must not convey the type of appliance being delivered.

(3) In any case where a specified appliance is provided (whether by home delivery or otherwise), C must provide a reasonable supply of appropriate supplementary items (such as disposable wipes and disposal bags) and—

(a) must ensure that the patient may, if the patient wishes, consult a person to obtain expert clinical advice regarding the appliance; or

(b) if C believes it is appropriate to do so, must—

(i) refer the patient to a prescriber; or

(ii) offer the patient an appliance use review service.

(4) If C is unable to provide an appliance use review service in accordance with sub-paragraph (3)(b)(ii), C must give the patient the contact details of at least 2 people who are NHS pharmacists or NHS appliance contractors who are able to arrange for the service to be provided, if these details are known to C.

(5) Where C provides a telephone care line in respect of the dispensing of any specified appliance, C must ensure that during out of hours periods—

(a) advice is made available to patients through that telephone care line; or

(b) **[**[F24]telephone or website contact details for providers of NHS services that may be consulted for advice regarding specified appliances during those periods**]**, are made available to patients through the telephone care line.

(6) For the purposes of this paragraph—

"expert clinical advice", in relation to a specified appliance, means advice which is given by a person who is suitably trained and who has relevant experience in respect of the appliance;

"out of hours periods", in relation to the appliance contractor premises, means the periods outside the core opening hours and any supplementary opening hours of the premises.

F24 Words in Sch. 5 para. 11(5)(b) substituted (1.4.2014) by The National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment and Transitional Provision) Regulations 2014 (S.I. 2014/417), regs. 1, **19**

Signposting

12.—(1) Where, on presentation of a prescription form or repeatable prescription, an NHS appliance contractor (C) is unable to provide an appliance or stoma appliance customisation because the provision of the appliance or customisation is not within C's normal course of business, C must—

(a) if the patient consents, refer the prescription form or repeatable prescription to another NHS appliance contractor or to an NHS pharmacist; and

(b) if the patient does not consent to a referral, provide the patient with contact details of at least 2 people who are NHS pharmacists or NHS appliance contractors who are able to provide the appliance or stoma appliance customisation (as the case may be), if these details are known to C.

(2) C must, in appropriate cases, keep and maintain a record of any information given or referral made under sub-paragraph (1) and that record must be in a form that facilitates—

(a) auditing of the provision of pharmaceutical services by C; and

(b) follow-up care for the person who has been given the information or in respect of whom the referral has been made.

Opening hours: general

13.—(1) An NHS appliance contractor (C) must ensure that pharmaceutical services are provided at C's appliance contractor premises—

(a) for not less than 30 hours each week;

(b) for not less than 100 hours per week, in the case of which a 100 hours condition (originally imposed under the 2005 Regulations) applies;

(c) if the NHSCB or a Primary Care Trust, or on appeal the Secretary of State, has directed that pharmaceutical services are to be provided at the premises for fewer than 30 hours per week, provided that the person listed in relation to them provides those services at set times and on set days, at the times and on the days so set;

(d) if a Primary Care Trust, or on appeal the Secretary of State, has (under previous Regulations) directed that pharmaceutical services are to be provided at the premises for more than 30 hours per week, and at set times and on set days, at the times and on the days so set; or

(e) if the NHSCB or a Primary Care Trust, or on appeal the Secretary of State, has directed that pharmaceutical services are to be provided at the premises for more than 30 hours each week, but only on set times and on set days as regards the additional opening hours—

(i) for the total number of hours each week required by virtue of that direction, and

(ii) as regards the additional opening hours for which the person listed in relation to the premises is required to provide pharmaceutical services by virtue of that direction, at the days on which and times at which that person is required to provide pharmaceutical services during those additional opening hours, as set out in that direction,

but the NHSCB may, in appropriate circumstances, agree a temporary suspension of services for a set period, where it has received 3 months notice of the proposed suspension.

(2) The hours during which appliance contractor premises must be open by virtue of sub-paragraph (1) are referred to in these Regulations as "core opening hours".

(3) C must exhibit a notice specifying the days on which and times at which the appliance contractor premises are open for the provision of appliances.

(4) C must, on request, submit a return to the NHSCB setting out—

(a) the days on which and times at which pharmaceutical services are provided at C's appliance contractor premises (including times at which C is providing pharmaceutical services when C is not obliged to do so by virtue of sub-paragraph (1), which are referred to in these Regulations as "supplementary opening hours"); and

(b) the pharmaceutical services which C ordinarily provides at those premises.

(5) Where C changes—

(a) the supplementary opening hours of C's appliance contractor premises; or

(b) the pharmaceutical services which C is ordinarily to provide at those premises,

C must supply the NHSCB with a return informing it of the change.

(6) Where C has notified to the NHSCB (or, before the appointed day, a Primary Care Trust) the days on which and the times at which pharmaceutical services are to be provided at C's appliance contractor premises (for example, in a return under sub-paragraph (4) or (5) or in an application for inclusion in a pharmaceutical list)—

(a) C must ensure that pharmaceutical services are provided at the premises to which the notification relates on the days and at the time set out in that notification (unless the notification has been superseded by a return, or further return, under sub-paragraph (5)); and

(b) C must not change—

(i) the days on which or the times at which pharmaceutical services are to be provided at those premises during core opening hours that are neither additional opening hours nor in total less than 30 (but if those core opening hours are additional opening hours, or are in total less than 30, regulation 65(5) to (7) and paragraphs 15 and 16 apply,

(ii) the total number of any supplementary opening hours (regulation 65(5) to (7) and paragraphs 15 and 16 apply to changes to the total number of core opening hours),

(iii) the days on which or the times at which pharmaceutical services are to be provided at those premises during supplementary opening hours, or

(iv) the pharmaceutical services which P is ordinarily to provide at those premises,

for a period of at least 3 months after that notification was received by the NHSCB (or, before the appointed day, a Primary Care Trust), unless the NHSCB agrees otherwise.

(7) Subject to sub-paragraph (8), where C is prevented by illness or other reasonable cause from complying with C's obligations under sub-paragraph (1), C must, where practicable, make arrangements with one or more NHS appliance contractors, NHS pharmacists or LPS chemists whose premises are situated in the same area for the provision of pharmaceutical services or local pharmaceutical services during that time.

(8) C may only make an arrangement with an LPS chemist under sub-paragraph (7) where that LPS chemist provides local pharmaceutical services which are of a similar description as, and a similar extent to, the pharmaceutical services which C ordinarily provides.

(9) Where there is a temporary suspension in the provision of pharmaceutical services by C for a reason beyond the control of C, C is not in breach of sub-paragraphs (1) and (6), provided that—

(a) C notifies the NHSCB of that suspension as soon as practical; and

(b) C uses all reasonable endeavours to resume provision of pharmaceutical services as soon as is practicable.

(10) Planned refurbishment of appliance contractor premises is neither a "reasonable cause" for the purposes of sub-paragraph (7) nor a "reason beyond the control of C" for the purposes of sub-paragraph (9).

(11) For the purposes of calculating the number of hours that premises are open during a week that includes Christmas Day, Good Friday, Easter Sunday or a bank holiday, it is to be deemed that the premises were open on that day at the times at which they would ordinarily have been open on that day of the week.

(12) In this Schedule, the "additional opening hours", when they are required, are those hours during which C would not be providing pharmaceutical services, were C subject to the condition set out in sub-paragraph (1)(a) and not the condition set out in sub-paragraph (1)(e).

Matters to be considered when issuing directions in respect of core opening hours

14.—(1) Where the NHSCB issues a direction setting any days or times under this Schedule, it must in doing so seek to ensure that the hours at which premises are open for the provision of pharmaceutical services are such as to ensure that pharmaceutical services are provided on such days and at such times as are necessary to meet the needs of people in its area, or other likely users of the premises, for pharmaceutical services.

(2) In considering the matters mentioned in sub-paragraph (1), the NHSCB—

(a) must treat any local pharmaceutical services being provided in its area at the days and times in question as if they were pharmaceutical services being so provided; and

(b) may have regard to any pharmaceutical services that are being provided in its area in circumstances where the person providing the services is not obliged to provide those services.

(3) The NHSCB may only direct that an NHS appliance contractor (C) may provide pharmaceutical services at appliance contractor premises for less than 30 hours in any week if it is satisfied that the arrangements for the supply of appliances in its area are likely to be adequate to meet the need for such services at times when C is not providing pharmaceutical services.

(4) Except in the case of premises that have (at any time) been subject to a direction under regulation 65 or regulation 65 of the 2012 Regulations (core opening hours conditions), the NHSCB may only direct that C must provide pharmaceutical services at premises for more than 30 hours in any week if it is satisfied that C is to receive reasonable remuneration in respect of the additional opening hours for which C is required to provide pharmaceutical services (and any additional remuneration payable in accordance with a determination made as mentioned in regulation 91(6) in respect of those hours is "reasonable remuneration" for these purposes).

Determination of core opening hours instigated by the NHSCB

15.—(1) Where it appears to the NHSCB, after consultation with or having considered the matter at the request of the Local Pharmaceutical Committee for the area in which the premises are situated, that the days on which or times at which appliance contractor premises are or are to be open for the provision of pharmaceutical services will not, or no longer, meet the needs of—

(a) people in its area; or

(b) other likely users of the appliance contractor premises,

for the pharmaceutical services available at or from those premises, it must carry out an assessment as to whether to issue a direction requiring the NHS appliance contractor (C) to provide pharmaceutical services at the premises at set times and on set days (which may include Christmas Day, Good Friday and bank holidays).

(2) Before concluding the assessment under sub-paragraph (1) the NHSCB must—

(a) give notice to C of any proposed changes to the days on which or times at which the appliance contractor premises are to be open; and

(b) allow C 30 days within which to make written representations to the NHSCB about the proposed changes.

(3) After considering any representations made in accordance with sub-paragraph (2)(b), the NHSCB must—

(a) issue a direction (which replaces any existing direction) which meets the requirements of sub-paragraphs (4) and (5);

(b) confirm any existing direction in respect of the times at which C must provide pharmaceutical services at the appliance contractor premises, provided that the existing direction (whether issued under regulation 65, this Schedule, the 2012 Regulations, the 2005 Regulations or the 1992 Regulations) would meet the requirements of sub-paragraphs (4) and (5);

(c) either—

(i) revoke (without replacing it) any existing direction in respect of the times at which C must provide pharmaceutical services at the premises (whether issued under regulation 65, this Schedule, the 2012 Regulations, the 2005 Regulations or the 1992 Regulations), or

(ii) in a case where there is no existing direction, issue no direction,

in which case, by virtue of whichever of paragraph 13(1)(a) or (b) applies, the appliance contractor premises will need to be open for not less than 30 hours each week or not less than 100 hours each week.

(4) Where the NHSCB issues a direction under sub-paragraph (3) in respect of appliance contractor premises that are to be required to be open—

(a) for more than 30 hours each week, it must set out in that direction—

(i) the total number of hours each week for which C must provide pharmaceutical services at the premises, and

(ii) as regards the additional opening hours for which C is to provide pharmaceutical services, the days on which and the times at which C is required to provide those services during those additional opening hours,

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

(b) for less than 30 hours each week, it must set out in that direction the days on which and times at which pharmaceutical services are to be provided at those premises.

(5) The NHSCB must not issue a direction under sub-paragraph (3) that has the effect simply of requiring premises to be open for 30 hours each week on set days and at set times (that is, the direction must have the effect of requiring premises to be open for either more or less than 30 hours each week).

(6) The NHSCB must notify C in writing of any direction issued or any other action taken under sub-paragraph (3), and where it sets new days on which or times at which the NHS appliance contractor is to provide pharmaceutical services at the premises, it must include with the notification a statement of—

(a) the reasons for the change; and

(b) C's right of appeal under paragraph (7).

(7) C may, within 30 days of receiving notification under sub-paragraph (6), appeal in writing to the Secretary of State against any direction issued or any other action taken under sub-paragraph (3) which sets new days on which or times at which C is to provide pharmaceutical services.

(8) The Secretary of State may, when determining an appeal, either confirm the action taken by the NHSCB or take any action that the NHSCB could have taken under paragraph (3).

(9) The Secretary of State must notify C of the determination and must in every case include with the notification a statement of the reasons for the determination.

(10) If the days on which or times at which C is to provide pharmaceutical services at appliance contractor premises have been changed in accordance with this paragraph, C must introduce the changes—

(a) if C has not appealed under sub-paragraph (7), not later than 8 weeks after the date on which C receives notification under sub-paragraph (6); or

(b) if C has appealed under sub-paragraph (7), not later than 8 weeks after the date on which C receives notification under sub-paragraph (9).

(11) This paragraph does not apply where regulation 65(5) to (7) applies.

Determination of core opening hours instigated by the NHS appliance contractor

16.—(1) An NHS appliance contractor (C) may apply to the NHSCB for it to change the days on which or times at which C is obliged to provide pharmaceutical services at C's premises, in a way that—

(a) reduces the total number of hours for which C is obliged to provide pharmaceutical services each week (but not any of those required under a 100 hours condition); or

(b) keeps that total number of hours the same.

(2) Where C makes an application under sub-paragraph (1), as part of that application C must provide the NHSCB with such information as the NHSCB may reasonably request in respect of any changes to the needs of the people in its area, or other likely users of the premises, for pharmaceutical services that are material to the application.

(3) The NHSCB must determine an application under sub-paragraph (1) within 60 days of receiving it (including any information required of C in accordance with sub-paragraph (2)).

(4) In determining the application, the NHSCB must—

(a) issue a direction (which replaces 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 C must provide pharmaceutical services at the premises, provided that the existing direction (whether issued under regulation 65, this Schedule, the 2005 Regulations or the 1992 Regulations) would meet the requirements of sub-paragraphs (5) and (6); or

(c) either—

(i) revoke (without replacing it) any existing direction in respect of the times at which C must provide pharmaceutical services at the premises (whether issued under regulation 65, this Schedule, the 2012 Regulations, the 2005 Regulations or 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 whichever of paragraph 13(1)(a) or (b) applies, the appliance contractor premises will need to be open for not less than 30 hours each week or not less than 100 hours each week.

(5) Where the NHSCB issues a direction under sub-paragraph (4) in respect of appliance contractor premises that are to be required to be open—

(a) for more than 30 hours each week, it must set out in that direction—

(i) the total number of hours each week for which C must provide pharmaceutical services at the premises, and

(ii) as regards the additional opening hours for which C is to provide pharmaceutical services, the days on which and the times at which C is required to provide those services during those additional opening hours,

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

(b) for less than 30 hours each week, it must set out in that direction the days on which and times at which pharmaceutical services are to be provided at those premises.

(6) The NHSCB must not issue a direction under sub-paragraph (4) that has the effect simply of requiring appliance contractor premises to be open for 30 hours each week on set days and at set times (that is, the direction must have the effect of requiring appliance contractor premises to be open for either more or less than 30 hours each week).

(7) Where the NHSCB is considering taking action under sub-paragraph (4)(a) or (c)(i), it must consult the Local Pharmaceutical Committee for the area where the premises are situated before determining the application.

(8) The NHSCB must notify C 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 must send C a statement setting out—

(a) the reasons for the refusal or, as the case may be, for granting the application only in part; and

(b) C's right of appeal under sub-paragraph (9).

(9) C 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 NHSCB or take any action that the NHSCB could have taken under sub-paragraph (4).

(11) The Secretary of State must notify C of the determination and must in every case include with the notification a statement of the reasons for the determination.

(12) If the days on which or times at which C is to provide pharmaceutical services at appliance contractor premises have been changed in accordance with this paragraph, C must introduce the changes—

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

(b) if C has appealed under sub-paragraph (9), not earlier than 30 days after the date on which C receives notification under sub-paragraph (11).

(13) This paragraph does not apply where regulation 65(5) to (7) applies.

Temporary open hours and closures during an emergency requiring the flexible provision of pharmaceutical services

17.—(1) Notwithstanding the provisions of paragraphs 13 to 16, during an emergency requiring the flexible provision of pharmaceutical services, the NHSCB may, on application from an NHS appliance contractor (C), permit C a temporary change to the days on which or times at which C is obliged to provide pharmaceutical services at appliance contractor premises, or permit temporary closure of those premises, if—

(a) C gives at least 24 hours notice of the change or closure; and

(b) the reasons given by C for the request are, in the opinion of the NHSCB, adequate reasons.

(2) The NHSCB need not approve the request in advance of the change or closure, but if it does not do so and decides subsequently that C's reasons are not, in its opinion, adequate reasons, then the days on which or times at which C is obliged to provide pharmaceutical services at the premises are to revert to the overridden days and times, from the day after the date on which that decision is given to C.

Clinical governance

18.—(1) An NHS appliance contractor (C) must, in connection with the pharmaceutical services provided by C, participate, in the manner reasonably required by the NHSCB, in an acceptable system of clinical governance.

(2) For these purposes a system of clinical governance is "acceptable" if it is considered acceptable by the NHSCB and comprises the following components—

(a) a patient and public involvement programme, which includes—

(i) a requirement that C produces in an approved manner a practice leaflet containing approved particulars in respect of each of the premises from which the supplier provides pharmaceutical services,

(ii) a requirement that C publicises the NHS services that are available at or from C's appliance contractor premises,

(iii) a requirement that C undertakes an approved patient satisfaction survey annually, in an approved manner,

(iv) C's monitoring arrangements in respect of appliances owed to patients but which are out of stock,

(v) an approved complaints system (which meets the requirements of paragraph 24),

(vi) a requirement that C co-operates appropriately with visits by an authorised representative of any relevant Local Healthwatch organisation and takes appropriate action following the outcome of such visits,

(vii) a requirement that C co-operates appropriately with any reasonable inspection or review that the NHSCB or any relevant statutory authority wishes to undertake, and

(viii) C's monitoring arrangements in respect of C's compliance with the Equality Act 2010 [M5];

(b) a clinical audit programme (normally of 5 days) twice in each financial year;

(c) a risk management programme, which includes—

(i) arrangements for ensuring that all stock is procured and handled in an appropriate way,

(ii) arrangements for ensuring that all equipment used in the provision of pharmaceutical services is maintained appropriately,

(iii) an approved incident reporting system, together with arrangements for analysing and responding to critical incidents,

(iv) appropriate standard operating procedures, including standard operating procedures in respect of dispensing appliances, repeatable prescriptions and providing advice and support to people caring for themselves or their families,

(v) appropriate waste disposal arrangements for clinical and confidential waste,

(vi) identifying a clinical governance lead person in respect of each of C's appliance contractor premises,

(vii) C's monitoring arrangements of C's compliance with the Health and Safety at Work etc. Act 1974 [M6];

(d) a clinical effectiveness programme, which includes arrangements for ensuring that appropriate advice is given by C—

(i) in respect of the provision of appliances in accordance with a prescription form or repeatable prescription, or

(ii) to people caring for themselves or their families,

and arrangements for ensuring that C, when giving advice to any patient on a matter mentioned in paragraph (d)(i), has regard to the details contained in the records maintained under paragraph 9(1)(f) in respect of the provision of appliances and prescribing pattern relating to the patient in question;

(e) a staffing and staff management programme, which includes—

(i) arrangements for appropriate induction for staff (including locums),

(ii) appropriate training for all staff in respect of any role they are asked to perform,

(iii) arrangements for the checking of qualifications and references of all staff engaged in the provision of NHS services,

(iv) arrangements for identifying and supporting the development needs of all staff engaged in the provision of NHS services, including continuing professional development for registered pharmacists, registered nurses and registered pharmacy technicians and any necessary accreditation in respect of the provision of directed services, and

(v) arrangements for addressing poor performance (in conjunction with the NHSCB as appropriate); and

(f) an information governance programme, which provides for—

(i) compliance with approved procedures for information management and security, and

(ii) submission of an annual self assessment of compliance (to an approved level) with those procedures via approved data submission arrangements which allow the NHSCB to access that assessment.

(3) For the purposes of sub-paragraph (2), "approved" means approved by the NHSCB.

Marginal Citations

M5 2010 c. 15.

M6 1974 c. 37.

Professional Standards

19. An NHS appliance contractor must provide pharmaceutical services and exercise any professional judgment in connection with the provision of such services in conformity with the standards generally accepted in the pharmaceutical profession.

Inducements etc.

20.—(1) An NHS appliance contractor (C) (including C's staff) must not give, promise or offer to any person any gift or reward (whether by way of a share of or dividend on the profits of the business or by way of discount or rebate or otherwise) as an inducement to or in consideration of a person (X)—

(a) presenting an order for appliances on a prescription form or repeatable prescription; or

(b) nominating C as X's dispensing contractor (or one of them) in X's PDS patient details.

(2) Promising, offering or providing a home delivery service is not a gift or reward for the purposes of sub-paragraph (1).

(3) C (including C's staff) must not accept or receive any gift or reward in respect of only—

(a) providing contact details of alternative NHS pharmacists or NHS appliance contractors pursuant to paragraph 9(2)(b), 11(4) or 12(1)(b); or

(b) referring a prescription form or repeatable prescription to another NHS appliance contractor or NHS pharmacist pursuant to paragraph 9(2)(a) or 12(1)(a) and providing no additional service in connection with the item on that prescription.

Duty to provide information about fitness matters as they arise

21.—(1) An NHS appliance contractor (C) and, where C is a body corporate every director of C must, within 7 days of its occurrence, inform the NHSCB in writing if they—

(a) are convicted of any criminal offence in the United Kingdom;

(b) are bound over following a criminal conviction in the United Kingdom;

(c) accept a police caution in the United Kingdom;

(d) have, in summary proceedings in Scotland in respect of an offence, been the subject of an order discharging them absolutely (without proceeding to conviction);

(e) have accepted and agreed to pay either a procurator fiscal fine under section 302 of the Criminal Procedure (Scotland) Act 1995 [M7] (fixed penalty: conditional offer by procurator fiscal) or a penalty under section 115A of the Social Security Administration Act 1992 [M8] (penalty as alternative to prosecution);

(f) have been convicted of an offence elsewhere than in the United Kingdom where the originating events, if they took place in England, could lead to a criminal conviction in England;

(g) are charged in the United Kingdom with a criminal offence, or are charged elsewhere than in the United Kingdom with an offence where the originating events, if they took place in England, could lead to a criminal conviction in England;

(h) are notified by any licensing, regulatory or other body of the outcome of any investigation into their professional conduct, and there is a finding against them;

(i) become the subject of any investigation into their professional conduct by any licensing, regulatory or other body;

(j) become subject to an investigation into their professional conduct in respect of any current or previous employment, or are notified of the outcome of any such investigation and any finding against them;

(k) become the subject of any investigation by NHS BSA in relation to fraud;

(l) become the subject of any investigation by another primary care organisation, which might lead to their removal from a relevant list; or

(m) are removed, contingently removed or suspended from, refused inclusion in or conditionally included in any relevant list for a reason relating to unsuitability, fraud or efficiency of service provision,

and must give details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when that investigation or those proceedings took place or are to take place, and any outcome.

(2) If a person to whom paragraph (1) applies (X) is, or was at the time of the originating events, a director of a body corporate, X must in addition inform the NHSCB within 7 days if any such body corporate—

(a) is convicted of any criminal offence in the United Kingdom;

(b) is convicted of an offence elsewhere than in the United Kingdom where the originating events, if they took place in England, could lead to a criminal conviction in England;

(c) is charged in the United Kingdom with a criminal offence, or is charged elsewhere than in the United Kingdom with an offence where the originating events, if they took place in England, could lead to a criminal conviction in England;

(d) is notified by any licensing, regulatory or other body of the outcome of any investigation into its provision of professional services, and there is a finding against the body corporate;

(e) becomes the subject of any investigation into its provision of professional services by any licensing, regulatory or other body;

(f) becomes the subject of any investigation by the NHS BSA in relation to any fraud or is notified of the outcome of such an investigation where it is adverse;

(g) becomes the subject of any investigation by another primary care organisation which might lead to its removal from any relevant list; or

(h) is removed, contingently removed or suspended from, refused inclusion in or conditionally included in any relevant list for a reason relating to unsuitability, fraud or efficiency of service provision,

and X must give the name and registered office of the body corporate and details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when that investigation or those proceedings took place or are to take place, and any outcome.

(3) C or X must consent to a request being made by the NHSCB to any employer or former employer or licensing or regulatory body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse.

Marginal Citations

M7 1995 c. 46. Section 302 has been amended by: the Communications Act 2003 (c. 21), **Schedule 17**, paragraph 133; the Wireless Telegraphy Act 2006 (c. 36), **Schedule 7**, paragraph 16; the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **section 50(1)**; and the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **section 70(3)**.

M8 1992 c. 5. Section 115A was inserted by the Social Security Administration (Fraud) Act 1997 (c. 47), **section 15**, and amended by the Social Security Fraud Act 2001 (c. 11) ("the 2001 Act"), section 14. The amendments made by the 2001 Act are to be repealed by, and other amendments to section 115A are to be made by, the Welfare Reform Act 2012 (c. 5), **sections 113 to 115**, and Schedule 14, Part 1.

Other information to be supplied

22.—(1) An NHS appliance contractor (C) must give notice to the NHSCB within 30 days (or if this is impracticable, as soon as practicable thereafter) of—

(a) any occurrence requiring a change in the information recorded about C in the pharmaceutical list which C has not otherwise notified to the NHSCB in accordance with these Regulations;

(b) if C is an individual, any change of C's private address;

(c) if C is a body corporate, any change to the name, registered number, registered office, telephone number relating to that office of the body corporate; and

(d) any occurrence requiring C's addition to or removal from the EPS list or a change in the information recorded about C in that list.

(2) C must give the NHSCB, if it so requests, the name of any pharmacist employed or engaged by C who is responsible for dispensing a particular prescription.

(3) If C is a body corporate, it must give notice to the NHSCB within 30 days (or if this in impracticable, as soon as practicable thereafter) of any changes to the names and addresses of each of its directors.

(4) If C is a body corporate and appoints a director who was not listed on C's application for inclusion on a pharmaceutical list, C must, within 30 days of the person's appointment, supply to the NHSCB the information mentioned in paragraphs 3 and 4 of Schedule 2 about that person.

(5) If C or a director of C (if C is a body corporate) is on, or is a director of a body corporate which is on, a relevant list other than a pharmaceutical list held by the NHSCB, they must supply in writing to the NHSCB—

(a) in the case of a director of a body corporate, the name and registered office of the body corporate on the other relevant list; and

(b) particulars of the other relevant list.

(6) C or a director C (if C is a body corporate) must inform the NHSCB if they, or a body corporate of which they are a director, apply to be included in a relevant list other than a pharmaceutical list held by the NHSCB, and of the outcome of any such application.

Co-operation with [F25NHS England]

23. An NHS appliance contractor must co-operate with **[**F25NHS England**]** in the discharge by **[**F25NHS England**]** of the duty under section 1F(1) of the 2006 Act M9 (duty as to education and training).

F25 Words in Sch. 5 para. 23 substituted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 2 para. 14(4)** (with reg. 7)

Marginal Citations

M9 Section 1F was inserted by the Health and Social Care Act 2012 (c. 7), **section 7**.

Complaints

24.—(1) An NHS appliance contractor must have in place arrangements, which comply with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 M10, for the handling and consideration of any complaints.

(2) In this paragraph, "complaint" means a complaint about a matter connected with the provision of pharmaceutical services by the NHS appliance contractor.

Marginal Citations

M10 S.I. 2009/309; amended by S.I. 2009/1768.

Inspections and access to information

25.—(1) An NHS appliance contractor (C) must allow persons authorised in writing by the NHSCB to enter and inspect any premises C uses for the provision of pharmaceutical services at any reasonable time, for the purposes of—

(a) ascertaining whether or not C is complying with the requirements of this Schedule;

(b) auditing, monitoring and analysing—

(i) the provision made by C, in the course of providing pharmaceutical services, for patient care and treatment, including any arrangement made with a person in respect of provision of appliances, and

(ii) the management by C of the pharmaceutical services C provides,

where the conditions in sub-paragraph (2) are satisfied.

(2) The conditions are that—

(a) reasonable notice of the intended entry has been given;

(b) the Local Pharmaceutical Committee for the area where the premises are situated have been invited to be present at the inspection, where this is requested by C;

(c) the person authorised in writing (X) carries written evidence of X's authorisation, which X produces on request; and

(d) X does not enter any part of the premises used solely as residential accommodation without the consent of the resident.

(3) C must, at the request of the NHSCB or of X, allow it or X access to any information which it or X reasonably requires—

(a) for the purposes mentioned in sub-paragraph (1); or

(b) in the case of the NHSCB, in connection with its functions that relate to pharmaceutical services.

Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

– blanket amendment words substituted by S.I. 2023/1071 Sch. para. 1