

SCHEDULE 2

Article 33

Visiting Practitioners from relevant European States

PART 1

Pharmacists

Application and interpretation

1.—(1) This Part of this Schedule applies to an exempt person who is lawfully established as a pharmacist in a relevant European State other than the United Kingdom.

(2) In this Part—

- (a) a “visiting practitioner” means an exempt person to whom this Part applies;
- (b) the “home State”, in relation to a visiting practitioner, means the relevant European State in which the practitioner is lawfully established as a pharmacist;
- (c) a reference to the provision of occasional pharmacy services is a reference to the provision of services as a pharmacist in Great Britain on a temporary and occasional basis; and
- (d) “indemnity arrangement” has the same meaning as in article 32.

Registration in respect of provision of occasional pharmacy services

2.—(1) A visiting practitioner is entitled to be entered in Part 4 of the Register if the practitioner is entitled under paragraph 3 or 6 to provide occasional pharmacy services; and the Registrar must give effect to that entitlement.

(2) A visiting practitioner who is entitled under sub-paragraph (1) to be entered in Part 4 of the Register, but who is not entered in that part of the Register, is to be treated as being so entered.

(3) The Registrar may refuse to enter a visiting practitioner in Part 4 of the Register if, in the Registrar’s opinion, that visiting practitioner is not entitled under paragraph 3 or 6 to provide occasional pharmacy services.

(4) If under sub-paragraph (3) the Registrar refuses to enter a visiting practitioner in Part 4 of the Register, the Registrar must send to the practitioner at the practitioner’s last known home address a statement in writing giving the practitioner notice of that decision and the reasons for it and of the right of appeal to the Appeals Committee under article 40.

(5) Sub-paragraph (6) applies where a person’s entitlement under sub-paragraph (1) to be entered in Part 4 of the Register ceases because, by reason of the operation of paragraph 7(1), (2) or (5), the person ceases to be entitled under this Part to provide occasional pharmacy services.

(6) If the person’s name is entered in Part 4 of the Register, the Registrar may remove that person’s name from that part of the Register.

(7) Sub-paragraphs (1), (2), (5) and (6) do not affect the application, in relation to persons entered in Part 4 of the Register on the basis of an entitlement under sub-paragraph (1), of any other provision of this Order under which a registered pharmacist’s name may be removed from that part of the Register or under which a registered pharmacist’s entry in that part of the Register may be suspended.

Entitlement to provide occasional pharmacy services: first year

3. A visiting practitioner is entitled to provide occasional pharmacy services if—

- (a) the practitioner has complied with the requirements of paragraph 4; and

(b) where the practitioner's case falls within regulation 3(9)(a) or (e) of the General Systems Regulations, the provision by the practitioner of occasional pharmacy services is in accordance with regulations 14 to 16 of those Regulations (the practitioner having, in particular, successfully completed any adaptation period, or passed any aptitude test, that the practitioner may be required to undertake pursuant to Part 2 of those Regulations), and paragraph 7 contains provision about the duration of entitlement under this paragraph.

First provision of services: required documents

4.—(1) A visiting practitioner who proposes to provide occasional pharmacy services for the first time must, before providing those services, send or produce to the Registrar the required documents.

(2) The required documents are—

(a) a written declaration that—

- (i) states the practitioner's wish to provide occasional pharmacy services, and
- (ii) contains details of the indemnity arrangement, or the other means of personal or collective protection, that the practitioner has in place in respect of liabilities that may be incurred in practising as a pharmacist;

(b) if the practitioner is a national of a relevant European State, proof of nationality;

(c) if the practitioner is not a national of a relevant European State, proof of the Community right by virtue of which the practitioner is an exempt person;

(d) evidence of qualifications in pharmacy (see also paragraph 5); and

(e) a certificate (or certificates) issued by a competent authority in the practitioner's home State confirming—

- (i) that the practitioner is lawfully established as a pharmacist in that State, and
- (ii) that the practitioner is not prohibited (whether on a permanent or temporary basis) from practising as a pharmacist there.

(3) A declaration under sub-paragraph (2)(a) may be supplied by any means.

First provision of services: supplementary

5.—(1) Subject to sub-paragraph (3), the evidence referred to in paragraph 4(2)(d) is evidence of the European-recognised qualifications which entitle the visiting practitioner to provide, in the practitioner's home State, the pharmacy services that the practitioner proposes to provide in Great Britain on a temporary and occasional basis.

(2) This sub-paragraph applies to a visiting practitioner whose case falls within regulation 3(9)(a) or (e) of the General Systems Regulations (with the result that the practitioner is not able to provide occasional pharmacy services unless their provision by the practitioner is in accordance with regulations 14 to 16 of those Regulations).

(3) If sub-paragraph (2) applies to a visiting practitioner, the evidence referred to in paragraph 4(2)(d) of the practitioner's qualifications in pharmacy is evidence of the qualifications which entitle the practitioner to practise as a pharmacist in his home State.

(4) In this paragraph, "European-recognised qualifications" means qualifications which relevant European States are required by the Directive to recognise.

Entitlement to provide occasional pharmacy services after the first year: renewals

6.—(1) Sub-paragraph (2) applies where the Registrar receives the required renewal documents from a visiting practitioner who is entitled under this Part to provide occasional pharmacy services

before such time prior to the practitioner's entitlement ceasing to be valid under article 7(1) or (2) as is prescribed by the Council for the receipt of those documents by the Registrar.

(2) The visiting practitioner is entitled to continue to provide occasional pharmacy services, and paragraph 7 contains provision about the duration of the entitlement continued under this sub-paragraph.

(3) Sub-paragraph (4) applies where the Registrar receives the required renewal documents from a visiting practitioner—

- (a) who is not entitled under this Part to provide occasional pharmacy services;
- (b) who has previously been entitled under this Part to provide occasional pharmacy services; and
- (c) whose entry in Part 4 of the Register is not suspended.

(4) The visiting practitioner is once again entitled to provide occasional pharmacy services but, in a case where the practitioner's name is not in Part 4 of the Register as a result of removal otherwise than under paragraph 2(6), only if the Registrar decides, after having regard (in particular) to the fact of that removal and the reasons for it, that the entitlement should be renewed, and paragraph 7 contains provision about the duration of entitlement under this sub-paragraph.

(5) In relation to a visiting practitioner "the required renewal documents" are—

- (a) a renewal declaration; and
- (b) each evidence of change document (if any).

(6) In this paragraph "renewal declaration", in relation to a visiting practitioner, means a written declaration that—

- (a) states the practitioner's wish to provide occasional pharmacy services in a further year; and
- (b) contains details of the indemnity arrangement, or the other means of personal or collective protection, that the practitioner has in place in respect of liabilities that may be incurred in practising as a pharmacist.

(7) Where a document—

- (a) is, in relation to a visiting practitioner, one of the required documents for the purposes of paragraph 4;
- (b) is not a declaration under paragraph 4(2)(a); and
- (c) substantiates a matter as respects which there has been a material change since the practitioner last (whether under paragraph 4 or this paragraph) supplied the then-current version of the document to the Registrar,

the version of the document current when, under this paragraph, the practitioner supplies a renewal declaration to the Registrar is an "evidence of change document" for the purposes of sub-paragraph (5)(b).

(8) A renewal declaration supplied under this paragraph may be supplied by any means.

(9) If the Registrar refuses to renew the entry of a visiting practitioner in the Register, the Registrar must send to that practitioner at that practitioner's last known home address a statement in writing giving that practitioner notice of the refusal and the reasons for it and of the right of appeal to the Appeals Committee under article 40.

Duration of entitlement to provide occasional pharmacy services

7.—(1) Unless an entitlement under paragraph 3 or 6 is continued by paragraph 6(2), or further continued by paragraph 6(4), the entitlement ceases at the end of the year that begins with the end of the day on which the Registrar received the documents whose receipt gave rise to the entitlement.

(2) Where an entitlement under paragraph 3 or 6 is continued by paragraph 6(2), or further continued by paragraph 6(4), the entitlement is extended so as to cease at the end of the year that begins with the end of the relevant day.

(3) For the purposes of sub-paragraph (2)—

- (a) if the day on which the Registrar receives the documents whose receipt gives rise to the continuation (or further continuation) is an anniversary of the start day, “the relevant day” means the day on which the Registrar receives those documents;
- (b) otherwise, “the relevant day” means the anniversary of the start day that is the first such anniversary to occur after the Registrar receives the documents whose receipt gives rise to the continuation (or further continuation).

(4) In sub-paragraph (3) “the start day”, in relation to an entitlement under paragraph 3 or 6(4), means the day on which the Registrar receives the documents whose receipt gives rise to the entitlement.

(5) An entitlement under this Part to provide occasional pharmacy services ceases if—

- (a) the visiting practitioner concerned becomes established as a pharmacist in the United Kingdom; or
- (b) a disqualifying decision is made against the visiting practitioner concerned.

(6) In sub-paragraph (5), “disqualifying decision”, in relation to a visiting practitioner, means a decision made by a competent or judicial authority in the practitioner’s home State that has the effect that the practitioner—

- (a) ceases in that State to be registered or otherwise officially recognised as a pharmacist; or
- (b) is prohibited (whether on a permanent or temporary basis) from practising as a pharmacist in that State.

(7) If in the case of a visiting practitioner—

- (a) the practitioner’s entry in Part 4 of the Register is suspended or the practitioner’s name is removed from that part of the Register; and
- (b) immediately before the time when the suspension or, as the case may be, removal takes effect, the practitioner is entitled under this Part to provide occasional pharmacy services,

that entitlement ceases at that time.

Conditions

8.—(1) Sub-paragraph (2) applies if—

- (a) the establishment of a visiting practitioner in the practitioner’s home State is subject to a condition relating to the practitioner’s practice as a pharmacist;
- (b) the practitioner’s name is in Part 4 of the Register; and
- (c) for any of the purposes of this Order it falls to be decided whether the practitioner’s fitness to practise is or may be impaired on the ground of misconduct.

(2) The matters that may be counted as misconduct include (in particular) any act or omission by the visiting practitioner during the course of the provision by the practitioner of occasional pharmacy services that is, or would be if the condition applied in relation to practice as a pharmacist outside the practitioner’s home State, a breach of the condition.

(3) In sub-paragraphs (1) and (2) “condition” includes limitation.

PART 2

Pharmacy technicians

Application and interpretation

9.—(1) This Part of this Schedule applies to an exempt person who is lawfully established as a pharmacy technician in a relevant European State other than the United Kingdom.

(2) In this Part—

- (a) a “visiting practitioner” means an exempt person to whom this Part applies;
- (b) the “home State”, in relation to a visiting practitioner, means the relevant European State in which the practitioner is lawfully established as a pharmacy technician;
- (c) a reference to the provision of occasional pharmacy services is a reference to the provision of services as a pharmacy technician in Great Britain on a temporary and occasional basis; and
- (d) “indemnity arrangement” has the same meaning as in article 32.

Registration in respect of the provision of occasional services

10.—(1) A visiting practitioner is entitled to be entered in Part 5 of the Register if the practitioner is entitled under paragraph 11 or 14 to provide occasional pharmacy services: and the Registrar must give effect to that entitlement.

(2) A visiting practitioner who is entitled under sub-paragraph (1) to be entered in Part 5 of the Register as a pharmacy technician, but who is not entered in that part of the Register, is to be treated as being so entered.

(3) The Registrar may refuse to enter a visiting practitioner in Part 5 of the Register if, in the Registrar’s opinion, that visiting practitioner is not entitled under paragraph 11 or 14 to provide occasional pharmacy services.

(4) If under sub-paragraph (3) the Registrar refuses to enter a visiting practitioner in Part 5 of the Register, the Registrar must send to the practitioner at the practitioner’s last known home address a statement in writing giving the practitioner notice of that decision and the reasons for it and of the right of appeal to the Appeals Committee under article 40.

(5) Sub-paragraph (6) applies where a person’s entitlement under sub-paragraph (1) to be entered in Part 5 of the Register ceases because, by reason of the operation of paragraph 15(1), (2) or (5), the person ceases to be entitled to provide occasional pharmacy services.

(6) If the person’s name is entered in Part 5 of the Register, the Registrar may remove that person’s name from that part of the Register.

(7) Sub-paragraphs (1), (2), (5) and (6) do not affect the application, in relation to persons entered in Part 5 of the Register on the basis of an entitlement under sub-paragraph (1), of any other provision of this Order under which a registered pharmacy technician’s name may be removed from that part of the Register or under which a registered pharmacy technician’s entry in that part of the Register may be suspended.

Entitlement to provide occasional pharmacy services: first year

11. A visiting practitioner is entitled to provide occasional pharmacy services if—

- (a) the practitioner has complied with the requirements of paragraph 12; and

(b) the practitioner has the benefit of regulation 8 of the General Systems Regulations (having complied with any requirements imposed under Part 2 of those Regulations in connection with the provision by a visiting practitioner of services as a pharmacy technician), and paragraph 15 contains provision about the duration of entitlement under this paragraph.

First provision of services: required documents

12.—(1) A visiting practitioner who proposes to provide occasional pharmacy services for the first time must, before providing those services, send or produce to the Registrar the required documents.

(2) The required documents are—

(a) a written declaration that—

- (i) states the practitioner's wish to provide occasional pharmacy services, and
- (ii) contains details of the indemnity arrangement, or the other means of personal or collective protection, that the practitioner has in place in respect of liabilities that may be incurred in practising as a pharmacy technician;

(b) if the practitioner is a national of a relevant European State, proof of nationality;

(c) if the practitioner is not a national of a relevant European State, proof of the Community right by virtue of which the practitioner is an exempt person;

(d) evidence of qualifications in pharmacy (see also paragraph 13); and

(e) a certificate (or certificates) issued by a competent authority in the practitioner's home State confirming—

- (i) that the practitioner is lawfully established as a pharmacy technician in that State, and
- (ii) that the practitioner is not prohibited (whether on a permanent or temporary basis) from practising as a pharmacy technician there;

(f) if a certificate of the type referred to in paragraph (e) is not available, such other information or documents from such other individuals, authorities or organisations as the Council may prescribe.

(3) A declaration under sub-paragraph (2)(a) may be supplied by any means.

First provision of services: supplementary

13.—(1) The evidence referred to in paragraph 12(2)(d) is evidence of—

- (a) the European-recognised qualifications which entitle the visiting practitioner to provide, in the practitioner's home State, the pharmacy services that the practitioner proposes to provide in Great Britain on a temporary and occasional basis; or
- (b) the qualifications which entitle the practitioner to practise as a pharmacy technician in the practitioner's home State.

(2) In this paragraph, "European-recognised qualifications" means qualifications which relevant European States are required by the Directive to recognise.

Entitlement to provide occasional pharmacy services after the first year: renewals

14.—(1) Sub-paragraph (2) applies where the Registrar receives the required renewal documents from a visiting practitioner who is entitled under this Part to provide occasional pharmacy services before such time prior to the practitioner's entitlement ceasing to be valid under article 15(1) or (2) as is prescribed by the Council for the receipt of those documents by the Registrar.

(2) The visiting practitioner is entitled to continue to provide occasional pharmacy services, but paragraph 15 contains provision about the duration of the entitlement continued under this sub-paragraph.

(3) Sub-paragraph (4) applies where the Registrar receives the required renewal documents from a visiting practitioner—

- (a) who is not entitled under this Part to provide occasional pharmacy services;
- (b) who has previously been entitled under this Part to provide occasional pharmacy services; and
- (c) whose entry in Part 5 of the Register is not suspended.

(4) The visiting practitioner is once again entitled to provide occasional pharmacy services but, in a case where the practitioner's name is not in Part 5 of the Register as a result of removal otherwise than under paragraph 10(6), only if the Registrar decides, after having regard (in particular) to the fact of that removal and the reasons for it, that the entitlement should be renewed, and paragraph 15 contains provision about the duration of entitlement under this sub-paragraph.

(5) In relation to a visiting practitioner, "the required renewal documents" are—

- (a) a renewal declaration; and
- (b) each evidence of change document (if any).

(6) In this paragraph, "renewal declaration", in relation to a visiting practitioner, means a written declaration that—

- (a) states the practitioner's wish to provide occasional pharmacy services in a further year; and
- (b) contains details of the indemnity arrangement, or the other means of personal or collective protection, that the practitioner has in place in respect of liabilities that may be incurred in practising as a pharmacy technician.

(7) Where a document—

- (a) is, in relation to a visiting practitioner, one of the required documents for the purposes of paragraph 12;
- (b) is not a declaration under paragraph 12(2)(a); and
- (c) substantiates a matter as respects which there has been a material change since the practitioner last (whether under paragraph 12 or this paragraph) supplied the then-current version of the document to the Registrar,

the version of the document current when, under this paragraph, the practitioner supplies a renewal declaration to the Registrar is an "evidence of change document" for the purposes of sub-paragraph (5)(b).

(8) A renewal declaration supplied under this paragraph may be supplied by any means.

(9) If the Registrar refuses to renew the entry of a visiting practitioner in the Register, the Registrar must send to that practitioner at that practitioner's last known home address a statement in writing giving that practitioner notice of the refusal and the reasons for it and of the right of appeal to the Appeals Committee under article 40.

Duration of entitlement to provide occasional pharmacy services

15.—(1) Unless an entitlement under paragraph 11 or 14 is continued by paragraph 11(2), or further continued by paragraph 14(2), the entitlement ceases at the end of the year that begins with the end of the day on which the Registrar received the documents whose receipt gave rise to the entitlement.

(2) Where an entitlement under paragraph 11 is continued by paragraph 14(2), or further continued by paragraph 14(4), the entitlement is extended so as to cease at the end of the year that begins with the end of the relevant day.

(3) For the purposes of sub-paragraph (2)—

- (a) if the day on which the Registrar receives the documents whose receipt gives rise to the continuation (or further continuation) is an anniversary of the start day, “the relevant day” means the day on which the Registrar receives those documents;
- (b) otherwise, “the relevant day” means the anniversary of the start day that is the first such anniversary to occur after the Registrar receives the documents whose receipt gives rise to the continuation (or further continuation).

(4) In sub-paragraph (3), “the start day”, in relation to an entitlement under paragraph 11 or 14(4), means the day on which the Registrar receives the documents whose receipt gives rise to the entitlement.

(5) An entitlement under this Part ceases if—

- (a) the visiting practitioner concerned becomes established as a pharmacy technician in the United Kingdom; or
- (b) a disqualifying decision is made against the visiting practitioner concerned.

(6) In sub-paragraph (5), “disqualifying decision”, in relation to a visiting practitioner, means a decision made by a competent or judicial authority in the practitioner’s home State that has the effect that the practitioner—

- (a) ceases in that State to be registered or otherwise officially recognised as a pharmacy technician; or
- (b) is prohibited (whether on a permanent or temporary basis) from practising as a pharmacy technician in that State.

(7) If in the case of a visiting practitioner—

- (a) the practitioner’s entry in Part 5 of the Register is suspended or the practitioner’s name is removed from that part of the Register; and
- (b) immediately before the time when the suspension or, as the case may be, removal takes effect, the practitioner is entitled under this Part to provide occasional pharmacy services,

that entitlement ceases at that time.

Conditions

16.—(1) Sub-paragraph (2) applies if—

- (a) the establishment of a visiting practitioner in the practitioner’s home State is subject to a condition relating to that practitioner’s practice as a pharmacy technician;
- (b) the practitioner’s name is in Part 5 of the Register; and
- (c) for any of the purposes of this Order it falls to be decided whether the practitioner’s fitness to practise is or may be impaired on the ground of misconduct.

(2) The matters that may be counted as misconduct include (in particular) any act or omission by the visiting practitioner during the course of the provision by the practitioner of occasional pharmacy services that is, or would be if the condition applied in relation to practice as a pharmacy technician outside the practitioner’s home State, a breach of the condition.

(3) In sub-paragraphs (1) and (2), “condition” includes limitation.