STATUTORY INSTRUMENTS

2005 No. 641

The National Health Service (Pharmaceutical Services) Regulations 2005

PART 1

General

Citation, commencement and extent

1.—(1) These Regulations may be cited as the National Health Service (Pharmaceutical Services) Regulations 2005 and shall come into force on 1st April 2005.

(2) Subject to paragraph (3), these Regulations shall apply in relation to England only(**1**).

(3) The amendments and revocations of enactments made by regulation 75 and Schedules 5 and 6 have, subject to paragraph (4), no application to Wales but, subject to that, the extent of those provisions is the same as that of the enactment amended or revoked.

(4) The amendments made by regulation 75 and paragraph 4 of Schedule 5 apply to Wales.

Interpretation

2.—(1) In these Regulations—

"the Act" means the National Health Service Act 1977;

"the 1992 Regulations" means the National Health Service (Pharmaceutical Services) Regulations 1992(**2**), as in force on 31st March 2005;

"the 1997 Act" means the National Health Service (Primary Care) Act 1997(**3**);

"the 2001 Act" means the Health and Social Care Act 2001(**4**);

"the 2002 Act" means the National Health Service Reform and Health Care Professions Act 2002(**5**);

"Abolition of the Tribunal Regulations" means the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2001(**6**);

"Abolition of the Tribunal (Wales) Regulations" means the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2002(**7**);

(**1**) As regards Wales, the functions of the Secretary of State under sections 41, 42, 43, 43ZA, 49F, 49I, 49N, 49O, 49P, 49Q and 126(4) of the 1977 Act were transferred to the National Assembly for Wales under S.I. 1999/672, article 2 and Schedule 1, as amended by the 1999 Act, section 66(5) and as read with section 40(1) of the 2002 Act.
(**2**) S.I. 1992/662 as amended by 1993/2451, 1994/2402, 1995/644, 1996/698, 1998/681, 1998/2224, 1999/696, 1999/2563, 2000/121, 2000/593, 2001/2888, 2002/551, 2002/888, 2002/2016, 2002/2469, 2002/2861, 2003/699, 2003/1084, 2004/922, and 2005/28.
(**3**) 1997 c. 46.
(**4**) 2001 c. 15.
(**5**) 2002 c. 17.
(**6**) S.I. 2001/3744.
(**7**) S.I. 2002/1920.

"advanced electronic signature" means an electronic signature which is—

(a) uniquely linked to the signatory;

(b) capable of identifying the signatory;

(c) created using means that the signatory can maintain under his sole control; and

(d) linked to the data to which it relates in such a manner that any subsequent change of data is detectable;

"APMS" means primary medical services provided in accordance with an APMS contract;

"APMS contract" means an arrangement to provide primary medical services made under section 16CC(2)(b) (primary medical services)(**8**) of the Act;

"APMS contractor" means a party to an APMS contract other than a Primary Care Trust;

"appliance" means an appliance which is included in a list for the time being approved by the Secretary of State for the purposes of section 41 (arrangements for pharmaceutical services) of the Act;

"appropriate non-proprietary name" means a non-proprietary name which is not mentioned in Schedule 1 (drugs, medicines and other substances not to be ordered under a general medical services contract) to the Prescription of Drugs Regulations or, except where the conditions in paragraph 42(2) of Schedule 6 to the GMS Regulations are satisfied, in Schedule 2 (drugs, medicines and other substances that may be ordered only in certain circumstances) to the Prescription of Drugs Regulations;

"associated batch issue" means, in relation to a non-electronic repeatable prescription, one of the batch issues relating to that prescription and containing the same date as that prescription;

"bank holiday" means any day that is specified or proclaimed as a bank holiday in England pursuant to section 1 of the Banking and Financial Dealings Act 1971(**9**);

"batch issue" means a form provided by a Primary Care Trust and issued by a repeatable prescriber at the same time as a non-electronic repeatable prescription to enable a chemist to receive payment for the provision of repeat dispensing services which is in the format specified in Part 2 of Schedule 1 to the GMS Regulations, and which—

(a) is generated by a computer and not signed by a repeatable prescriber;

(b) relates to a particular non-electronic repeatable prescription and contains the same date as that prescription;

(c) is issued as one of a sequence of forms, the number of which is equal to the number of occasions on which the drugs or appliances ordered on the non-electronic repeatable prescription may be provided; and

(d) specifies a number denoting its place in the sequence referred to in sub-paragraph (c);

"Charges Regulations" means the National Health Service (Charges for Drugs and Appliances) Regulations 2000(**10**);

"chemical reagent" means a chemical reagent included in a list for the time being approved by the Secretary of State for the purposes of section 41 of the Act;

"chemist", except in the expression "LPS chemist", means—

(a) a registered pharmacist;

(**8**) Section 16CC was inserted by the 2003 Act, section 174.
(**9**) 1971 c. 80.
(**10**) S.I. 2000/620, as amended by S.I. 2000/2393, 2000/3189, 2001/746, 2001/2887, 2002/258, 2002/548, 2002/2352, 2003/699, 2003/1084, 2004/663, 2004/696, 2004/865 and 2004/1771.

(b) a person lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968(**11**); or

(c) a supplier of appliances,

who is included in the list of a Primary Care Trust under section 42 (regulations as to pharmaceutical services) of the Act, and includes a person suspended from such a list;

"child" means a person who has not attained the age of 16 years;

"Community Health Council" means a body of that name established in accordance with section 20 of the Act;

"conditional inclusion" means inclusion in a pharmaceutical list (or the grant of preliminary consent to be included in a pharmaceutical list) subject to conditions imposed under regulation 21, 30, 42 or 43 and "conditionally include" shall be construed accordingly;

"contingent removal" means removal from a pharmaceutical list contingently, within the meaning of section 49G (contingent removal)(**12**) of the Act, and "contingently remove" shall be construed accordingly;

"controlled locality" means an area which the Primary Care Trust, or on appeal, the Secretary of State, has determined is rural in character in accordance with regulation 31 or, as the case may be, regulation 32;

"dentist" means a dental practitioner;

"directed services" means additional pharmaceutical services provided in accordance with a direction under section 41A(**13**) (arrangements for providing additional pharmaceutical services) of the Act;

"director" means—

(a) a director of a body corporate; or

(b) a member of the body of persons controlling a body corporate (whether or not a limited liability partnership);

"dispensing contractor" means a chemist, doctor, GMS contractor or PMS contractor whom a patient wishes to dispense his electronic prescriptions;

"dispensing doctor" means a doctor who provides pharmaceutical services under arrangements with a Primary Care Trust under Part 5;

"dispensing doctor list" shall be construed in accordance with regulation 68;

"distance selling chemist" means a chemist who provides pharmaceutical services from distance selling premises;

"distance selling premises" has the meaning given to it in regulation 13(1)(d);

"doctor" means a medical practitioner;

"drugs" includes medicines;

"Drug Tariff" has the meaning given to it in regulation 56;

"electronic communication" has the same meaning as in section 15 of the Electronic Communications Act 2000(**14**);

"electronic prescription" means an electronic prescription form or an electronic repeatable prescription;

(**11**) 1968 c. 67. Section 69 was amended by the Statute Law (Repeals) Act 1993 (c. 50).
(**12**) Section 49G was inserted by section 25 of the 2001 Act and amended by the 2002 Act, Schedule 2 paragraph 21.
(**13**) Section 41A was inserted into the Act by the 1997Act, section 27(1) and was amended by the 2001 Act, section 43(1) and the 2002 Act, Schedule 2, paragraph 14.
(**14**) 2000 c. 7.

"electronic prescription form" means a prescription which falls within paragraph (b) of the definition of "prescription form";

"electronic repeatable prescription" means a prescription which falls within paragraph (a)(ii) of the definition of "repeatable prescription";

"employment" means any employment whether paid or unpaid and whether under a contract for services or a contract of service, and "employed" and "employer" shall be construed accordingly;

"equivalent body" means a Local Health Board in Wales, a Health Board or an NHS trust in Scotland, a Health and Social Services Board in Northern Ireland, (in relation to any time prior to 1st October 2002) a Health Authority in England or (in relation to any time prior to 1st April 2003) a Health Authority in Wales;

"equivalent lists" means lists kept by an equivalent body;

"essential services" has the meaning given to it in paragraph 3 of Schedule 1 (essential services);

"ETP list" means the list prepared, maintained and published by a Primary Care Trust pursuant to regulation 71.

"ETP service" means the electronic prescription service which forms part of the NHS Care Record Service;

"FHSAA" means the Family Health Services Appeal Authority constituted under section 49S of the Act(**15**);

"finally granted" and "final grant" (except in regulations 40 and 41) have the meaning given to them in regulation 39(14) and "finally refused" and "finally determined" shall be construed accordingly;

"fraud case" means a case where a person satisfies the second condition for removal from the pharmaceutical list, set out in section 49F(3) (disqualification of practitioners) of the Act, or by virtue of section 49H (fraud and unsuitability cases: supplementary)(**16**) of the Act is treated as doing so;

"GMS contract" means a general medical services contract(**17**);

"GMS contractor" means a party to a GMS contract other than a Primary Care Trust;

"the GMS Regulations" means the National Health Service (General Medical Services Contracts) Regulations 2004(**18**);

"Health and Social Services Board" means a Health and Social Services Board established under the Health and Personal Social Services (Northern Ireland) Order 1972(**19**);

"Health Board" means a Health Board established under section 2 of the National Health Service (Scotland) Act 1978(**20**);

"health care professional" means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the 2002 Act;

"independent nurse prescriber" means a person—

(a) who is registered in the Nursing and Midwifery Register; and

(**15**) Section 49S was inserted into the Act by section 27(1) of the 2001 Act.
(**16**) Sections 49F and 49H were inserted by section 25 of the 2001 Act. Section 49F was amended by the 2002 Act, Schedule 2, paragraph 21(a) and by the 2003 Act ,Schedule 14, Part 4. Section 49H was amended by the 2003 Act, Schedule 14, Part 4.
(**17**) *See* section 28Q of the Act.
(**18**) S.I. 2004/291, as amended by S.I. 2004/906, 2004/2694 and 2005/28.
(**19**) S.I. 1972/1265 (N.I. 14).
(**20**) 1978 c. 29.

(b) in respect of whom an annotation signifying that he is qualified to order drugs and appliances from—

(i) the Nurse Prescribers' Formulary for District Nurses and Health Visitors in Part XVIIB(i) of the Drug Tariff, or

(ii) the Nurse Prescribers' Extended Formulary in Part XVIIB(ii) of the Drug Tariff,

is also recorded in that register;

"joint discipline committee" shall have the same meaning as in the National Health Service (Service Committees and Tribunal) Regulations 1992(**21**);

"licensing or regulatory body" means a body that licenses or regulates any profession of which the person is or has been a member, and includes any body which licenses or regulates any such profession in a country other than the United Kingdom;

"list", unless the context otherwise requires, means—

(a) a list referred to in section 49N(1)(a) to (c)(national disqualification) of the Act(**22**);

(b) a list of persons undertaking to provide general medical services prepared in accordance with regulations made under section 29 (arrangements and regulations for general medical services)(**23**) of the Act, as the list existed on or before 31st March 2004;

(c) a list of persons approved by a Primary Care Trust for the purpose of assisting in the provision of general medical services prepared in accordance with regulations made under section 43D(1) (supplementary lists)(**24**) of the Act as the list existed on or before 31st March 2004; or

(d) a services list referred to in section 8ZA(1)(a) (lists of persons who may perform personal medical services or personal dental services)(**25**) of the 1997 Act as the list existed on or before 31st March 2004;

"listed premises" means premises in relation to which premises approval has been granted and has effect and from which a doctor may dispense, being premises specified in relation to the doctor in the dispensing doctors list pursuant to regulation 68(4);

"Local Dental Committee" means a committee recognised under section 44 (Local Optical Committees and Local Pharmaceutical Committees)(**26**) of the Act as being representative of persons providing general dental services or personal dental services in an area; and in this definition, "personal dental services" has the meaning assigned to it in section 1 (pilot schemes) of the 1997 Act;

"Local Medical Committee" means a committee recognised under section 45A (Local Medical Committees) of the Act(**27**);

"Local Pharmaceutical Committee" means a committee recognised under section 44 of the Act as being representative of persons providing pharmaceutical services or local pharmaceutical services in a locality;

(**21**) S.I. 1992/664. Relevant amendments were made by S.I. 1996/703.
(**22**) Section 49N was inserted by section 25 of the 2001 Act and amended by the 2002 Act, Schedule 2, paragraph 25 and the 2003 Act, Schedule 11, paragraph 24(a).
(**23**) Section 29 was repealed by section 175(2) of the 2003 Act.
(**24**) Section 43D was inserted by section 24 of the 2001 Act, and amended by the 2002 Act, Schedule 2, paragraph 20 and the 2003 Act, Schedule 11, paragraph 20(a) and Schedule 14, Part 4 in relation to personal medical services only.
(**25**) Section 8ZA was inserted by the 2001 Act, section 26(2) and amended by the 2002 Act, Schedule 3, paragraph 3.
(**26**) Section 44 was amended by the Health and Social Security Act 1984 (c. 48), Schedule 1, paragraph 32(b) and Schedule 8, Part 1, the 1990 Act, section 12(4), the 1995 Act, Schedule 1, Part 1, paragraph 32, the 1999 Act, section 11(1) to (4) and Schedule 5, the 2001 Act, Schedule 5, paragraph 5(7) and Schedule 6, Part 1, the 2002 Act, section 5 and Schedule 9 and the 2003 Act, Schedule 11, paragraph 21 and Schedule 14, Part 4.
(**27**) Section 45A was inserted into the Act by the 2003 Act, Schedule 11, paragraph 23.

"local pharmaceutical services" has the meaning given in regulation 2 of the National Health Service (Local Pharmaceutical Services and Pharmaceutical Services) Regulations 2002(**28**);

"LPS chemist" means—

(a) a registered pharmacist,

(b) a person lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968, or

(c) a supplier of appliances,

who provides local pharmaceutical services under a pharmacy pilot scheme;

"medical performers list" means a list of doctors prepared and published pursuant to regulation 3(1) (performers lists) of the National Health Service (Performers Lists) Regulations 2004(**29**);

"national disqualification" means—

(a) a decision made by the FHSAA under section 49N (national disqualification) of the Act in relation to a person who has been removed from a pharmaceutical list;

(b) a decision under provisions in force in Scotland or Northern Ireland corresponding to section 49N of the Act; or

(c) a decision by the Tribunal which is treated as a national disqualification by the FHSAA by virtue of regulation 4 (national disqualification decisions made before the relevant date) or 6(4)(b) (other cases under the 1977 Act not disposed of by the relevant date) of the Abolition of the Tribunal Regulations or regulation 4 (national disqualification decisions made before the relevant date) or 6(4)(b) (other cases under the 1977 Act not disposed of by the relevant date) of the Abolition of the Tribunal (Wales) Regulations;

"National Health Service Counter Fraud and Security Management Service" means the Special Health Authority of that name with responsibility for policy and operational matters relating to the prevention, detection and investigation of fraud or corruption and the management of security in the National Health Service(**30**);

"NHS Care Record" means the records relating to an individual patient held by the NHS Care Record Service;

"NHS Care Record Service" means the information technology systems procured by the Department of Health and used by the health service to hold medical records relating to patients;

"NHS services" means services provided as part of the health service;

"nominated dispensing contractor" means a chemist, doctor, GMS contractor or PMS contractor whom a patient has nominated in his NHS Care Record to dispense his electronic prescriptions;

"non-electronic prescription form" means a prescription form which falls within paragraph (a) of the definition of "prescription form";

"non-electronic repeatable prescription" means a prescription which falls within paragraph (a)(i) of the definition of repeatable prescription;

"non-proprietary name", in relation to a drug, means—

(**28**) S.I. 2002/888.
(**29**) S.I. 2004/585.
(**30**) The National Health Service Counter Fraud and Security Management Service was established by S.I. 2002/3039, and replaces the National Health Service Counter Fraud Service. They may be contacted by writing to them at Weston house, 246 High Holborn, London WC1V 7EX, or e-mailing them on generalenquiries@cfsms.nhs.uk, or by telephone on 020 7895 4500 or specifically in relation to fraud and corruption on 08702-400-100.

(a) where the drug is described in a monograph in the current edition (as defined in section 103(5) (construction of references to specified publications)(**31**) of the Medicines Act 1968), as in force at the time of the supply of the drug, of the European Pharmacopoeia, the British Pharmacopoeia, the British Pharmaceutical Codex, the British National Formulary, the International Pharmacopoeia, the Cumulative List of Recommended International Non-proprietary Names or the Dental Practitioners' Formulary, any name, or abbreviation of the name, at the head of that monograph or, where the name consists of two or more words, any name derived from a suitable inversion of such words which is permitted by that publication; or

(b) where the drug is not so described but has an approved name, being the name which appears in the current edition (as defined in section 103(5) of the Medicines Act 1968) of the list of names prepared and published under section 100 (lists of names) of that Act, as in force at the time of the supply of the drug, its approved name;

"notice" means a notice in writing (including electronic) and "notify" shall be construed accordingly;

"Nursing and Midwifery Register" means the register maintained by the Nursing and Midwifery Council under article 5 of the Nursing and Midwifery Order 2001(**32**);

"originating events" means the events that gave rise to the conviction, investigation, proceedings, suspension, refusal to admit, conditional inclusion, removal or contingent removal that took place;

"outstanding application" except where the context otherwise requires has the meaning given to it in regulation 62(5);

"outline consent" has the meaning given to it in regulation 61(1)(a);

"patient" in relation to—

(a) a GMS contract has the same meaning as in regulation 2 of the GMS Regulations (interpretation);

(b) a PMS agreement has the same meaning as in regulation 2 of the PMS Regulations (interpretation); and

(c) an arrangement made under section 16CC(2)(b) of the Act or a PCTMS practice means any person to whom primary medical services are or are to be provided under those arrangements or by that practice;

"patient list" means a list of patients kept by a Primary Care Trust—

(a) in respect of a GMS contractor, in accordance with paragraph 14 (list of patients) of Schedule 6 to the GMS Regulations;

(b) in respect of a PMS contractor, in accordance with paragraph 13 (list of patients) of Schedule 5 to the PMS Regulations; or

(c) in respect of an APMS contractor or PCTMS practice, in accordance with directions given by the Secretary of State under section 17 of the Act in respect of an APMS contract or a PCTMS practice(**33**);

"Patients' Forum" means a body established under section 15(1) (establishment of Patients' forums) of the 2002 Act;

(**31**) 1968 c. 67. Section 103(5) was amended by the Health and Medicines Act 1988 (c. 49), section 22(6) and modified by S.I. 1994/3144.
(**32**) S.I. 2002/253.
(**33**) The current Directions are the APMS (No.2) Directions 2004, made on 3rd November 2004 and the PCTMS (No.2) Directions made on 3rd November 2004. A copy of the Directions is available on the Department of Health website at www.dh.gov.uk.

"PCTMS" means primary medical services provided by a Primary Care Trust under section 16CC(2)(a) of the Act;

"PCTMS practice" means a practice established by a Primary Care Trust to provide PCTMS;

"pharmaceutical discipline committee" has the same meaning as in the National Health Service (Service Committees and Tribunal) Regulations 1992(**34**);

"pharmaceutical list" shall be construed in accordance with regulation 4;

"pharmaceutical services" means pharmaceutical services other than directed services;

"pharmacist" means, except where the context otherwise requires—

(a) a registered pharmacist; or

(b) a person lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968,

whose name is included in the list of a Primary Care Trust under section 42 (regulations as to pharmaceutical services) of the Act, but does not include a supplier of appliances only,;

"pharmacy" means any premises where drugs are provided by a pharmacist—

(a) as part of pharmaceutical services under section 41 (arrangements for pharmaceutical services) of the Act; or

(b) in accordance with a pharmacy pilot scheme—

  (i) where the range of local pharmaceutical services provided under that scheme is the same or comparable to the range of pharmaceutical services provided by a pharmacy falling within paragraph (a) of this definition, and

  (ii) where the local pharmaceutical services provided under that scheme are provided at the same or similar hours as pharmaceutical services provided by a pharmacy falling within paragraph (a) of this definition;

"pharmacy pilot scheme" has the same meaning as the term "pilot scheme" in section 28(2) (pilot schemes)(**35**) of the 2001 Act;

"PMS agreement" means an agreement made under section 28C (personal medical or dental services) of the Act(**36**);

"PMS contractor" means a party to a PMS agreement, other than a Primary Care Trust or a Strategic Health Authority;

"the PMS Regulations" means the National Health Service (Personal Medical Services Agreements) Regulations 2004(**37**);

"practice amalgamation" has the meaning given to it in regulation 66(1);

"practice premises", in relation to a provider of primary medical services, means the address specified in the contract (in the case of a GMS, PMS or APMS contractor) or practice statement (in the case of a PCTMS practice) as one at which services are to be provided under the contract or practice statement;

"preliminary consent" has the meaning given to it in regulation 40;

(**34**) S.I. 1992/664. A relevant amendment was made by S.I. 1996/703.

(**35**) Section 28 has been amended by the 2002 Act, Schedule 2, paragraph 73 and the 2003 Act Schedule 4, paragraph 11 and Schedule 11 paragraph 71.

(**36**) Section 28C was inserted by the 1997 Act, section 21(1) and amended by the 1999 Act, Schedule 4, paragraphs 4 and 5; by the 2001 Act, Schedule 5, Part 1, paragraph 11; by the 2002 Act, Schedule 3, Part 1, paragraphs 1 and 7 and by the 2003 Act, section 184, Schedule 11, paragraph 14 and Schedule 14 Part 4.

(**37**) S.I. 2004/627, as amended by S.I. 2004/906, 2004/2694 and 2005/28.

"premises approval" has the meaning given to it in regulation 61(1)(b) and includes temporary premises approval granted under regulation 65(9) or 66(4) and residual premises approval under regulation 66(9);

"prescriber" means a doctor, dentist, independent nurse prescriber or a supplementary prescriber;

"prescription form" means—

(a) a form provided by a Health Board, a Health and Social Services Board, a Local Health Board, a Primary Care Trust, an NHS Trust or NHS Foundation Trust, and issued by a prescriber; or

(b) data that are created in an electronic form, signed with a prescriber's advanced electronic signature and transmitted as an electronic communication to a nominated dispensing contractor by the ETP service,

to enable a person to obtain pharmaceutical services or local pharmaceutical services, and does not include a repeatable prescription;

"the Prescription of Drugs Regulations" means the National Health Service (General Medical Services Contracts) (Prescription of Drugs etc) Regulations 2004(**38**);

"primary carer" means, in relation to an adult, the adult or organisation primarily caring for him;

"professional conduct" includes matters relating both to professional conduct and professional performance;

"professional registration number" means the number against the pharmacist's name in the register maintained by the Royal Pharmaceutical Society of Great Britain and in the case of a person who is not a pharmacist, means the number against that person's name in the register of any body that licenses or regulates any profession of which he is a member;

"provisional date" shall be interpreted in accordance with regulation 62(6) to (8);

"provider of primary medical services" means a GMS contractor, PMS contractor, APMS contractor or a PCTMS practice;

"relevant APMS contractor", in relation to any doctor, means the APMS contractor, where the doctor is an APMS contractor, or where he is not, the APMS contractor by whom he is employed or engaged;

"relevant GMS contractor", in relation to any doctor, means the GMS contractor, where the doctor is a GMS contractor or, where he is not, the GMS contractor by whom the doctor is employed or engaged;

"relevant patient list" means, in relation to a doctor who is (or is a legal and beneficial shareholder in a company which is) a GMS contractor, PMS contractor or APMS contractor, the patient list for that contractor or, where he is not a contractor, means the patient list for the GMS contractor, PMS contractor or APMS contractor by whom he is employed or engaged or for the PCTMS practice within which the doctor provides primary medical services;

"relevant PCTMS practice", in relation to any doctor, means the PCTMS practice within which he provides primary medical services;

"relevant PMS contractor", in relation to any doctor, means the PMS contractor, where the doctor is a PMS contractor or, where he is not, the PMS contractor by whom the doctor is employed or engaged;

"relevant register" means—

(a) in relation to a nurse or midwife, the Nursing and Midwifery Register; and

(**38**) S.I. 2004/629, as amended by S.I. 2004/3215.

(b) in relation to a pharmacist, the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954(**39**) (the registers and registration) or the register maintained in pursuance of Articles 6 (the registers) and 9 (the registrar) of the Pharmacy (Northern Ireland) Order 1976(**40**);

"Remission of Charges Regulations" means the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(**41**);

"repeat dispensing services" means pharmaceutical services which involve the provision of drugs or appliances by a chemist in accordance with a repeatable prescription;

"repeatable prescriber" means a person who is—

(a) a GMS contractor who provides repeatable prescribing services under the terms of its contract which give effect to paragraph 40 (repeatable prescribing services) of Schedule 6 to the GMS Regulations;

(b) a PMS contractor who provides repeatable prescribing services under the terms of its agreement which give effect to paragraph 39 (repeatable prescribing services) of Schedule 5 to the PMS Regulations;

(c) an APMS contractor who provides repeatable prescribing services under the terms of its agreement which give effect to a provision in directions made by the Secretary of State under section 17 of the Act in relation to APMS contracts which is the equivalent provision to paragraph 39 of Schedule 5 to the PMS Regulations; or

(d) employed or engaged by—

(i) a GMS contractor who provides repeatable prescribing services under the terms of a contract which give effect to paragraph 40 of Schedule 6 to the GMS Regulations,

(ii) a PMS contractor who provides repeatable prescribing services under the terms of an agreement which give effect to paragraph 39 of Schedule 5 to the PMS Regulations,

(iii) an APMS contractor who provides repeatable prescribing services under the terms of an agreement which give effect to a provision in directions made by the Secretary of State under section 17 of the Act in relation to APMS contracts which is the equivalent provision to paragraph 39 of Schedule 5 to the PMS Regulations, or

(iv) a Primary Care Trust for the purposes of providing primary medical services within a PCTMS practice which provides repeatable prescribing services in accordance with a provision in directions made by the Secretary of State under section 17 of the Act in relation to PCTMS which is the equivalent provision to paragraph 39 of Schedule 5 to the PMS Regulations;

"repeatable prescription" means a prescription which—

(a) either—

(i) is contained in a form provided by a Primary Care Trust and issued by a repeatable prescriber which is in the format specified in Part 1 of Schedule 1 (repeat dispensing forms) to the GMS Regulations, and which is generated by a computer and signed in ink by a repeatable prescriber, or

(ii) consists of data that are created in an electronic form, signed with a repeatable prescriber's advanced electronic signature and transmitted as an electronic communication to a nominated dispensing contractor by the ETP service;

(**39**) 1954 c. 61.
(**40**) S.I. 1976/1212 (N.I.22).
(**41**) S.I. 2003/2382, amended by S.I. 2004/663 and 2004/936.

(b) is issued or created to enable a person to obtain pharmaceutical services or local pharmaceutical services; and

(c) indicates that the drugs or appliances ordered on that prescription may be provided more than once, and specifies the number of occasions on which they may be provided;

"reserved location" has the meaning given to it in regulation 35(2);

"restricted availability appliance" means an appliance which is approved for particular categories of persons or particular purposes only;

"Scheduled drug" means a drug or other substance specified in Schedule 1 to the Prescription of Drugs Regulations or, except where the conditions in paragraph 42(2) of Schedule 6 to the GMS Regulations are satisfied, Schedule 2 to the Prescription of Drugs Regulations;

"superintendent" has the same meaning as it has in section 71 (bodies corporate)(**42**) of the Medicines Act 1968;

"supplementary prescriber" means a person—

(a) whose name is registered in—

(i) the Nursing and Midwifery Register,

(ii) the Register of Pharmaceutical Chemists maintained in pursuance of section 2(1) (the registers and registration) of the Pharmacy Act 1954,

(iii) the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976. or

(iv) the part of the register maintained by the Health Professions Council in pursuance of article 5 of the Health Professions Order 2001(**43**) relating to—

(aa) chiropodists and podiatrists,

(bb) physiotherapists, or

(cc) radiographers: diagnostic or therapeutic; and

(b) against whose name is recorded in the relevant register an annotation signifying that he is qualified to order drugs and appliances as a supplementary prescriber;

"suspended" means—

(a) suspended by a Primary Care Trust or equivalent body under sections 49I (suspension) or 49J (suspension pending appeal)(**44**) of the Act, regulations made under section 28DA (lists of persons who may perform personal medical services or personal dental services)(**45**) or 43D(supplementary lists) of the Act, or under section 8ZA (lists of persons who may perform personal medical services or personal dental services) of the 1997 Act; or

(b) in relation to Scotland or Northern Ireland, suspended under provisions in force corresponding to those in or made under sections 28DA, 43D, 49I or 49J of the Act or under section 8ZA of the 1997 Act,

and shall be treated as including a case where a person is treated as suspended by a Primary Care Trust or, prior to 1st October 2002, by a Health Authority by virtue of regulation 6(2) of the Abolition of the Tribunal Regulations, or, in Wales, by a Local Health Board, or prior to 1st April 2003, by a Health Authority by virtue of regulation 6(2) of the Abolition of the Tribunal (Wales) Regulations, and "suspends" and "suspension" shall be construed accordingly;

(**42**) 1967 c. 67. Section 72 was amended by S.I. 1987/2202.
(**43**) S.I. 2002/254.
(**44**) Section 49J was inserted by the 2001 Act, section 25 and amended by the 2002 Act, Schedule 2, paragraph 22.
(**45**) Section 28DA was inserted into the Act by the 2001 Act, section 26(1), and repealed by the 2003 Act, Schedule 14, Part 4, in relation to personal medical services.

"temporary chemist" means a chemist whose application has been granted under regulation 54 and who is included in a pharmaceutical list pursuant to that regulation;

"terms of service" shall be construed in accordance with regulation 3; and

"Tribunal" means the Tribunal constituted under section 46 of the Act(**46**) for England and Wales, and which, except for prescribed cases, had effect in relation to England only until 14th December 2001, and in relation to Wales only until 26th August 2002(**47**).

(2) In these Regulations—

(a) the term "pharmaceutical services", in relation to a doctor, means those services referred to in regulation 60; and

(b) the term "dispensing services", in relation to a doctor or to a GMS contractor or PMS contractor, means any corresponding service provided, not as pharmaceutical services, but under the terms of a GMS contract which give effect to paragraphs 47 to 51 of Schedule 6 to the GMS Regulations or under the terms of a PMS agreement which give effect to paragraph 45 to 51 of Schedule 5 to the PMS Regulations.

(3) Except where expressly provided to the contrary, any document which is required or authorised to be given or sent to a person or body under these Regulations may be given or sent by delivering it to the person or, in the case of a body, to the secretary or general manager of that body, or by sending it in a pre-paid letter addressed to that person or, in the case of a body, to the secretary or general manager of that body at his usual or last known address, and delivering it includes sending it electronically to an electronic address which that person has notified for the purpose.

(4) For as long as there are in existence—

(a) contracts entered into under article 13 (entitlement to a contract under section 176(3) of the Act) of the General Medical Services Transitional and Consequential Provisions Order 2004(**48**) ("default contracts"), in respect of such contracts any reference to a GMS contract shall be read as including a reference to a contract entered into under that article, and any reference to a term of a GMS contract shall be read as including a reference to the equivalent term in the default contract; and

(b) transitional agreements as defined in article 1(4) of the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004, any reference in these Regulations to a PMS agreement shall be read as including a reference to any equivalent term in the transitional agreement.

Terms of service

3. The arrangements for the provision of pharmaceutical services which it is the duty of a Primary Care Trust to make under sections 41 to 43 of the Act, and to administer under section 15(1) of the Act, shall incorporate—

(a) in the case of arrangements with a pharmacist, the terms of service in Schedule 1;

(b) in the case of arrangements with a doctor who provides pharmaceutical services, the terms of Service in Schedule 2; and

(c) in the case of arrangements with a supplier of appliances, the terms of service in Schedule 3.

(**46**) Section 46 was substituted by the 1999 Act, and repealed by the 2001 Act, section 16.
(**47**) *See* S.I. 2001/3738, article 2(5) and (6)(b), which sets out the prescribed cases for England, and S.I. 2002/1919, article 2(2) and (3)(b), which sets out the prescribed cases for Wales.
(**48**) S.I. 2004/433.