



National Health Service Act 2006

2006 CHAPTER 41

PART 7

PHARMACEUTICAL SERVICES AND LOCAL PHARMACEUTICAL SERVICES

CHAPTER 1

PROVISION OF PHARMACEUTICAL SERVICES

126 Arrangements for pharmaceutical services

- (1) Each Primary Care Trust must, in accordance with regulations, make the arrangements mentioned in subsection (3).
- (2) The Secretary of State must make regulations for the purpose of subsection (1).
- (3) The arrangements are arrangements as respects the area of the Primary Care Trust for the provision to persons who are in that area of—
 - (a) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown,
 - (b) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a dental practitioner in pursuance of—
 - (i) his functions in the health service, the Scottish health service or the Northern Ireland health service (other than functions exercised in pursuance of the provision of services mentioned in paragraph (c)), or
 - (ii) his functions in the armed forces of the Crown,
 - (c) listed drugs and medicines and listed appliances which are ordered for those persons by a dental practitioner in pursuance of the provision of primary dental services or equivalent services in the Scottish health service or the Northern Ireland health service,

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- (d) such drugs and medicines and such listed appliances as may be determined by the Secretary of State for the purposes of this paragraph and which are ordered for those persons by a prescribed description of person in accordance with such conditions, if any, as may be prescribed, in pursuance of functions in the health service, the Scottish health service, the Northern Ireland health service or the armed forces of the Crown, and
 - (e) such other services as may be prescribed.
- (4) The descriptions of persons which may be prescribed for the purposes of subsection (3) (d) are the following, or any sub-category of such a description—
- (a) persons who are registered in the register maintained under article 5 of the Health Professions Order 2001,
 - (b) persons who are registered pharmacists,
 - (c) persons who are registered in the dental care professionals register established under section 36B of the Dentists Act 1984 (c. 24),
 - (d) persons who are optometrists,
 - (e) persons who are registered osteopaths within the meaning of the Osteopaths Act 1993 (c. 21),
 - (f) persons who are registered chiropractors within the meaning of the Chiropractors Act 1994 (c. 17),
 - (g) persons who are registered nurses or registered midwives,
 - (h) persons not mentioned above who are registered in any register established, continued or maintained under an Order in Council under section 60(1) of the Health Act 1999 (c. 8),
 - (i) any other description of persons which appears to the Secretary of State to be a description of persons whose profession is regulated by or under a provision of, or made under, an Act of the Scottish Parliament or Northern Ireland legislation and which the Secretary of State considers it appropriate to specify.
- (5) A determination under subsection (3)(d) may—
- (a) make different provision for different cases,
 - (b) provide for the circumstances or cases in which a drug, medicine or appliance may be ordered,
 - (c) provide that persons falling within a description specified in the determination may exercise discretion in accordance with any provision made by the determination in ordering drugs, medicines and listed appliances.
- (6) The arrangements which may be made by a Primary Care Trust under subsection (1) include arrangements for the provision of a service by means such that the person receiving it does so otherwise than at the premises from which it is provided.
- (7) Where a person with whom a Primary Care Trust makes arrangements under subsection (1) wishes to provide services to persons outside the area of the Primary Care Trust he may, subject to any provision made by regulations in respect of arrangements under this section, provide such services under the arrangements.
- (8) The services provided under this section are, together with additional pharmaceutical services provided in accordance with a direction under section 127, referred to in this Act as “pharmaceutical services”.
- (9) In this section—

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“armed forces of the Crown” does not include forces of a Commonwealth country or forces raised in a colony,

“listed” means included in a list approved by the Secretary of State for the purposes of this section,

“the Scottish health service” means the health service within the meaning of the National Health Service (Scotland) Act 1978 (c. 29), and

“the Northern Ireland health service” means the health service within the meaning of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I.14)).

127 Arrangements for additional pharmaceutical services

- (1) The Secretary of State may—
 - (a) give directions to a Primary Care Trust requiring it to arrange for the provision to persons within or outside its area of additional pharmaceutical services, or
 - (b) by giving directions to a Primary Care Trust authorise it to arrange for such provision if it wishes to do so.
- (2) Directions under this section may require or authorise a Primary Care Trust to arrange for the provision of a service by means such that the person receiving it does so otherwise than at the premises from which it is provided (whether those premises are inside or outside the area of the Primary Care Trust).
- (3) The Secretary of State must publish any directions under this section in the Drug Tariff or in such other manner as he considers appropriate.
- (4) In this section—

“additional pharmaceutical services”, in relation to directions, means the services (of a kind that do not fall within section 126) which are specified in the directions, and

“Drug Tariff” means the Drug Tariff published under regulation 18 of the National Health Service (Pharmaceutical Services) Regulations 1992 (S.I. 1992/662) or under any corresponding provision replacing, or otherwise derived from, that regulation.

128 Terms and conditions, etc

- (1) Directions under section 127 may require the Primary Care Trust to which they apply, when making arrangements—
 - (a) to include, in the terms on which the arrangements are made, such terms as may be specified in the directions,
 - (b) to impose, on any person providing a service in accordance with the arrangements, such conditions as may be so specified.
- (2) The arrangements must secure that any service to which they apply is provided only by a person—
 - (a) whose name is included in a pharmaceutical list, or
 - (b) who has entered into a pharmaceutical care services contract under section 17Q of the National Health Service (Scotland) Act 1978.
- (3) Different arrangements may be made with respect to—

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- (a) the provision of the same service by the same person but in different circumstances, or
 - (b) the provision of the same service by different persons.
- (4) A Primary Care Trust must provide details of proposed arrangements (including the remuneration to be offered for the provision of services) to any person who asks for them.
- (5) After making any arrangements, a Primary Care Trust must publish, in such manner as the Secretary of State may direct, such details of the arrangements as he may direct.
- (6) “Pharmaceutical list” includes, subject to any provision of the directions in question, a list published in accordance with regulations made under—
- (a) section 83(2)(a) of the National Health Service (Wales) Act 2006 (c. 42), or
 - (b) Article 63(2A)(a) of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I.14)).

129 Regulations as to pharmaceutical services

- (1) Regulations must provide for securing that arrangements made by a Primary Care Trust under section 126 will—
- (a) enable persons for whom drugs, medicines or appliances mentioned in that section are ordered as there mentioned to receive them from persons with whom such arrangements have been made, and
 - (b) ensure the provision of services prescribed under subsection (3)(e) of that section by persons with whom such arrangements have been made.
- (2) The regulations must include provision—
- (a) for the preparation and publication by a Primary Care Trust of one or more lists of persons, other than medical practitioners and dental practitioners, who undertake to provide pharmaceutical services from premises in the area of the Primary Care Trust,
 - (b) that an application to a Primary Care Trust for inclusion in a pharmaceutical list must be made in the prescribed manner and must state—
 - (i) the services which the applicant will undertake to provide and, if they consist of or include the supply of appliances, which appliances he will undertake to supply, and
 - (ii) the premises from which he will undertake to provide those services,
 - (c) that, except in prescribed cases (which may, in particular, include cases of applications for the provision only of services falling within subsection (7))—
 - (i) an application for inclusion in a pharmaceutical list by a person not already included, and
 - (ii) an application by a person already included in a pharmaceutical list for inclusion also in respect of services or premises other than those already listed in relation to him,

may be granted only if the Primary Care Trust is satisfied, in accordance with the regulations, that it is necessary or expedient to grant the application in order to secure in the neighbourhood in which the premises are located the adequate provision by persons included in the list of the services, or some of the services, specified in the application, and

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- (d) for the removal of an entry in respect of premises from a pharmaceutical list if it has been determined in the prescribed manner that the person to whom the entry relates—
 - (i) has never provided from those premises, or
 - (ii) has ceased to provide from them,the services, or any of the services, which he is listed as undertaking to provide from them.
- (3) The regulations may prescribe the extent to which the provision of LP services (within the meaning given by paragraph 1 of Schedule 12) must be taken into account in determining whether to grant an application for inclusion in a pharmaceutical list.
- (4) The regulations may include the provision mentioned in subsection (5) for the case where—
 - (a) two or more applications referred to in subsection (2)(c)(i) or (ii) relate to the same neighbourhood,
 - (b) they are considered together by the Primary Care Trust, and
 - (c) the Primary Care Trust would be satisfied as mentioned in subsection (2)(c) in relation to each application taken on its own, but is not so satisfied in relation to all of them taken together.
- (5) The provision mentioned in this subsection is provision for the Primary Care Trust, in determining which application (or applications) to grant, to take into account any proposals specified in the applications in relation to the sale or supply at the premises in question, otherwise than by way of pharmaceutical services or in accordance with a private prescription, of—
 - (a) drugs and medicines, and
 - (b) other products for, or advice in relation to, the prevention, diagnosis, monitoring or treatment of illness or handicap, or the promotion or protection of health.
- (6) The regulations may include provision—
 - (a) that an application to a Primary Care Trust may be granted in respect of some only of the services specified in it,
 - (b) that an application to a Primary Care Trust relating to services of a prescribed description may be granted only if it appears to the Primary Care Trust that the applicant has satisfied such conditions with regard to the provision of those services as may be prescribed,
 - (c) that an application to a Primary Care Trust by a person who qualified to have his name registered under the Pharmacy Act 1954 (c. 61) by virtue of section 4A of that Act (qualification by European diploma) may not be granted unless the applicant satisfies the Primary Care Trust that he has the knowledge of English which, in the interest of himself and persons making use of the services to which the application relates, is necessary for the provision of pharmaceutical services in the area of the Primary Care Trust,
 - (d) that the inclusion of a person in a pharmaceutical list in pursuance of such an application may be for a fixed period,
 - (e) that, where the premises from which an application states that the applicant will undertake to provide services are in an area of a prescribed description, the applicant may not be included in the pharmaceutical list unless his inclusion is approved by reference to prescribed criteria by the Primary Care Trust in whose area those premises are situated,

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- (f) that that Primary Care Trust may give its approval subject to conditions,
 - (g) as to other grounds on which a Primary Care Trust may, or must, refuse to grant an application (including grounds corresponding to the conditions referred to in section 151(2), (3) or (4) as read with section 153),
 - (h) as to information which must be supplied to a Primary Care Trust by a person included, or seeking inclusion, in a pharmaceutical list (or by arrangement with him),
 - (i) for the supply to a Primary Care Trust by an individual—
 - (i) who is included, or seeking inclusion, in a pharmaceutical list, or
 - (ii) who is a member of the body of persons controlling a body corporate included, or seeking inclusion, in a pharmaceutical list,
 of a criminal conviction certificate under section 112 of the Police Act 1997 (c. 50), a criminal record certificate under section 113 of that Act or an enhanced criminal record certificate under section 115 of that Act,
 - (j) for grounds on which a Primary Care Trust may defer a decision whether or not to grant an application,
 - (k) for the disclosure by a Primary Care Trust, to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about applicants for inclusion in a pharmaceutical list, and refusals by the Primary Care Trust to grant such applications,
 - (l) as to criteria to be applied in making decisions under the regulations (other than decisions required by virtue of paragraph (e)),
 - (m) as to the making of declarations about—
 - (i) financial interests,
 - (ii) gifts above a prescribed value, and
 - (iii) other benefits received.
- (7) A service falls within this subsection if the means of providing it is such that the person receiving it does so otherwise than at the premises from which it is provided.
- (8) The regulations may, in respect of services falling within subsection (7), include provision—
- (a) requiring persons to be approved for the purposes of providing such services, or
 - (b) requiring the Primary Care Trust to make the grant of an application subject to prescribed conditions.
- (9) The approval mentioned in subsection (8)(a) is approval by the Secretary of State or such other person as may be specified in the regulations, in accordance with criteria to be specified in or determined under the regulations (whether by the Secretary of State or by another person so specified).
- (10) Before making regulations by virtue of subsection (6)(m), the Secretary of State must consult such organisations as he considers appropriate appearing to him to represent persons providing pharmaceutical services.
- (11) In this Act a “pharmaceutical list” means a list published in accordance with regulations made under subsection (2)(a).

130 Regulations under section 129: appeals, etc

- (1) Regulations under section 129 must include provision conferring on such persons as may be prescribed rights of appeal from decisions made by virtue of that section.
- (2) If regulations made by virtue of section 129(6)(g) provide that a Primary Care Trust may refuse to grant an application, they must also provide for an appeal (by way of redetermination) to the FHSAA against the decision of the Primary Care Trust.
- (3) Regulations under section 129 must be so framed as to preclude—
 - (a) a person included in a pharmaceutical list, and
 - (b) an employee of such a person,from taking part in the decision whether an application such as is mentioned in section 129(2)(c) should be granted or an appeal against such a decision brought by virtue of subsection (1) of this section should be allowed.

131 Power to charge

- (1) The Secretary of State may give directions to a Primary Care Trust requiring it to charge a fee in cases or descriptions of case specified in the directions to persons who make an application referred to in section 129(2)(c)(i) or (ii).
- (2) The Secretary of State may in the directions—
 - (a) specify the fee himself, or
 - (b) require the Primary Care Trust to determine the amount of the fee in accordance with any requirements set out in the directions.
- (3) Before determining the amount of the fee—
 - (a) in a subsection (2)(a) case, the Secretary of State must consult such organisations as he considers appropriate that appear to him to represent persons providing pharmaceutical services and such organisations as he considers appropriate that appear to him to represent Primary Care Trusts,
 - (b) in a subsection (2)(b) case, the Primary Care Trust must undertake any consultation required by the directions.
- (4) The Secretary of State must publish in such manner as he considers appropriate any directions he gives under this section.
- (5) In a subsection (2)(b) case, the Primary Care Trust must publish in such manner as it considers appropriate the fee which it determines.

132 Persons authorised to provide pharmaceutical services

- (1) Except as may be provided for by or under regulations, no arrangements may be made by a Primary Care Trust with a medical practitioner or dental practitioner under which he is required or agrees to provide pharmaceutical services to any person to whom he is rendering primary medical services or primary dental services.
- (2) Except as may be provided for by or under regulations, no arrangements for the dispensing of medicines may be made under this Chapter with persons other than persons who—
 - (a) are registered pharmacists or persons lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968 (c. 67), and

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- (b) undertake that all medicines supplied by them under the arrangements will be dispensed either by or under the supervision of a registered pharmacist.
- (3) Regulations must provide for the preparation and publication by each Primary Care Trust of one or more lists of medical practitioners who undertake to provide drugs, medicines or listed appliances (within the meaning given by section 126) under arrangements with the Primary Care Trust.
- (4) The regulations may, in particular, include provision—
- (a) as to grounds on which a Primary Care Trust may, or must, refuse to grant an application for inclusion in a list of medical practitioners referred to in subsection (3) (including grounds corresponding to the conditions referred to in section 151(2), (3) or (4) as read with section 153(2)),
 - (b) as to information which must be supplied to a Primary Care Trust by a medical practitioner included, or seeking inclusion, in such a list (or by arrangement with him),
 - (c) for the supply to a Primary Care Trust by a medical practitioner who is included, or seeking inclusion, in such a list of a criminal conviction certificate under section 112 of the Police Act 1997 (c. 50), a criminal record certificate under section 113 of that Act or an enhanced criminal record certificate under section 115 of that Act,
 - (d) for grounds on which a Primary Care Trust may defer a decision whether or not to grant an application for inclusion in such a list,
 - (e) for the disclosure by a Primary Care Trust to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about applicants for inclusion in such a list, and refusals by the Primary Care Trust to grant such applications,
 - (f) as to criteria to be applied in making decisions under the regulations.
- (5) If regulations made by virtue of subsection (4)(a) provide that a Primary Care Trust may refuse to grant an application for inclusion in such a list, they must also provide for an appeal (by way of redetermination) to the FHSAA against the decision of the Primary Care Trust.
- (6) The regulations must include provision for the removal of an entry from a list in prescribed circumstances.
- (7) No arrangements for the provision of—
- (a) pharmaceutical services falling within section 126(3)(e), or
 - (b) additional pharmaceutical services provided in accordance with a direction under section 127,
- may be made with persons other than those who are registered pharmacists or are of a prescribed description.
- (8) Where—
- (a) arrangements for the provision of pharmaceutical services have been made with a registered pharmacist, and
 - (b) a suspension order or an interim suspension order is made with respect to him,
- he may not provide pharmaceutical services in person during the period of suspension.
- (9) “Suspension order” and “interim suspension order” have the same meaning as in the Pharmacy Act 1954 (c. 61).

133 Inadequate provision of pharmaceutical services

- (1) Subsection (2) applies if the Secretary of State is satisfied, after such inquiry as he considers appropriate, that—
 - (a) as respects the area, or part of the area, of a Primary Care Trust, the persons whose names are included in any pharmaceutical list are not such as to secure the adequate provision of pharmaceutical services in that area or part, or
 - (b) for any other reason any considerable number of persons in any such area or part are not receiving satisfactory services under the arrangements in force under this Chapter.
- (2) Where this subsection applies, the Secretary of State—
 - (a) may authorise the Primary Care Trust to make such other arrangements as he may approve, or may himself make such other arrangements, and
 - (b) may dispense with any of the requirements of regulations made under this Part (other than Chapters 2 to 4) so far as appears to him necessary to meet exceptional circumstances and enable such arrangements to be made.