

1990 No. 568

MEDICINES

The Medicines (Veterinary Drugs) (Pharmacy and Merchants' List) (No.2) (Amendment) Order 1990

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| <i>Made</i> - - - - | <i>12th March 1990</i> |
| <i>Laid before Parliament</i> | <i>13th March 1990</i> |
| <i>Coming into force</i> | <i>3rd April 1990</i> |

The Secretary of State concerned with health in England, the Secretaries of State respectively concerned with health and with agriculture in Scotland and in Wales, the Minister of Agriculture, Fisheries and Food, the Department of Health and Social Services for Northern Ireland and the Department of Agriculture for Northern Ireland, acting jointly, in exercise of the powers conferred by section 57(1), (2) and (2A) and 129(4) of the Medicines Act 1968(a) and now vested in them(b), and of all other powers enabling them in that behalf, after consulting such organisations as appear to them to be representative of interests likely to be substantially affected by the following Order in accordance with section 129(6) of that Act and with the consent of the Treasury in accordance with section 57(2A) of that Act, hereby make the following Order:

Title, commencement and interpretation

1.—(1) This Order may be cited as the Medicines (Veterinary Drugs) (Pharmacy and Merchants' List) (No.2) (Amendment) Order 1990 and shall come into force on 3rd April 1990.

(2) In this Order, "the principal Order" means the Medicines (Veterinary Drugs) (Pharmacy and Merchants' List) (No.2) Order 1989(c).

Amendment of the principal Order

2.—(1) The principal Order shall be amended in accordance with the provisions of this article.

(2) In article 2(1)—

(a) for the definition of "the Register of Manufacturers" there shall be substituted the following definition—

““the Register of Manufacturers” means the register of persons entitled to incorporate medicinal products in animal feeding stuffs kept respectively by the Department of Agriculture, and the registrar under regulation 6(1) of the Medicines (Medicated Animal Feeding Stuff) Regulations 1989(e);”

(b) for the definition of "the Register of Merchants" there shall be substituted the following definition—

(a) 1968 c. 67; "the appropriate Ministers" referred to in section 57 is defined in section 1 (see also the following footnote); section 57(2A) was inserted by the Animal Health and Welfare Act 1984 (c. 40), section 14.

(b) In the case of the Secretaries of State concerned with health in England and in Wales by virtue of S.I. 1969/388, in the case of the Secretary of State concerned with agriculture in Wales by virtue of S.I. 1978/272 and in the case of the Northern Ireland Departments by virtue of the Northern Ireland Constitution Act 1973 (c. 36), section 40 and Schedule 5, and the Northern Ireland Act 1974 (c. 28), section 1(3) and Schedule 1, paragraph 2(1)(b).

(c) S.I. 1989/2318.

““the Register of Merchants” means the register of merchants in veterinary drugs or intermediate feed kept respectively by the Society and the Department of Health (N.I.), under articles 5(1) and 8(1) of this Order;”

(3) In article 5(1) for the words “The Society and the Department of Health (N.I.) shall each keep, for the purposes of article 4(4)” there shall be substituted the words “For the purposes of article 4(4) the Society and the Department of Health (N.I.) shall each continue to keep”.

(4) For article 8 (Register of Merchants for the purposes of article 7(4)) there shall be substituted the following article—

“8.—(1) The Society and the Department of Health (N.I.) shall each continue to keep, for the purposes of article 7(4), a register of persons as being entitled, in the course of a qualifying business carried on by them, to sell by retail on premises in respect of which their names are entered in the register, any intermediate feed described in article 6 free from restrictions imposed by section 52 of the Act, if and so long as the conditions contained in articles 6 and 7 are complied with.

(2) Details of premises used for the storage of any intermediate feed described in article 6 at a different postal address from that of premises used to sell by retail such intermediate feed shall be recorded in a register kept under paragraph (1) above.

(3) Where a person who, whilst carrying on a qualifying business elsewhere than in Northern Ireland, makes an application in writing to the Society for his name to be entered in the Society’s Register of Merchants in respect of any premises on which any intermediate feed described in article 6 is to be sold or stored by him in the course of that qualifying business, the Society shall, subject to paragraphs (8) and (9) below, enter his name in that Register in respect of those premises.

(4) Where a person who, whilst carrying on a qualifying business in Northern Ireland, makes an application in writing to the Department of Health (N.I.) for his name to be entered in the Department of Health’s (N.I.) Register of Merchants in respect of any premises on which any intermediate feed described in article 6 is to be sold or stored by him in the course of that qualifying business, the Department of Health (N.I.) shall, subject to paragraphs (8) and (9) below, enter his name in that Register in respect of those premises.

(5) Subject to paragraphs (10) and (12) below, a person whose name is entered in the Register of Merchants in respect of any premises shall, in order to retain his name in that Register in respect of those premises in any year subsequent to the year in which his name is first entered in it, in the month of January in any such year make an application in writing to the Society or the Department of Health (N.I.) (as the case may be) for his name to be retained in the Register of Merchants in respect of those premises.

(6) Subject to paragraphs (11) and (12) below, a person whose name is removed from the Register of Merchants in respect of any premises by reason only that he failed either to make proper application for the retention of his name in that Register pursuant to paragraph (5) above or to pay the fee due in respect of the retention of his name in that Register pursuant to paragraph (10) below may, in order to restore his name to the Register in respect of those premises, make an application to the Society or the Department of Health (N.I.) (as the case may be) for his name to be restored to the Register of Merchants in respect of those premises.

(7) There shall be paid to the Society or the Department of Health (N.I.)—

- (a) in respect of the entry in the Register of Merchants of the name of any person in respect of any premises on which any intermediate feed described in article 6 is to be sold or stored a fee of £90 for each such premises;
- (b) in respect of the retention in the Register of Merchants of the name of any person in respect of any premises on which any intermediate feed described in article 6 is to be sold or stored a fee of £80 for each such premises;
- (c) in respect of the restoration to the Register of Merchants of the name of any person in respect of any premises on which any intermediate feed described in article 6 is to be sold or stored a fee of £120 for each such premises.

(8) The Society or the Department of Health (N.I.) shall refuse to enter in its respective Register of Merchants the name of any person in respect of any premises unless that person—

- (a) has paid to the Society or the Department of Health (N.I.) (as the case may be) the fee specified in paragraph 7(a) above for the entry of his name in that Register; and
- (b) has given to the Society or the Department of Health (N.I.) (as the case may be) an undertaking in writing that he will comply with the provisions of the Code of Practice for Category 2 Agricultural Merchants Selling or Supplying Veterinary Drugs dated December 1989 and published by the Ministry of Agriculture, Fisheries and Food (being a code relating to the sale or supply of the intermediate feed containing the veterinary drugs described in article 6).

(9) The Society, with the approval of the Minister, or the Department of Health (N.I.) with the approval of the Department of Agriculture, may refuse to enter in its respective Register of Merchants the name of any person in respect of any premises if, in the opinion of the Society or the Department of Health (N.I.) (as the case may be), the premises are unsuitable for the storage or safekeeping of any intermediate feed described in article 6.

(10) The Society or the Department of Health (N.I.) shall refuse to retain in its respective Register of Merchants in any year subsequent to the year in which his name is first entered in it the name of any person in respect of any premises unless that person has paid to the Society or the Department of Health (N.I.) (as the case may be) on or before 31st January in that year the fee specified in paragraph 7(b) above for the retention of his name in that Register.

(11) The Society or the Department of Health (N.I.) shall refuse to restore to its respective Register of Merchants the name of any person in respect of any premises unless that person, having made proper application pursuant to paragraph (6) above, has paid to the Society or the Department of Health (N.I.) (as the case may be) the fee specified in paragraph (7)(c) above for the restoration of his name to that Register.

(12) The Society, with the approval of the Minister, or the Department of Health (N.I.) with the approval of the Department of Agriculture, may refuse to retain in or to restore to, or may remove from its respective Register of Merchants the name of any person in respect of any premises if, in the opinion of the Society or the Department of Health (N.I.) (as the case may be)—

- (a) that person has failed to observe any of the provisions of the Code of Practice referred to in paragraph (8)(b) above; or
- (b) the conditions under which any intermediate feed described in article 6 is sold by retail on those premises or under which it is stored on those premises (whether immediately prior to retail sale or not) are unsuitable for that purpose.

(13) In respect of any premises the Society or the Department of Health (N.I.) may remove from its respective Register of Merchants the name of any person entered in it, at the request of that person.”.

(5) In paragraph (6) of article 9 (exemptions in respect of veterinary drugs to be incorporated in animal feeding stuffs, and of intermediate feed)—

- (a) for the words “described in paragraph (3) above” there shall be substituted the words “described in paragraph (5) above”;
- (b) for sub-paragraph (b)(ii) there shall be substituted the following sub-paragraph—
 - “(ii) whose name is entered in Part B of the Register of Manufacturers and that veterinary drug or intermediate feed is intended for incorporation in animal feeding stuffs at a rate of at least 2 kilograms per tonne of the final medicated feeding stuff, or”.

6th March 1990

Kenneth Clarke
Secretary of State for Health

6th March 1990

Sanderson of Bowden
Minister of State, Scottish Office

7th March 1990

Peter Walker
Secretary of State for Wales

In Witness whereof the Official Seal of the Minister of Agriculture, Fisheries and Food is hereunto affixed on 6th March 1990.



John Selwyn Gummer
Minister of Agriculture, Fisheries and Food

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland this 9th day of March 1990.



F.A. Elliott
Permanent Secretary

Sealed with the Official Seal of the Department of Agriculture for Northern Ireland this 12th day of March 1990.



W.J. Hodges
Permanent Secretary

We consent,

7th March 1990

John Taylor
Kenneth Carlisle
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Medicines (Veterinary Drugs) (Pharmacy and Merchants' List) (No.2) Order 1989. In addition to some minor and drafting amendments (article 2(2) and (3)) this Order prescribes the fees to be paid by a merchant for the entry, retention or restoration of his name in the Register of Merchants (article 2(4)) and provides that no prescription only veterinary drug (nor intermediate feed containing such a drug) shall be sold by retail to a person on Part B of the Register of Manufacturers unless that product is intended for incorporation in animal feeding stuffs at a rate of at least 2 kilograms per tonne of the final medicated feeding stuff, on production of a veterinary written direction (article 2(5)(b)).

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ISBN 0 11 003568 2