

SCHEDULE 4

Schedule 3, paragraphs 3(6) and 5

PART I

PHARMACY PRACTICES COMMITTEE

**Pharmacy Practices Committee**

1. The Board shall, in accordance with regulation 7 of the Health Boards (Membership and Procedure) (Scotland) Regulations 2001(1) and the provisions of this Schedule establish a committee (to be known as “the Pharmacy Practices Committee”).

**Commencement Information**

I1 Sch. 4 para. 1 in force at 1.7.2009, see reg. 1

**Functions**

2. The Pharmacy Practices Committee shall on behalf of the Board exercise the functions of the Board in terms of regulation 5(10) and paragraph 3 of Schedule 3.

**Commencement Information**

I2 Sch. 4 para. 2 in force at 1.7.2009, see reg. 1

**Membership**

- 3.—(1) The Pharmacy Practices Committee shall consist of seven members of whom—
- (a) one shall be the chair appointed as such by the Board; the chair shall be a member of the Board but shall not be an officer of the Board nor shall the chair be, nor previously have been, a doctor, dentist, ophthalmic optician or pharmacist or the employee of a person who is a doctor, dentist, ophthalmic optician or pharmacist;
  - (b) three shall be pharmacists of whom—
    - (i) one shall be a pharmacist whose name is not included in any pharmaceutical list and who is not the employee of a person whose name is so listed; and such pharmacist shall be appointed by the Board from persons nominated by the [F1Area Pharmaceutical Committee]; and
    - (ii) two shall be pharmacists each of whom is included in a pharmaceutical list or is an employee of a person whose name is so listed; and each shall be appointed by the Board from persons nominated by the Area Pharmaceutical Committee; and
  - (c) three shall be persons appointed by the Board otherwise than from the members of the Board but none shall be nor previously have been a doctor, dentist, ophthalmic optician or a pharmacist, or an employee of a person who is a doctor, dentist, ophthalmic optician or pharmacist.

(1) SS.I. 2001/302. Amended by S.S.I. 2004/212 and 2005/108.

**Changes to legislation:** There are currently no known outstanding effects for the The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009, SCHEDULE 4. (See end of Document for details)

[<sup>F2</sup>(1A) In the circumstances described in sub-paragraph (1B) the Pharmacy Practices Committee shall have an additional member appointed by the Board from persons nominated by the Area Medical Committee.

(1B) The circumstances are where the premises that are the subject of the application are located in the same neighbourhood as premises from which a dispensing doctor dispenses.]

(2) Persons to act as deputies for, and corresponding in number to, each of those categories of person appointed pursuant to sub-paragraph (1) [<sup>F3</sup>and, as the case may be, sub-paragraph (1A)] shall, provided they satisfy the criteria specified in that sub-paragraph, be appointed by the Board and in the absence of any of those persons a deputy from the appropriate category shall be entitled to act in the absent person's place.

(3) If a nomination sought for the purposes of sub-paragraph (1)(b)(i) or (ii) [<sup>F4</sup>or sub-paragraph (1A)] above is not made before such date as the Board may determine, the Board may appoint as a member a person who satisfies the criteria specified in the relevant sub-paragraph.

(4) The Board shall prepare and maintain lists of the persons who have been appointed, in accordance with paragraph 3(1)(a), (b)(i) [<sup>F5</sup>or (ii), (c) or (1A)], as the case might be, and who currently serve as members of the Pharmacy Practices Committee, and shall provide the Scottish Ministers with a copy of such lists from time to time.

#### Textual Amendments

- F1** Words in sch. 4 para. 3(1)(b)(i) substituted (1.4.2011) by [The National Health Service \(Pharmaceutical Services\) \(Scotland\) Amendment Regulations 2011 \(S.S.I. 2011/32\)](#), regs. 1, **9(2)** (with reg. 10)
- F2** Sch. 4 para. 3(1A)(1B) inserted (1.4.2011) by [The National Health Service \(Pharmaceutical Services\) \(Scotland\) Amendment Regulations 2011 \(S.S.I. 2011/32\)](#), regs. 1, **9(3)** (with reg. 10)
- F3** Words in sch. 4 para. 3(2) inserted (1.4.2011) by [The National Health Service \(Pharmaceutical Services\) \(Scotland\) Amendment Regulations 2011 \(S.S.I. 2011/32\)](#), regs. 1, **9(4)** (with reg. 10)
- F4** Words in sch. 4 para. 3(3) inserted (1.4.2011) by [The National Health Service \(Pharmaceutical Services\) \(Scotland\) Amendment Regulations 2011 \(S.S.I. 2011/32\)](#), regs. 1, **9(5)** (with reg. 10)
- F5** Words in sch. 4 para. 3(4) substituted (1.4.2011) by [The National Health Service \(Pharmaceutical Services\) \(Scotland\) Amendment Regulations 2011 \(S.S.I. 2011/32\)](#), regs. 1, **9(6)** (with reg. 10)

#### Commencement Information

- I3** Sch. 4 para. 3 in force at 1.7.2009, see [reg. 1](#)

#### Declaration of interest

4.—(1) Before any meeting of the Pharmacy Practices Committee begins the chair, or in the chair's absence, the person acting as chair, shall ask the members intending to be present whether, in respect of any matter to be considered at the meeting, any of them—

- (a) has an interest to declare; or
- (b) is associated with a person who has any personal interest,

and any such member who has or, as the case may be, is associated with a person who has, any such interest shall disclose it accordingly.

(2) Any member who has, pursuant to the provisions of sub-paragraph (1) above, disclosed an interest or who, in the opinion, expressed to the meeting, of the chair or in the chair's absence, the person acting as chair as the case may be, should have disclosed such an interest, shall not be present at the consideration or discussion of that matter or the voting on it, and a deputy who has no such interest may act in that member's place.

#### Commencement Information

**I4** Sch. 4 para. 4 in force at 1.7.2009, see [reg. 1](#)

#### Quorum

**5.** No business shall be transacted at a meeting of the Pharmacy Practices Committee unless the chair or in the chair's absence, the person acting as chair, one member appointed under each of paragraph 3(1)(b)(i) and (ii), and two other members appointed under paragraph 3(1)(c) are present.

#### Commencement Information

**I5** Sch. 4 para. 5 in force at 1.7.2009, see [reg. 1](#)

#### [<sup>F6</sup>Independent legal assessor

**5A.—(1)** The Board may appoint an independent legal assessor to assist them in their deliberations, including voting.

(2) The independent legal assessor's role is to provide legal and technical advice and support.]

#### Textual Amendments

**F6** Sch. 4 para. 5A inserted (28.6.2014) by [The National Health Service \(Pharmaceutical Services\) \(Scotland\) \(Miscellaneous Amendments\) Regulations 2014 \(S.S.I. 2014/148\)](#), regs. 1(1), **9(a)** (with reg. 14)

#### Voting

**6.—(1)** Subject to sub-paragraphs (2), (3) and (4) below, every application considered by the Pharmacy Practices Committee shall be considered by all members present, but shall be determined only by a majority of votes of the members present who are entitled to vote.

[<sup>F7</sup>(2) Except in the circumstances set out in paragraph (4) only a member appointed by virtue of paragraph 3(1)(c) is entitled to vote.]

(3) A member appointed by virtue of paragraph [<sup>F8</sup>3(1)(b) or 3(1A)] is not entitled to vote and shall withdraw immediately before a decision on an application by voting takes place.

(4) The chair, or in the chair's absence the person acting as chair, shall not be entitled to vote at any meeting except in the case of an equality of votes of the other persons present and voting, in which case the chair shall have a casting vote.

(5) The Pharmacy Practices Committee shall within ten working days of taking its decision give written notification [<sup>F9</sup>to the Board of that decision and the information required under paragraph 3(6) of Schedule 3].

#### Textual Amendments

**F7** Sch. 4 para. 6(2) substituted (1.4.2011) by [The National Health Service \(Pharmaceutical Services\) \(Scotland\) Amendment Regulations 2011 \(S.S.I. 2011/32\)](#), regs. 1, **9(7)** (with reg. 10)

**F8** Words in sch. 4 para. 6(3) substituted (1.4.2011) by [The National Health Service \(Pharmaceutical Services\) \(Scotland\) Amendment Regulations 2011 \(S.S.I. 2011/32\)](#), regs. 1, **9(8)** (with reg. 10)

**Changes to legislation:** There are currently no known outstanding effects for the The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009, SCHEDULE 4. (See end of Document for details)

**F9** Words in sch. 4 para. 6(5) substituted (28.6.2014) by The National Health Service (Pharmaceutical Services) (Scotland) (Miscellaneous Amendments) Regulations 2014 (S.S.I. 2014/148), regs. 1(1), **9(b)** (with reg. 14)

**Commencement Information**

**I6** Sch. 4 para. 6 in force at 1.7.2009, see **reg. 1**

**Standing orders**

7. Subject to the provisions of these Regulations, the Board may make, vary or revoke standing orders with respect to the terms of office of members of the Pharmacy Practices Committee, the procedure of that committee and the making of reports of its proceedings to the Board.

**Commencement Information**

**I7** Sch. 4 para. 7 in force at 1.7.2009, see **reg. 1**

**Vacancy**

8. The proceedings of the Pharmacy Practices Committee shall not be invalidated by any vacancy in its membership, or any defect in a member's appointment.

**Commencement Information**

**I8** Sch. 4 para. 8 in force at 1.7.2009, see **reg. 1**

**PART II**

**NATIONAL APPEAL PANEL**

**Nominees for the National Appeal Panel**

9.—(1) The Board shall submit the names of its nominees for the National Appeal Panel to the Scottish Ministers and shall advise them from time to time of any changes in such nominees.

[<sup>F10</sup>(2) The persons nominated by the Board under sub-paragraph (1) must not be, nor have been previously, a doctor, dentist, ophthalmic optician or pharmacist nor a person employed by a doctor, dentist, ophthalmic optician or pharmacist.]

**Textual Amendments**

**F10** Sch. 4 para. 9(2) substituted (1.4.2011) by The National Health Service (Pharmaceutical Services) (Scotland) Amendment Regulations 2011 (S.S.I. 2011/32), regs. 1, **9(9)** (with reg. 10)

**Commencement Information**

**I9** Sch. 4 para. 9 in force at 1.7.2009, see **reg. 1**

## [<sup>F11</sup>Chair of National Appeal Panel

**10.**—(1) After consultation with all Health Boards, the Scottish Ministers shall appoint a Chair and a substitute Chair of the National Appeal Panel.

(2) Each person so appointed—

- (a) shall be an advocate, a solicitor or a solicitor-advocate; but
- (b) shall not be, nor previously have been, a doctor, dentist, ophthalmic optician, pharmacist, or person, or employee of a person, whose name is on the pharmaceutical list.

(3) Where the person appointed as Chair is unable for whatever reason to fulfil the duties of the Chair, the person appointed as substitute Chair shall take the place of that person and all references to the Chair in these Regulations shall be deemed to refer to the person appointed as substitute Chair]

### Textual Amendments

**F11** Sch. 4 para. 10 substituted (1.4.2011) by [The National Health Service \(Pharmaceutical Services\) \(Scotland\) Amendment Regulations 2011 \(S.S.I. 2011/32\)](#), regs. 1, **9(10)** (with reg. 10)

### Commencement Information

**I10** Sch. 4 para. 10 in force at 1.7.2009, see [reg. 1](#)

## Membership

**11.**—(1) In any case in which paragraph 5(6) of Schedule 3 falls to be applied, the Scottish Ministers shall arrange to convene in accordance with this paragraph the National Appeal Panel, the members of which shall be drawn from—

[<sup>F12</sup>(a) the lists maintained, in accordance with paragraph 3(4), of persons falling within paragraph 3(1)(b)(i); and]

(b) the nominees proposed in accordance with paragraph 9.

(2) No member of the National Appeal Panel shall be a member of—

- (a) the Board or the Pharmacy Practices Committee of the Board which considered the application; or
- (b) any Board which was notified in terms of paragraph 1(1)(d) of Schedule 3 and which submitted representations in accordance with that paragraph.

[<sup>F13</sup>(3) The National Appeal Panel shall consist of three members of whom—

- (a) one shall be chair appointed as provided for in paragraph 10;
- (b) one shall be a pharmacist; and
- (c) one shall be nominated by the Board under paragraph 9.]

### Textual Amendments

**F12** Sch. 4 para. 11(1)(a) substituted (1.4.2011) by [The National Health Service \(Pharmaceutical Services\) \(Scotland\) Amendment Regulations 2011 \(S.S.I. 2011/32\)](#), regs. 1, **9(11)(a)** (with reg. 10)

**F13** Sch. 4 para. 11(3) substituted (1.4.2011) by [The National Health Service \(Pharmaceutical Services\) \(Scotland\) Amendment Regulations 2011 \(S.S.I. 2011/32\)](#), regs. 1, **9(11)(b)** (with reg. 10)

### Commencement Information

**I11** Sch. 4 para. 11 in force at 1.7.2009, see [reg. 1](#)

*Changes to legislation:* There are currently no known outstanding effects for the The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009, SCHEDULE 4. (See end of Document for details)

**Declaration of interest**

**12.**—(1) Before the start of any meeting of the National Appeal Panel the chair <sup>F14</sup>... shall ask the members intending to be present whether, in respect of the appeal to be considered at the meeting, any of them—

- (a) has an interest to declare;
- (b) is associated with a person who has any personal interest,

and any such member who has or, as the case may be, is associated with the person who has, any such interest shall disclose it accordingly.

(2) Any member who has, pursuant to the provisions of sub-paragraph (1) disclosed an interest or who, in the opinion, expressed to the meeting, of the chair <sup>F15</sup>... should have disclosed such an interest, shall not be present at the consideration or discussion of that appeal or the voting on it.

**Textual Amendments**

**F14** Words in sch. 4 para. 12(1) omitted (1.4.2011) by virtue of The National Health Service (Pharmaceutical Services) (Scotland) Amendment Regulations 2011 (S.S.I. 2011/32), regs. 1, **9(12)(a)** (with reg. 10)

**F15** Words in sch. 4 para. 12(2) omitted (1.4.2011) by virtue of The National Health Service (Pharmaceutical Services) (Scotland) Amendment Regulations 2011 (S.S.I. 2011/32), regs. 1, **9(12)(b)** (with reg. 10)

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**Commencement Information**

**I12** Sch. 4 para. 12 in force at 1.7.2009, see **reg. 1**

**Quorum**

<sup>F16</sup>**13.** .....

**Textual Amendments**

**F16** Sch. 4 para. 13 omitted (1.4.2011) by virtue of The National Health Service (Pharmaceutical Services) (Scotland) Amendment Regulations 2011 (S.S.I. 2011/32), regs. 1, **9(13)** (with reg. 10)

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**Commencement Information**

**I13** Sch. 4 para. 13 in force at 1.7.2009, see **reg. 1**

**[<sup>F17</sup>Voting**

**14.** Every appeal must be considered by all members of the National Appeal Panel convened for that purpose and determined by a majority of the votes of those members.]

**Textual Amendments**

**F17** Sch. 4 para. 14 substituted (1.4.2011) by The National Health Service (Pharmaceutical Services) (Scotland) Amendment Regulations 2011 (S.S.I. 2011/32), regs. 1, **9(14)** (with reg. 10)

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**Commencement Information**

**I14** Sch. 4 para. 14 in force at 1.7.2009, see **reg. 1**

**[<sup>F18</sup> Notice of decision of National Appeal Panel**

**15.**—(1) The National Appeal Panel shall, within 5 working days of taking its decision, give written notification of that decision with reasons for it to the Board to whom the original application was made.

(2) The Board shall—

- (a) within 5 working days of receipt of such notification, intimate to the applicant and all persons mentioned in paragraph 1 of Schedule 3 that decision and the reasons for it; and
- (b) within 5 working days of such intimation, publish that decision and the reasons for it on its website.]

**Textual Amendments**

**F18** Sch. 4 para. 15 substituted (1.4.2011) by The National Health Service (Pharmaceutical Services) (Scotland) Amendment Regulations 2011 (S.S.I. 2011/32), regs. 1, **9(15)** (with reg. 10)

**Commencement Information**

**I15** Sch. 4 para. 15 in force at 1.7.2009, see **reg. 1**

**Changes to legislation:**

There are currently no known outstanding effects for the The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009, SCHEDULE 4.