STATUTORY INSTRUMENTS

2007 No. 2154

The Misuse of Drugs and Misuse of Drugs (Safe Custody) (Amendment) Regulations 2007

Amendments to the Misuse of Drugs Regulations 2001

4.—(1) The 2001 Regulations shall be amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of "the Act", insert—

""accountable officer" has the same meaning as in the Health Act 2006(**1**);";

(b) after the definition of "authorised as a member of a group", insert—

""care home" in relation to—

(a) England and Wales has the same meaning as in the Care Standards Act 2000; and

(b) Scotland means the accommodation provided by a care home service;

"care home service" has the same meaning as in the Regulation of Care (Scotland) Act 2001;";

(c) after the definition of "officer of customs and excise", insert—

""operating department practitioner" means a person who is registered under the Health Professions Order 2001(**2**) as an operating department practitioner;";

(d) after the definition of "register" insert—

""registered chiropodist" has the same meaning as in the Prescription Only Medicines (Human Use) Order 1997(**3**);";

(e) for the definition of "registered ophthalmic optician", substitute—

""registered optometrist" has the same meaning as in the Prescription Only Medicines (Human Use) Order 1997(**4**);

"registered orthoptist" has the same meaning as in the Prescription Only Medicines (Human Use) Order 1997(**5**);";

(f) after the definition of "registered orthotist and prosthetist" insert—

""registered paramedic" has the same meaning as in the Prescription Only Medicines (Human Use) Order 1997(**6**);";

(g) after the definition of "registered pharmacy" insert—

"registered physiotherapist" has the same meaning as in the Prescription Only Medicines (Human Use) Order 1997(**7**);

(**1**) 2006 c.28.
(**2**) S.I. 2001/254 as amended by S.I. 2004/2033.
(**3**) S.I. 1997/1830. The definition of "registered chiropodist" was inserted by S.I. 2003/1590.
(**4**) S.I. 1997/1830. The definition of "registered optometrist" was inserted by S.I. 2005/848.
(**5**) S.I. 1997/1830. The definition of "registered orthoptist" was inserted by S.I. 2003/1590.
(**6**) S.I. 1997/1830. The definition of "registered paramedic" was inserted by S.I. 2003/1590.
(**7**) S.I. 1997/1830. The definition of "registered physiotherapist" was inserted by S.I. 2003/1590.

"registered radiographer" has the same meaning as in the Prescription Only Medicines (Human Use) Order 1997(**8**);";

(h) omit the definitions of "sister or acting sister", "state registered chiropodist" and "state registered paramedic".

(3) For "nursing home", in each place those words appear in the following regulations, substitute "care home"—

(a) regulation 8(2)(**9**) (production and supply of drugs in Schedules 2 and 5);

(b) regulation 9(3) (production and supply of drugs in Schedules 3 and 4);

(c) regulation 14(4)(**10**), 14(5) and 14(6) (documents to be obtained by supplier of controlled drugs);

(d) regulation 15(3) (form of prescriptions);

(e) regulation 19(3) (record-keeping requirements in respect of drugs in Schedules 1 and 2);

(f) regulation 24(3) (preservation of records relating to drugs in Schedules 3 and 5); and

(g) regulation 26(2)(**11**) (furnishing of information with respect to controlled drugs).

(4) For "sister or acting sister", in each place those words appear in the following regulations, substitute "senior registered nurse or acting senior registered nurse"—

(a) regulation 8(2) (production and supply of drugs in Schedules 2 and 5);

(b) regulation 9(3) (production and supply of drugs in Schedules 3 and 4);

(c) regulation 14(6) (documents to be obtained by supplier of controlled drugs);

(d) regulation 19(3) (record-keeping requirements).

(5) In regulation 8 (production and supply of drugs in Schedules 2 and 5)—

(a) after paragraph (2)(e), insert—

"(ea) in the case of such a drug supplied to him by a person responsible for the dispensing and supply of medicines at a hospital, an operating department practitioner practising in that hospital;";

(b) at the end of paragraph (2)(i), omit "or";

(c) in paragraph (2)(ii) for "doctor or dentist." substitute "doctor, dentist, supplementary prescriber acting under and in accordance with the terms of a clinical management plan or, subject to paragraph (2A), a nurse independent prescriber; or";

(d) after paragraph (2)(ii), insert—

"(iii) an operating department practitioner to supply any drug otherwise than for administration to a patient in a ward, theatre or other department in accordance with the directions of a doctor, dentist, supplementary prescriber acting under and in accordance with the terms of a clinical management plan or, subject to paragraph (2A), a nurse independent prescriber.";

(e) after paragraph (2), insert—

"(2A) The directions given by a nurse independent prescriber referred to in paragraph (2)(ii) and (iii) shall relate only to a controlled drug which she may prescribe under regulation 6B and a purpose for which it may be prescribed under that regulation.".

(6) In regulation 9 (production and supply of drugs in Schedules 3 and 4)—

(**8**) S.I. 1997/1830. The definition of "registered radiographer" was inserted by S.I. 2003/1590.
(**9**) Regulation 8(2) was amended by S.I. 2005/271.
(**10**) Regulation 14(4)(g) was inserted by S.I. 2005/271.
(**11**) Regulation 26(2)(i) was inserted by S.I 2005/271.

(a) after paragraph (3)(c), insert—

"(d) in the case of such a drug supplied to him by a person responsible for the dispensing and supply of medicines at a hospital, an operating department practitioner practising in that hospital;";

(b) in paragraph (3)(ii) for "doctor or dentist." substitute "doctor, dentist, supplementary prescriber acting under and in accordance with the terms of a clinical management plan or, subject to paragraph (3A), a nurse independent prescriber; or";

(c) after paragraph (3)(ii), insert—

"(iii) an operating department practitioner to supply any drug otherwise than for administration to a patient in a ward, theatre or other department in accordance with the directions of a doctor, dentist, supplementary prescriber acting under and in accordance with the terms of a clinical management plan or, subject to paragraph (3A), a nurse independent prescriber.";

(d) after paragraph (3), insert—

"(3A) The directions given by a nurse independent prescriber referred to in paragraph (3)(ii) and (iii) shall relate only to a controlled drug which she may prescribe under regulation 6B and a purpose for which it may be prescribed under that regulation.";

(e) in paragraph (8), after "any drug specified in Schedule 4" insert "or Midazolam".

(7) In regulation 10 (possession of drugs in Schedules 2, 3 and 4)—

(a) in paragraphs (1)(c) and (d), for "regulation 9(3)(b) or (c)" substitute "regulation 9(3)(b) to (d)";

(b) in paragraph (1)(i), after "sub-paragraph (e)" insert "or (ea)";

(c) in paragraph (1)(ii), after "sub-paragraph (c)" insert "or (d)".

(8) In regulation 14 (documents to be obtained by supplier of controlled drugs)—

(a) in paragraph (2), for "paragraph" where this first occurs substitute "regulation";

(b) after paragraph (5) insert—

"(5A) Subject to paragraph (5B), on receipt of a requisition (other than a veterinary requisition) mentioned in paragraph (2), the supplier shall—

(a) mark on the requisition in ink or otherwise indelibly his name and address; and

(b) send the requisition to the relevant National Health Service agency in accordance with arrangements specified by that agency.

(5B) Paragraph (5A) shall not apply where the supplier is—

(a) a wholesale dealer; or

(b) a person responsible for the dispensing and supply of medicines at a hospital or care home.";

(c) after paragraph (7) insert—

"(8) In this regulation, "veterinary requisition" means a requisition which states, in accordance with paragraph (2)(ii), that the recipient is a veterinary surgeon or veterinary practitioner.".

(9) In regulation 19 (record-keeping requirements)—

(a) in paragraph (1)(a) for "in the form specified in Part I or II of Schedule 6, as the case may require," substitute "subject to subparagraph (f), using the headings specified in subparagraphs (d) and (e),";

(b) after paragraph (1)(c) insert—

"(d) The headings in respect of entries made for drugs obtained are—

(i) Date supply received;

(ii) Name and address from whom received;

(iii) Quantity received.

(e) The headings in respect of entries made for drugs supplied are—

(i) Date supplied;

(ii) Name/Address of person or firm supplied;

(iii) Details of authority to possess – prescriber or licence holder's details;

(iv) Quantity supplied;

(v) Person collecting Schedule 2 controlled drug (patient/ patient's rep/ healthcare professional) and if healthcare professional, name and address;

(vi) Was proof of identity requested of patient/ patient's rep (Yes/No);

(vii) Was proof of identity of person collecting provided (Yes/No).

(f) The headings at subparagraph (e)(v) to (vii) apply only in respect of drugs specified in Schedule 2.";

(c) for paragraph (2), substitute—

"(2) Entries made in respect of drugs obtained and drugs supplied may be made on the same page or on separate pages in the register.";

(d) in paragraph (2A), for "paragraphs (1) and (2)" substitute "paragraph (1)".

(10) In regulation 20 (requirements as to registers), for paragraph (a) substitute "in the separate register or separate part of the register used for each class of drug, a separate page shall be used in respect of each strength and form of that drug and the head of each such page shall specify the class of the drug, its strength and form;".

(11) In regulation 23 (preservation of registers, books and other documents)—

(a) in paragraph (3)—

(i) omit "requisition, order and"; and

(ii) for "regulations" substitute "Regulations";

(b) in paragraph (4) for ", or a copy of such prescription, must" insert "shall".

(12) In regulation 27 (destruction of controlled drugs)—

(a) in paragraph (1), after "the Secretary of State" insert "or, subject to paragraph (1A), an accountable officer";

(b) after paragraph (1), insert—

"(1A) An accountable officer shall not be an authorised person.".

(13) In paragraph 1 of Part 1 of Schedule 4 (controlled drugs subject to the requirements of regulations 22, 23, 26 and 27), omit "Midazolam".

(14) In paragraph 1(a) of Schedule 3 (controlled drugs subject to the requirements of regulations 14 to16, 18, 22 to 24, 26 and 27), after "Methyprylone" insert "Midazolam".

(15) Omit Schedule 6 (form of register).

(16) In paragraph (1) of Schedule 8—

(a) in sub-paragraph (a), after "who is a" omit "state";

(b) for sub-paragraphs (d) to (h) substitute—

"(d) a registered optometrist;

(e) a registered chiropodist;

(f) a registered orthoptist;

(g) a registered physiotherapist;

(h) a registered radiographer;".