SCHEDULE 7

Regulation 102(3)

Mandatory terms for LPS schemes

General provisions

1.—(1) The LPS contractor must comply with all relevant legislation, including—

(a) the relevant provisions of Part 13 of these Regulations; and

(b) relevant provisions that are—

(i) included in regulations under section 225 of the 2007 Act [M1] (duties of services-providers to allow entry by Local Healthwatch organisations or contractors), and

(ii) made for the purpose of imposing on a services-provider (within the meaning of that section) a duty to allow authorised representatives (within the meaning of that section) to enter and view, and observe the carrying-on of activities on, premises owned or controlled by the services-provider.

(2) The LPS contractor must comply with the relevant provisions of the Drug Tariff.

(3) The LPS contractor must have regard to all relevant guidance issued by—

(a) the NHSCB; or

(b) the Secretary of State.

(4) To the extent that the provisions of the terms required by this Schedule impose a requirement on the LPS contractor (C) in respect of an activity which could only, or would normally, be undertaken by a natural person—

(a) if C is a registered pharmacist—

(i) C must comply with the requirement, or

(ii) if C employs or engages a registered pharmacist in connection with the provision of local pharmaceutical services under C's LPS scheme, C must either comply with that requirement or secure compliance with that requirement by the registered pharmacist C employs or engages; or

(b) if C is not a natural person, C must secure compliance with that requirement by the registered pharmacists C employs or engages, and references in this Schedule to an LPS contractor are to be construed accordingly.

Marginal Citations

M1 Section 225 has been amended by the Health and Social Care Act 2012 (c. 7), section 186(6) to (10), **Schedule 14**, paragraphs 103 and 106, and Schedule 5, paragraphs 148 and 151.

Restrictions in an LPS scheme on supply

2.—(1) Where an LPS scheme is limited to the provision of specified drugs or appliances, the LPS contractor must not provide other drugs or appliances at or from the scheme premises.

(2) An LPS scheme must contain the following terms, where applicable—

(a) where the local pharmaceutical services to be provided include the supply of appliances—

(i) the only appliances which may be supplied are appliances listed in Parts IXA, IXB, IXC or X of the Drug Tariff, and

(ii) those appliances must be supplied in accordance with the provisions of the Notes, and the List of Technical Specifications, which appear at the beginning of Part IX of the Drug Tariff, which apply at the time of supply; and

(b) where the local pharmaceutical services to be provided include the supply of chemical reagents, the only chemical reagents which may be supplied are those listed from time to time in Part IXR of the Drug Tariff.

(3) Where an LPS scheme is limited to the provision of services—

(a) to a specified class of persons (for example persons who require the provision of local pharmaceutical services for the treatment of a specified disease or condition); or

(b) to persons residing in a particular place (for example persons in a specified residential home),

the LPS contractor must not provide local pharmaceutical services to persons other than those so specified.

Dispensing

3.—(1) Subject to any provisions of an LPS scheme included pursuant to paragraph 2 and the following provisions of this Schedule, where—

(a) any person presents to the LPS contractor (C) a non-electronic prescription form which contains—

(i) an order for a drug, not being a Scheduled drug, or for an appliance, not being a restricted availability appliance, signed by a prescriber,

(ii) an order for a drug specified in Schedule 2 to the Prescription of Drugs Regulations [M2] (drugs, medicines and other substances that may be ordered only in certain circumstances), signed by a prescriber and including the reference "SLS", or

(iii) an order for a restricted availability appliance, signed by a prescriber and including the reference "SLS"; [F1]...

(b) C receives **[**[F2]as a nominated dispensing contractor**]** from the Electronic Prescription Service an electronic prescription form which contains an order of a kind specified in paragraph (a)(i) to (iii), and—

(i) any person requests the provision of a drug **[**[F3]or appliance**]** in accordance with that prescription, or

(ii) C has previously arranged with the patient that it will dispense that prescription on receipt**[**[F4]; or**]**

[[F5](c) any person—

(i) presents C with an EPS token that relates to an order of a kind specified in paragraph (a)(i) to (iii), and

(ii) requests the provision of a drug or appliance in accordance with the related electronic prescription form,**]**

C must, with reasonable promptness, provide the drugs so ordered, and such of the appliances so ordered as C supplies in the normal course of business.

(2) Where an LPS scheme includes the provision of repeat dispensing services, subject to any provisions of the LPS scheme included pursuant to paragraph 2 and the following provisions of this Schedule, where—

(a) any person presents to C a non-electronic repeatable prescription which contains—

(i) an order for a drug, not being a Scheduled drug or a controlled drug within the meaning of the Misuse of Drugs Act 1971 [M3], other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001 [M4] (which relate to controlled drugs excepted from certain prohibitions under the Regulations), signed by a prescriber,

(ii) an order for a drug specified in Schedule 2 to the Prescription of Drugs Regulations, not being a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001, signed by a prescriber and including the reference "SLS",

(iii) an order for an appliance, not being a restricted availability appliance, signed by a prescriber, or

(iv) an order for a restricted availability appliance, signed by a prescriber, and including the reference "SLS",

and also presents an associated batch issue; [F6]...

(b) C receives **[**[F7]as a nominated dispensing contractor**]** from the Electronic Prescription Service an electronic repeatable prescription which contains an order of a kind specified in sub-paragraph (a)(i) to (iv) and—

(i) any person requests the provision of a drug or an appliance in accordance with that repeatable prescription, or

(ii) C has previously arranged with the patient that it will dispense that repeatable prescription on receipt**[**[F8]; or**]**

[[F9](c) any person—

(i) presents C with an EPS token that relates to an order of a kind specified in paragraph (a)(i) to (iv), and

(ii) requests the provision of a drug or appliance in accordance with the related electronic repeatable prescription,**]**

C must, with reasonable promptness, provide the drugs so ordered, and such of the appliances so ordered as C supplies in the normal course of business.

(3) C must not provide under an electronic prescription form a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in **[**[F10]Schedules 2 to 5**]** to the Misuse of Drugs Regulations 2001.

(4) For the purposes of this paragraph, a non-electronic repeatable prescription for drugs or appliances must be taken to be presented even if the person who wishes to obtain the drug or appliance does not present that prescription, where—

(a) C has that prescription in C's possession; and

(b) that person presents, or C has in C's possession, an associated batch issue.

F1 Word in Sch. 7 para. 3(1)(a) omitted (26.11.2018) by virtue of The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **10(2)(a)(i)**

F2 Words in Sch. 7 para. 3(1)(b) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **10(2)(a)(ii)**

F3 Words in Sch. 7 para. 3(1)(b)(i) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **10(2)(a)(iii)**

F4 Word in Sch. 7 para. 3(1)(b) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **10(2)(a)(iv)**

F5 Sch. 7 para. 3(1)(c) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **10(2)(a)(v)**

F6 Word in Sch. 7 para. 3(2)(a) omitted (26.11.2018) by virtue of The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **10(2)(b)(i)**

F7 Words in Sch. 7 para. 3(2)(b) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **10(2)(b)(ii)**

F8 Word in Sch. 7 para. 3(2)(b) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **10(2)(b)(iii)**

F9 Sch. 7 para. 3(2)(c) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **10(2)(b)(iv)**

F10 Words in Sch. 7 para. 3(3) substituted (1.7.2015) by The National Health Service (Amendments to Primary Care Terms of Service relating to the Electronic Prescription Service) Regulations 2015 (S.I. 2015/915), regs. 1, **4(4)**

Marginal Citations

M2 Schedule 2 has been amended by S.I. 2004/3215, 2009/2230, 2010/2389 and 2011/680 and 1043.

M3 1971 c.38; *see* section 2(1)(a) of that Act, which defines "controlled drug" for the purposes of that Act.

M4 S.I. 2001/3998. Schedule 4 has been amended by S.I. 2003/1432, 2005/3372, 2007/2154, 2009/3136 and 2012/973, and Schedule 5 has been amended by S.I. 2005/2864.

[F11Supply in accordance with a SSP

3A.—(1) This sub-paragraph applies where—

(a) any person requests a drug or appliance from an LPS contractor (C) in accordance with a prescription form or repeatable prescription; and

(b) a SSP has effect in respect of—

(i) the requested drug or appliance, or

(ii) drugs or appliances of a specified description, and the requested drug or appliance is of that description.

(2) Where sub-paragraph (1) applies, C must consider whether it is reasonable and appropriate to supply in accordance with the SSP instead of in accordance with the prescription form or repeatable prescription.

(3) Where sub-paragraph (1) applies, C may provide a different product or quantity of product to the product or quantity of product ordered on the prescription form or repeatable prescription, where—

(a) C is able to do so with reasonable promptness;

(b) to do so is in accordance with the SSP; and

(c) the supply of a different product or quantity of product to that ordered by the prescriber is by or under the direct supervision of a registered pharmacist who is of the opinion, in the

exercise of his or her professional skill and judgement, that supplying a different product or quantity of product to that ordered by the prescriber is reasonable and appropriate.

(4) Where C, in accordance with sub-paragraph (3), provides a different product or quantity of product to that ordered by the prescriber—

(a) the registered pharmacist mentioned in sub-paragraph (3)(c) must endorse the prescription or the associated batch issue accordingly (if the manner for making the endorsement is provided for in the Drug Tariff, in the manner provided for in the Drug Tariff), and the prescription or associated batch issue as thus endorsed is treated as being the prescription for product reimbursement purposes (even though the supply is not in pursuance of that prescription); and

(b) if the patient to or for whom the product is provided is on a patient list, and the supply—

(i) by virtue of regulation 226A(5)(c)(iii) of the Human Medicines Regulations 2012 (sale etc. by a pharmacist in accordance with a serious shortage protocol), is of a prescription only medicine that is different to but has a similar therapeutic effect to the product ordered by the prescriber, or

(ii) is of any other type, and the Secretary of State and the person who is, for the time being, the person consulted under section 165(1)(a) of the 2006 Act in respect of pharmaceutical remuneration of LPS chemists, acting jointly, have issued and publicised in such manner as they see fit a recommendation to the effect that, for clinical reasons, in the case of supplies of that type, providers of primary medical services should be notified of a supply to a patient on its patient list that is in accordance with a SSP instead of in accordance with a prescription form or repeatable prescription,

C must notify the provider of primary medical services on whose patient list the patient is of the supply in accordance with a SSP instead of in accordance with a prescription form or repeatable prescription.

(5) Where—

(a) sub-paragraph (1) applies;

(b) a registered pharmacist is of the opinion, in the exercise of his or her professional skill and judgement, that supplying a different product or quantity of product to that ordered by the prescriber is unreasonable or inappropriate; and

(c) C is able to supply the product or quantity of product ordered by the prescriber within a reasonable timescale but not with reasonable promptness,

the requirements to act with reasonable promptness in paragraph 3(1) and (2) are to be read as requirements to act within a reasonable timescale.**]**

F11 Sch. 7 para. 3A inserted (1.7.2019) by The National Health Service (Amendments Relating to Serious Shortage Protocols) Regulations 2019 (S.I. 2019/990), regs. 1, **7(2)**

[F12Supply in accordance with a LPIV

3B.—(1) Subject to the following provisions of this Schedule, where—

(a) a LPS Contractor (C) receives a LPIV; and

(b) a person who is entitled to be supplied by C with a prescription item ordered on the LPIV requests the provision of the item in accordance with that LPIV,

C must, with reasonable promptness, provide the prescription item so ordered.

(2) If a person who is entitled as mentioned in sub-paragraph (1)(b) asks C to do so—

(a) C must give an estimate of the time when the prescription item will be ready; and

(b) if they are not ready by then, C must give a revised estimate of the time when the item will be ready (until it is ready).

(3) Sub-paragraph (1) does not apply where arrangements are in place for the provision of the item ordered on the LPIV as part of a directed service which includes arrangements for the provision of such an item ordered on such a LPIV.**]**

F12 Sch. 7 para. 3B inserted (21.12.2021) by The National Health Service (Charges, Primary Medical Services and Pharmaceutical and Local Pharmaceutical Services) (Coronavirus) (Further Amendments) Regulations 2021 (S.I. 2021/1346), regs. 1(2)(a), **10(2)**

Urgent supply without a prescription

4. Where, in case of urgency, a prescriber personally known to the LPS contractor (C) requests C to provide a drug, C may provide that drug (where it would otherwise be able to provide that drug in accordance with the LPS scheme) before receiving a prescription form or repeatable prescription, provided that—

(a) the drug is not a Scheduled drug;

(b) the drug is not a controlled drug within the meaning of the Misuse of Drugs Act 1971, other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001 (which relate to controlled drugs excepted from certain prohibitions under the Regulations); and

(c) the prescriber undertakes to—

(i) give C a non-electronic prescription form or non-electronic repeatable prescription in respect of the drug within 72 hours of the request being made, or

(ii) transmit to the Electronic Prescription Service within 72 hours of the request being made an electronic prescription.

Preliminary matters before providing ordered drugs or appliances

5.—(1) If a person specified in paragraph (2) asks the LPS contractor (C) to do so—

(a) C must give an estimate of the time when the drugs or appliances will be ready; and

(b) if they are not ready by then, C must give a revised estimate of the time when they will be ready (until they are ready).

(2) A person specified in paragraph (1) is a person—

(a) presenting a non-electronic prescription form or non-electronic repeatable prescription; or

(b) requesting the provision of drugs or appliances in accordance with an electronic prescription form or a repeatable prescription.

(3) Before providing any drugs or appliances in accordance with a prescription form or a repeatable prescription, C must ask any person who makes **[**F13or duly completes a declaration as or on behalf of the person named on the prescription form or repeatable prescription**]** that the person named on the prescription form or the repeatable prescription does not have to pay the charges specified in regulation 3(1) **[**F14or (2)**]** of the Charges Regulations M5 (supply of drugs and appliances by chemists) by virtue of either—

(a) entitlement to exemption under **[**F15regulation 10(1)**]** of the Charges Regulations M6 (exemptions); or

(b) entitlement to remission of charges under regulation 5 of the Remission of Charges Regulations [M7] (entitlement to full remission and payment),

to produce satisfactory evidence of such entitlement, unless the declaration is in respect of entitlement to exemption by virtue of sub-paragraph (a), (c), (d), (e), (f) or (g) of **[**[F15]regulation 10(1)**]** of the Charges Regulations or in respect of entitlement to remission by virtue of regulation (5)(1)(e) or (2) of the Remission of Charges Regulations, and at the time of the declaration C already has such evidence available to C.

[[F16](3ZA) For the purposes of sub-paragraph (3), satisfactory evidence includes evidence derived from a check, known as a real time exemption check, of electronic records that are managed by the NHS BSA for the purposes (amongst other purposes) of providing advice, assistance and support to patients or their representatives in respect of whether a charge is payable under the Charges Regulations.**]**

[[F17](3A) In any case where no satisfactory evidence, as required by sub-paragraph (3), is produced to C, C must ensure before the drugs or appliances are provided that the person who was asked to produce that evidence is advised, in appropriate terms, that checks are routinely undertaken to ascertain entitlement to—

(a) exemption under the Charges Regulations; or

(b) remission of charges under the Remission of Charges Regulations,

where such entitlement has been claimed, as part of the arrangements for preventing or detecting fraud or error in relation to such claims.**]**

(4) If, in the case of a non-electronic prescription form or non-electronic repeatable prescription, no satisfactory evidence, as required by sub-paragraph (3), is produced, C must endorse the form on which the declaration is made to that effect.

(5) In the case of an electronic prescription, C must **[**[F18]ensure that the following information is duly entered into the records managed by **[**[F19]NHS England**]** that are accessible as part of the Electronic Prescription Service (if either it is not already recorded in those records or a check, known as a real time exemption check, has not produced satisfactory evidence as mentioned in sub-paragraph (3))**]**—

(a) in a case where exemption from or remission of charges is claimed for all or some of the items included in the prescription, a record of—

(i) the exemption category specified in **[**[F15]regulation 10(1)**]** of the Charges Regulations or the ground for remission under regulation 5 of the Remission of Charges Regulations which is claimed applies to the case, and

(ii) whether or not satisfactory evidence was produced to C as required by sub-paragraph (3);

(b) in any case where a charge is due, confirmation that the relevant charge was paid; and

(c) in a case of a prescription for or including contraceptive substances, confirmation that no charge was payable in respect of those substances.

[[F20](6) Sub-paragraphs (3) to (5) apply to the provision of a drug or appliance in accordance with a SSP as they apply to the provision of a drug or appliance in accordance with a prescription form or a repeatable prescription (or an associated batch issue), and for these purposes the prescription for product reimbursement purposes, as mentioned in paragraph 3A(4)(a), is treated as being the prescription in accordance with which the drug or appliance is provided (even though the supply is not in pursuance of that prescription).**]**

F13 Words in Sch. 7 para. 5(3) substituted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **10(3)(a)**

F14 Words in Sch. 7 para. 5(3) substituted (1.4.2015) by The National Health Service (Charges for Drugs and Appliances) Regulations 2015 (S.I. 2015/570), reg. 1, **Sch. 2 para. 5(7)(a)(i)**

F15 Words in Sch. 7 para. 5 substituted (1.4.2015) by The National Health Service (Charges for Drugs and Appliances) Regulations 2015 (S.I. 2015/570), reg. 1, **Sch. 2 para. 5(7)(a)(ii)**

F16 Sch. 7 para. 5(3ZA) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **10(3)(b)**

F17 Sch. 7 para. 5(3A) inserted (E.) (1.7.2016) by The National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2016 (S.I. 2016/296), regs. 1(1)(b), **5(2)**

F18 Words in Sch. 7 para. 5(5) substituted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **10(3)(c)**

F19 Words in Sch. 7 para. 5(5) substituted (1.2.2023) by The Health and Social Care Information Centre (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/98), reg. 1(2), **Sch. para. 47(6)** (with reg. 3)

F20 Sch. 7 para. 5(6) inserted (1.7.2019) by The National Health Service (Amendments Relating to Serious Shortage Protocols) Regulations 2019 (S.I. 2019/990), regs. 1, **7(3)**

Marginal Citations

M5 Regulation 3 has been amended by S.I. 2002/2352, 2003/1084, 2004/865, 2005/578, 2008/571, 2009/411, 2010/1727, 2011/518 and 2012/470.

M6 Regulation 7 has been amended by S.I. 2000/3189, 2002/2352, 2004/696, 2005/578 and 2009/29.

M7 Regulation 5 has been amended by S.I. 2004/663 and 936, 2006/562, 2008/1697 and 2009/411.

Providing ordered drugs or appliances

6.—(1) Where the LPS contractor (C) is presented with, or receives from the Electronic Prescription Service, a prescription form or a repeatable prescription, C must only provide the drugs or appliances so ordered—

(a) if the prescription form or repeatable prescription is duly signed and completed as described in paragraph 3(1) or (2); and

(b) in accordance with the order on the prescription form or repeatable prescription,

subject to any regulations in force under the Weights and Measures Act 1985 [M8] and the following provisions of this Schedule.

(2) If the order is for **[**[F21], or a product to be provided in accordance with a SSP is,**]** an appliance of a type requiring measuring and fitting by C (for example a truss), C shall make all necessary arrangements for—

(a) measuring the person named on the prescription form or repeatable prescription for the appliance; and

(b) fitting the appliance.

(3) If the order is for **[**[F22], or a product to be provided in accordance with a SSP is,**]** a drug or appliance included in the Drug Tariff, the British National Formulary (including any Appendix published as part of that Formulary), the Dental Practitioner's Formulary, the European Pharmacopoeia or the British Pharmaceutical Codex, the drug or appliance provided must comply with the relevant standard or formula specified therein.

(4) If the order—

(a) is an order for a drug; but

(b) is not an order for a controlled drug within the meaning of the Misuse of Drugs Act 1971 [M9], other than a drug which is for the time being specified in Schedule 4 or 5 of the Misuse

of Drugs Regulations 2001 [M10] (which relate to controlled drugs excepted from certain prohibitions under the Regulations),

and does not prescribe its quality, strength or dosage, C (in practice, a registered pharmacist) may provide the drug in such strength and dosage as in the exercise of C's professional skill, knowledge and care C considers to be appropriate and, subject to sub-paragraph (5), in such quantity as C considers to be appropriate for a course of treatment for a period not exceeding 5 days.

(5) Where an order to which sub-paragraph (4) applies is for—

(a) an oral contraceptive substance;

(b) a drug, which is available for supply as part of local pharmaceutical services only together with one or more other drugs; or

(c) an antibiotic in a liquid form for oral administration in respect of which pharmaceutical considerations require its provision in an unopened package,

which is not available for provision as part of local pharmaceutical services except in such packages that the minimum size available contains a quantity appropriate to a course of treatment for a period of more than 5 days, C may provide the minimum size available package.

(6) Where any drug to which this sub-paragraph applies (that is, a drug that is not one to which the Misuse of Drugs Act 1971 applies, unless it is a drug for the time being specified in Schedule 5 to the Misuse of Drugs Regulations 2001), ordered by a prescriber on a prescription form or repeatable prescription, is available for provision by C in a pack in a quantity which is different to the quantity which has been so ordered, and that drug is—

(a) sterile;

(b) effervescent or hygroscopic;

(c) a liquid preparation for addition to bath water;

(d) a coal tar preparation;

(e) a viscous preparation; or

(f) packed at the time of its manufacture in a special container,

C must provide the drug in the pack whose quantity is nearest to the quantity which has been so ordered.

(7) In this paragraph, "special container" means any container with an integral means of application or from which it is not practicable to dispense an exact quantity.

(8) Subject to sub-paragraph (9), where a drug is ordered by a prescriber on a prescription form or repeatable prescription**[**[F23], or is to be provided in accordance with a SSP,**]** in a quantity that is, or is a multiple of a quantity that is, readily available in a pack size manufactured for a holder of a **[**[F24]UK**]** marketing authorisation for the drug, C must provide the drug in an original pack (or in original packs) of that size which has been assembled by a manufacturer of the drug for such a holder of a **[**[F24]UK**]** marketing authorisation, unless—

(a) it is not possible for C to obtain such a pack (or packs) with reasonable promptness in the normal course of business; or

(b) it is not practicable for C to provide such a pack (or packs) in response to the order (for example, because of patient needs or the method of administration of the drug).

(9) In the case of oral liquid methadone, C (in practice, a registered pharmacist) must decide whether it would be most appropriate to provide—

(a) each dose in a separate container;

(b) an original pack (or original packs); or

(c) the oral liquid methadone in some other way,

and C must then provide it in packaging that accords with that decision.

(10) C must only provide a Scheduled drug in response to an order by name, formula or other description on a prescription form or repeatable prescription if—

(a) it is ordered as specified in sub-paragraph (11); or

(b) in the case of a drug specified in Schedule 2 to the Prescription of Drugs Regulations [M11] (drugs, medicines and other substances that may be ordered only in certain circumstances), it is ordered in the circumstances prescribed in that Schedule.

(11) A Scheduled drug that is a drug with an appropriate non-proprietary name may be provided in response to an order on a prescription form or repeatable prescription for a drug ("the prescribed drug") that is not a Scheduled drug but which has the same non-proprietary name as the Scheduled drug if—

(a) the prescribed drug is ordered by that non-proprietary name or by its formula;

(b) the prescribed drug has the same specification as the Scheduled drug (so the Scheduled drug may be dispensed generically); and

(c) the Scheduled drug is not in a pack which consists of a drug in more than one strength, and providing it would involve the supply of part only of the pack.

(12) If a Scheduled drug is a combination of more than one drug, it can only be ordered as specified in sub-paragraph (11) if the combination has an appropriate non-proprietary name, whether or not the drugs in the combination each have such names.

(13) C must provide any drug which it is required to provide under paragraph 3 **[**[F25]or 3B**]****[**[F26], or provides under paragraph 3A,**]** in a suitable container.

[[F27](14) Where C provides a drug or appliance under paragraph 3A, C must include in the dispensing label on the packaging of the product, for the patient's benefit, information to the effect that the product is being supplied in accordance with a SSP, identifying the particular SSP.**]**

[[F28](15) Sub-paragraphs (3) to (8) apply to the provision of a drug in accordance with a LPIV as they apply to the provision of a drug in accordance with a prescription form or a repeatable prescription (or an associated batch issue).**]**

F21 Words in Sch. 7 para. 6(2) inserted (1.7.2019) by The National Health Service (Amendments Relating to Serious Shortage Protocols) Regulations 2019 (S.I. 2019/990), regs. 1, **7(4)(a)**

F22 Words in Sch. 7 para. 6(3) inserted (1.7.2019) by The National Health Service (Amendments Relating to Serious Shortage Protocols) Regulations 2019 (S.I. 2019/990), regs. 1, **7(4)(b)**

F23 Words in Sch. 7 para. 6(8) inserted (1.7.2019) by The National Health Service (Amendments Relating to Serious Shortage Protocols) Regulations 2019 (S.I. 2019/990), regs. 1, **7(4)(c)**

F24 Word in Sch. 7 para. 6(8) inserted (31.12.2020) by The Human Medicines (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/775), reg. 1, **Sch. 8 para. 11(3)**; 2020 c. 1, Sch. 5 para. 1(1)

F25 Words in Sch. 7 para. 6(13) inserted (21.12.2021) by The National Health Service (Charges, Primary Medical Services and Pharmaceutical and Local Pharmaceutical Services) (Coronavirus) (Further Amendments) Regulations 2021 (S.I. 2021/1346), regs. 1(2)(a), **10(3)(a)**

F26 Words in Sch. 7 para. 6(13) inserted (1.7.2019) by The National Health Service (Amendments Relating to Serious Shortage Protocols) Regulations 2019 (S.I. 2019/990), regs. 1, **7(4)(d)**

F27 Sch. 7 para. 6(14) inserted (1.7.2019) by The National Health Service (Amendments Relating to Serious Shortage Protocols) Regulations 2019 (S.I. 2019/990), regs. 1, **7(4)(e)**

F28 Sch. 7 para. 6(15) inserted (21.12.2021) by The National Health Service (Charges, Primary Medical Services and Pharmaceutical and Local Pharmaceutical Services) (Coronavirus) (Further Amendments) Regulations 2021 (S.I. 2021/1346), regs. 1(2)(a), **10(3)(b)**

Marginal Citations

M8 1985 c. 72.

M9 1971 c.38; *see* section 2(1)(a) of that Act, which defines "controlled drug" for the purposes of that Act.

M10 S.I. 2001/3998. Schedule 4 has been amended by S.I. 2003/1432, 2005/3372, 2007/2154 and 2009/3136, and Schedule 5 has been amended by S.I. 2005/2864.

M11 Schedule 2 has been amended by S.I. 2004/3215, 2009/2230, 2010/2389 and 2011/680 and 1043.

Refusal to provide drugs or appliances ordered

7.—(1) The LPS contractor (C) may refuse to provide the drugs or appliances ordered on a prescription form or repeatable prescription where—

(a) C reasonably believes that it is not a genuine order for the person named on the prescription form or the repeatable prescription (for example because C reasonably believes it has been stolen or forged);

(b) it appears to C that—

(i) there is an error on the prescription form or on the repeatable prescription, or in the case of a non-electronic repeatable prescription, its associated batch issue (including a clinical error made by the prescriber), or

(ii) in the circumstances, providing the drugs or appliances would be contrary to the C's (in practice, a registered pharmacist's) clinical judgement;

(c) C or other persons on the premises are subjected to or threatened with violence by the person presenting the prescription form or repeatable prescription or requesting the provision of drugs or appliances in accordance with an electronic prescription form or a repeatable prescription, or by any person accompanying that person;

(d) the person presenting the prescription form or repeatable prescription or requesting the provision of drugs or appliances in accordance with an electronic prescription form or a repeatable prescription, or any person accompanying that person, commits or threatens to commit a criminal offence; or

(e) the prescription form or repeatable prescription is incomplete because it does not include the information relating to the identification of the prescriber that the NHSCB (or a person exercising its functions) requires in order to perform its functions relating to—

(i) the remuneration of persons providing local pharmaceutical services, and

(ii) any apportionment of, or any arrangements for recharging in respect of, that remuneration,

unless C is to receive no pharmaceutical remuneration of any kind in respect of the drug or appliance.

(2) C must refuse to provide a drug ordered on a prescription form or repeatable prescription where the order is for a prescription only medicine which the prescriber was not entitled to prescribe.

[[F29](2A) C may refuse to provide a drug or appliance ordered on an electronic prescription if the access that C has to the Electronic Prescription Service is not such as to enable C to dispense that prescription promptly (or at all) **[**[F30], but where C does so, C must take all reasonable steps to ensure that the product ordered by the prescriber is supplied within a reasonable timescale, which may include (depending on what steps or combination of steps the circumstances require)—

(a) providing details of other LPS chemists or NHS pharmacists whose premises are situated in the same area and who may be able to provide the product ordered by the prescriber;

(b) urgent supply without a prescription in accordance with paragraph 4;

(c) arranging for the urgent provision of a non-electronic prescription form by the prescriber.**]]**

[F31(2B) C must refuse to provide a drug or appliance ordered on a prescription form or a repeatable prescription where—

(a) a SSP has effect in respect of—

(i) the requested drug or appliance, or

(ii) drugs or appliances of a specified description, and the requested drug or appliance is of that description; and

(b) alternative provision has already taken place in accordance with the SSP.

(2C) C may refuse to provide a drug or appliance ordered on a prescription form or a repeatable prescription where—

(a) a SSP has effect in respect of—

(i) the requested drug or appliance, or

(ii) drugs or appliances of a specified description, and the requested drug or appliance is of that description;

(b) a registered pharmacist is of the opinion, in the exercise of his or her professional skill and judgement, that supplying a different product or quantity of product to that ordered by the prescriber is unreasonable or inappropriate; and

(c) C is unable to provide the drug or appliance within a reasonable timescale,

but if C does refuse to do so, C must provide the patient or the person requesting the drug or appliance on behalf of a patient with appropriate advice, as necessary, about reverting to the prescriber for the prescriber to review the patient's treatment.**]**

(3) C must refuse to provide drugs or appliances ordered on a repeatable prescription where—

(a) C has no record of that prescription;

(b) C does not, in the case of a non-electronic repeatable prescription, have any associated batch issue and it is not presented to C;

(c) it is not signed by a prescriber;

(d) to do so would not be in accordance with any intervals specified in the prescription;

(e) it would be the first time a drug or appliance had been provided pursuant to the prescription and the prescription was signed (whether electronically or otherwise) more than 6 months previously;

(f) the repeatable prescription was signed (whether electronically or otherwise) more than one year previously;

(g) the expiry date on the repeatable prescription has passed; or

(h) C has been informed by the prescriber that the prescription is no longer required.

(4) Where a patient requests the supply of drugs or appliances ordered on a repeatable prescription (other than on the first occasion that he makes such a request), C must only provide the drugs or appliances ordered if C is satisfied—

(a) that the patient to whom the prescription relates—

(i) is taking or using, and is likely to continue to take or use, the drug or appliance appropriately, and

(ii) is not suffering from any side effects of the treatment which indicates the need or desirability of reviewing the patient's treatment;

(b) that the medication regimen of the patient to whom the prescription relates has not altered in a way which indicates the need or desirability of reviewing the patient's treatment; and

(c) that there have been no changes to the health of the patient to whom the prescription relates which indicate the need or desirability of reviewing the patient's treatment.

[F32(5) C may refuse to provide a prescription item that is or is purportedly ordered on a LPIV where—

(a) C reasonably believes it is not a genuine order for the person who requests, or on whose behalf is requested, the provision of the prescription item;

(b) providing it would be contrary to C's clinical judgement;

(c) C or other persons are subjected to or threatened with violence by the person who requests the provision of the prescription item, or by any person accompanying that person; or

(d) the person who requests the provision of the prescription item, or any person accompanying that person, commits or threatens to commit a criminal offence.

(6) C must refuse to provide a prescription item that is or is purportedly ordered on a LPIV where C is satisfied that C is not entitled to provide it or the prescriber was not entitled to prescribe it.**]**

[F33(7) C may refuse to provide a prescription item ordered on a prescription form or repeatable prescription where—

(a) more than one prescription item has been ordered on the prescription form or repeatable prescription;

(b) at least one of those prescription items is a listed HRT prescription item and at least one of those prescription items is not; and

(c) the person named on the prescription form or repeatable prescription is claiming entitlement to exemption under regulation 10(1)(j) of the Charges Regulations (exemptions) in respect of any of those prescription items which is a listed HRT prescription item.**]**

F29 Sch. 7 para. 7(2A) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **10(4)**

F30 Words in Sch. 7 para. 7(2A) inserted (9.11.2020) by The National Health Service (Charges and Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2020 (S.I. 2020/1126), regs. 1(2), **24**

F31 Sch. 7 para. 7(2B)(2C) inserted (1.7.2019) by The National Health Service (Amendments Relating to Serious Shortage Protocols) Regulations 2019 (S.I. 2019/990), regs. 1, **7(5)**

F32 Sch. 7 para. 7(5)(6) inserted (21.12.2021) by The National Health Service (Charges, Primary Medical Services and Pharmaceutical and Local Pharmaceutical Services) (Coronavirus) (Further Amendments) Regulations 2021 (S.I. 2021/1346), regs. 1(2)(a), **10(4)**

F33 Sch. 7 para. 7(7) inserted (1.4.2023) by The National Health Service (Amendments Relating to Pre-Payment Certificates, Hormone Replacement Therapy Treatments and Medicines Shortages) Regulations 2023 (S.I. 2023/171), regs. 1(1), **5**

Further activities to be carried out in connection with the provision of dispensing services

8. In connection with the services provided under paragraphs 3 to 7, the LPS contractor (C) must—

(a) ensure that appropriate advice is given to patients about any drugs or appliances provided to them—

(i) to enable them to utilise the drugs or appliances appropriately, and

(ii) to meet the patient's reasonable needs for general information about the drugs or appliances;

(b) provide appropriate advice to patients to whom they provide drugs or appliances on—

(i) the safe keeping of the drugs or appliances, and

(ii) returning unwanted drugs or appliances to the scheme premises for safe destruction;

(c) provide a patient with a written note **[**F34(which may be in an electronic form)**]** of any drug or appliance which is owed, and inform the patient when it is expected that the drug or appliance will become available;

(d) keep and maintain records—

(i) of drugs and appliances provided, in order to facilitate the continued care of the patient,

(ii) in appropriate cases, of advice given and any interventions or referrals made (including clinically significant interventions in cases involving repeatable prescriptions), and

(iii) of notes provided under sub-paragraph (c);

(e) if C provides a drug or appliance under an electronic prescription, provide the patient, if the patient so requests, with a written record of the drugs or appliances ordered on that prescription and, in the case of an electronic repeatable prescription, of the number of occasions on which it can be dispensed; and

(f) ensure that where a person is refused drugs or appliances pursuant to paragraph 7(1)(b), (2), (3) or (4), the patient is referred back to the prescriber for further advice.

F34 Words in Sch. 7 para. 8(c) inserted (9.11.2020) by The National Health Service (Charges and Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2020 (S.I. 2020/1126), regs. 1(2), **25**

Additional requirements in relation to electronic prescribing

9.—(1) The LPS contractor (C) must, if requested to do so by any person—

F35(a) . . . . . .

(b) where the Electronic Prescription Service is **[**F36temporarily unavailable**]** through C's scheme premises, provide that person with contact details of at least two pharmacies in the area through which the service is available, if these details are known to C.

(2) F37... C must, if requested to do so by any person, enter in that person's PDS patient details—

(a) where the person does not have a nominated dispensing contractor, **[**F38a nominated dispensing contractor**]**; or

(b) where the person does have a nominated dispensing contractor—

(i) a replacement dispensing contractor, or

(ii) a further dispensing contractor,

chosen by that person.

(3) Sub-paragraph (2)(b)(ii) does not apply if the number of nominated dispensing contractors for that person would thereby exceed the maximum number permitted by the Electronic Prescription Service.

(4) If C is a nominated dispensing contractor for a person (X) but the nomination was made before C became the person specified in an LPS scheme in relation to the scheme premises nominated in X's PDS patient details, C must within 6 months of C becoming the person so specified—

(a) explain to X that the ownership of the scheme premises has changed; and

(b) ask X whether X wishes to maintain the nomination in respect of those scheme premises.

[F39(5) If C dispenses an electronic prescription or makes an urgent supply without a prescription, C must send the form duly completed by or on behalf of the patient, if one is required under regulation 3(3)(b) or (c), (5C) or (5E) of the Charges Regulations in respect of that prescription (which may be the associated EPS token), to the NHS BSA.**]**

F35 Sch. 7 para. 9(1)(a) omitted (9.11.2020) by virtue of The National Health Service (Charges and Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2020 (S.I. 2020/1126), regs. 1(2), **26(a)(i)**

F36 Words in Sch. 7 para. 9(1)(b) substituted (9.11.2020) by The National Health Service (Charges and Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2020 (S.I. 2020/1126), regs. 1(2), **26(a)(ii)**

F37 Words in Sch. 7 para. 9(2) omitted (9.11.2020) by virtue of The National Health Service (Charges and Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2020 (S.I. 2020/1126), regs. 1(2), **26(b)**

F38 Words in Sch. 7 para. 9(2)(a) substituted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **10(5)(a)**

F39 Sch. 7 para. 9(5) inserted (26.11.2018) by The National Health Service (Pharmaceutical Services, Charges and Prescribing) (Amendment) Regulations 2018 (S.I. 2018/1114), regs. 1(1), **10(5)(b)**

Further activities in connection with repeat dispensing

10. In connection with the services provided under paragraphs 3 to 7, the LPS contractor (C) must—

(a) provide appropriate advice to patients to whom C provides drugs or appliances in accordance with a repeatable prescription, in particular on the importance of only requesting those items which they actually need;

(b) undertake appropriate training in respect of repeat dispensing, having regard to any recommendations in respect of such training set out in the Drug Tariff;

(c) if C takes possession of a non-electronic repeatable prescription or an associated batch issue, securely store that repeatable prescription or associated batch issue;

(d) maintain records of repeatable prescriptions in such a form as to provide a clear audit trail of supplies under the repeatable prescription (including dates and quantities supplied);

(e) destroy any surplus batch issues relating to drugs or appliances—

(i) which are not required, or

(ii) where a patient is refused the drugs or appliances pursuant to paragraph 7;

(f) where a patient is provided with drugs or appliances under a repeatable prescription, notify the prescriber of any clinically significant issues arising in connection with the prescription and keep a record of that notification; and

(g) notify the prescriber of any refusal to provide drugs or appliances pursuant to paragraph 7(4).

[F40**Home delivery service while a disease is or in anticipation of a disease being imminently pandemic etc.**

10A.—(1) Before dispensing any item on a prescription form or supplying it in accordance with a serious shortage protocol, an LPS contractor (C) must provide a home delivery option to eligible patients in respect of the item where, as a consequence of a disease being or in anticipation of a disease being imminently—

(a) pandemic; and

(b) a serious risk or potentially a serious risk to human health,

the NHSCB with the agreement of the Secretary of State has made an announcement to the effect that, in order to assist in the management of the serious risk or potentially serious risk to human health, eligible patients are advised to stay away from listed chemist premises in the area specified, in the circumstances specified and for the duration of the period specified in the announcement.

(2) If C's listed chemist premises are in the area specified in the announcement, during the period when, in the circumstances specified in the announcement, eligible patients need to stay away from C's premises, C must ascertain from—

(a) an eligible patient—

(i) who has contacted C about the home delivery of prescription items, or

(ii) who is a person whom C considered, on the basis of the nature of an item on a prescription form, might be an eligible person and accordingly, in the ordinary exercise of professional skill and judgement, made the appropriate checks and determined that they were; or

(b) a person who may make an application for pharmaceutical services on behalf of that eligible patient (a "duly authorised person") who has contacted C about the home delivery of prescription items,

whether or not the item could be supplied by a duly authorised person, and if it could, then supplying the item via a duly authorised person is the home delivery option which C must provide.

(3) Where paragraph (2) does not apply, if C's listed chemist premises are in the area specified in the announcement, during the period when, in the circumstances specified in the announcement, eligible patients need to stay away from C's premises, the home delivery option that C must provide must comprise—

(a) C delivering the item to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person (for example, a care home where the patient is temporarily residing);

(b) C arranging for an item dispensed by C to be delivered by another LPS contractor or by an NHS pharmacist to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person; or

(c) if C is unable to deliver the item or arrange for its delivery by another LPS contractor or by an NHS pharmacist, C arranging for the dispensing or supply of the item by another LPS contractor or by an NHS pharmacist who would be able to deliver the dispensed item to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person.

(4) Paragraph (1) does not apply where the eligible patient or a duly authorised person is already at C's **[**[F41]chemist**]** premises for the purposes of receiving dispensing services.

(5) Notwithstanding the foregoing provisions of this Schedule, in any case of a supply in accordance with a home delivery option, if but for this sub-paragraph that supply would need to be made with reasonable promptness, C may instead, in the exercise of professional skill and judgment, make the supply within a reasonable timescale.**]**

F40 Sch. 7 para. 10A inserted (27.3.2020) by The National Health Service (Amendments Relating to the Provision of Primary Care Services During a Pandemic etc.) Regulations 2020 (S.I. 2020/351), regs. 1(2), **11**

F41 Word in Sch. 7 para. 10A(4) substituted (1.3.2021) by The National Health Service (Charges and Pharmaceutical and Local Pharmaceutical Services) (Coronavirus) (Amendment) Regulations 2021 (S.I. 2021/169), regs. 1(2), **5(2)**

[F42Home delivery of notified items while a disease is or in anticipation of a disease being imminently pandemic etc.

10AA.—(1) Before dispensing a notified item on a prescription form or supplying it in accordance with a serious shortage protocol, an LPS contractor (C) must provide a home delivery option to eligible patients in respect of that item.

(2) For the purposes of this paragraph, a "notified item" is an item that, as a consequence of a disease being or in anticipation of a disease being imminently—

(a) pandemic; and

(b) a serious risk or potentially a serious risk to human health,

is the subject of an announcement made by the NHSCB, with the agreement of the Secretary of State, to the effect that, in order to assist in the management of the serious risk or potentially serious risk to human health, eligible patients are entitled to be provided with a home delivery option in respect of that item, if it is supplied to them as part of local pharmaceutical services.

(3) Where C is to, or may be required to, dispense a notified item on a prescription form or supply it in accordance with a serious shortage protocol, C must ascertain from—

(a) an eligible patient—

(i) who has contacted C about the home delivery of a notified item, or

(ii) who is a person whom C considered, on the basis of an order or request for a notifiable item, might be an eligible person and accordingly, in the ordinary exercise of professional skill and judgement, made the appropriate checks and determined that they were; or

(b) a person who may make an application for pharmaceutical services on behalf of that eligible patient (a "duly authorised person") who has contacted C about the home delivery of a notified item,

whether or not the item could be supplied via a duly authorised person, and if it could, then supplying the item via a duly authorised person is the home delivery option which C must provide.

(4) Where paragraph (3) does not apply, the home delivery option that C must provide must comprise—

(a) C delivering the item to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person (for example, a care home where the patient is temporarily residing);

(b) C arranging for an item dispensed by C to be delivered by another LPS contractor or by an NHS pharmacist to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person; or

(c) if C is unable to deliver the item or arrange for its delivery by another LPS contractor or by an NHS pharmacist, C arranging for the dispensing or supply of the item by another LPS contractor or by an NHS pharmacist who would be able to deliver the item to the eligible patient's home or to an alternative address agreed with the patient or a duly authorised person.

(5) Paragraph (1) does not apply where the eligible patient or a duly authorised person is already at C's chemist premises for the purposes of being supplied with the notifiable item.

(6) Notwithstanding the foregoing provisions of this Schedule, in any case of a supply in accordance with a home delivery option, if but for this sub-paragraph that supply would need to be made with reasonable promptness, C may instead, in the exercise of professional skill and judgment, make the supply within a reasonable timescale.**]**

F42 Sch. 7 para. 10AA inserted (1.3.2021) by The National Health Service (Charges and Pharmaceutical and Local Pharmaceutical Services) (Coronavirus) (Amendment) Regulations 2021 (S.I. 2021/169), regs. 1(2), **5(3)**

Information to be provided for the NHSCB's lists

11.—(1) The LPS contractor (C) must ensure that C provides to the NHSCB, on request, an up to date record of—

(a) the services that C provides; and

(b) the days on which and times at which those services are provided.

(2) Sub-paragraph (1) is without prejudice to the need for a variation of the LPS scheme if C wishes to change—

(a) the services that C provides; and

(b) the days on which and times at which those services are provided.

Clinical governance

12.—(1) The LPS contractor must participate, in the manner reasonably required by the NHSCB in an acceptable system of clinical governance.

(2) In this paragraph, "system of clinical governance" means a framework through which an LPS contractor endeavours to improve continuously the quality of the LPS contractor's services and safeguards high standards of care by creating an environment in which clinical excellence can flourish.

Professional Standards

13. The LPS contractor must provide local pharmaceutical services and exercise any professional judgement in connection with the provision of such services in conformity with the standards generally accepted in the pharmaceutical profession.

[F43Accessing summary care records

13A.—[F44(1) An LPS chemist (C) must have access to summary care records at C's scheme premises, and must ensure that the access that C has to summary care records at those premises is constant and reliable during the hours when the scheme premises are open to the public, in so far as that is within the control of C.

(2) C must access the summary information in a patient's summary care record whenever C is providing local pharmaceutical services to the patient, to the extent that C, in the exercise of C's clinical judgement, considers it appropriate to do so.**]**

(3) In this paragraph, a "summary care record" and "summary information" mean a summary care record and summary information within the meanings given in—

(a) regulation 68 of the GMS Regulations (summary care records); and

(b) regulation 61 of the PMS Regulations (summary care records).**]**

F43 Sch. 7 para. 13A inserted (1.4.2016) by The National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2016 (S.I. 2016/296), regs. 1(1)(a), **5(3)**

F44 Sch. 7 para. 13A(1)(2) substituted (9.11.2020) by The National Health Service (Charges and Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2020 (S.I. 2020/1126), regs. 1(2), **27**

[F45Electronic Prescription Service access

13B. An LPS chemist (C) must have access to the EPS at C's scheme premises, and must ensure that the access that C has to the EPS at those premises is constant and reliable during the hours when the scheme premises are open to the public, in so far as that is within the control of C.**]**

F45 Sch. 7 paras. 13B, 13C inserted (9.11.2020) by The National Health Service (Charges and Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2020 (S.I. 2020/1126), regs. 1(2), **28**

[F45Contact via NHSmail and the Central Alerting System

13C.—(1) An LPS chemist (C) must ensure that pharmacy staff at listed premises (including locums) have access to, and are able to send and receive NHSmail from, a premises specific NHSmail account.

(2) C must ensure that at least two members of the pharmacy staff have live, linked NHSmail accounts to the premises specific NHSmail account (unless fewer than two members of the pharmacy staff are engaged in the provision of NHS services).

(3) As regards the Central Alerting System (CAS) operated by the Medicines and Healthcare products Regulatory Agency (MHRA)—

(a) C must register C's premises specific NHSmail address with MHRA as an address at which C is content to accept notifications as part of the CAS (unless they are content with the address already in the system);

(b) if C changes C's premises specific NHSmail address, P must immediately notify MHRA of C's new premises specific NHSmail address, in accordance with paragraph (a); and

(c) C must monitor C's premises specific NHSmail account with sufficient frequency to ensure the safe and effective supply of medicinal products at or from C's pharmacy premises, and must act on the alerts C receives as part of the CAS, as appropriate.**]**

F45 Sch. 7 paras. 13B, 13C inserted (9.11.2020) by The National Health Service (Charges and Pharmaceutical and Local Pharmaceutical Services) (Amendment) Regulations 2020 (S.I. 2020/1126), regs. 1(2), **28**

Inducements etc

14.—(1) The LPS contractor (C) (including C's staff) must not give, promise or offer to any person any gift or reward (whether by way of a share of or dividend on the profits of C's business or by way of discount or rebate or otherwise) as an inducement to or in consideration of a person (X)—

(a) presenting an order for drugs or appliances on a non-electronic prescription form or non-electronic repeatable prescription;

(b) nominating C as X's dispensing contractor (or one of them) in X's PDS patient details; or

(c) being provided with any LP service by C.

(2) Promising, offering or providing an auxiliary aid in relation to the supply of drugs or a home delivery service is not a gift or reward for the purposes of sub-paragraph (1).

(3) C (including C's staff) must not give, promise or offer to any relevant person any gift or reward (including by way of a share of, or dividend on, the profits of C's business, or by way of a discount or rebate) as an inducement to or in consideration of the relevant person recommending to any person that they—

(a) present to C an order for drugs or appliances on a prescription form or repeatable prescription;

(b) nominate C as their dispensing contractor (or one of them) on their PDS patient details; or

(c) are provided with any LP service by C.

(4) For the purpose of sub-paragraph (3), "relevant person" means any person who performs or provides NHS services, whether on their own behalf or on behalf of another, and includes—

(a) any NHS body or provider of primary medical services; and

(b) any person employed or engaged by any of the persons mentioned in paragraph (a).

Duty to provide information about fitness to practise matters as they arise

15.—(1) The LPS contractor (C) must within 7 days of its occurrence supply in writing information to the NHSCB as to whether a person (P) who is a relevant person in relation to C—

(a) has been convicted of any criminal offence in the United Kingdom;

(b) has been convicted elsewhere of an offence which would constitute a criminal offence if committed in England and Wales;

(c) has been charged with an offence and is currently the subject of any proceedings which might lead to a conviction, which have not yet been notified to the NHSCB;

(d) has accepted a police caution in the United Kingdom;

(e) has become subject to an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 [M12] (admonition and absolute discharge) discharging R absolutely;

(f) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 [M13] (fixed penalty: conditional offer by procurator fiscal);

(g) has agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 [M14] (penalty as alternative to prosecution);

(h) has, to P's knowledge, become subject to any investigation into P's professional conduct by any licensing body or is notified of the outcome of such an investigation where it is adverse;

(i) has, to P's knowledge, become subject to an investigation into P's professional conduct in respect of any current or previous employment or is notified of the outcome of such an investigation where it is adverse;

(j) has, to P's knowledge, become subject to any investigation by the NHS BSA in relation to fraud or is notified of the outcome of such an investigation where it is adverse;

(k) has, to P's knowledge, become the subject of any investigation by another primary care organisation, which might lead to P's removal from any relevant list; or

(l) either—

(i) has been removed or contingently removed from, refused admission to, or conditionally included in, any relevant list of another primary care organisation,

(ii) has been suspended from such a list, on fitness to practise grounds, and if so, why and the name of that other primary care organisation, or

(iii) has become the subject of a national disqualification,

and if so, C must give details of any investigation or proceedings which are being or were undertaken or brought, including the nature of that investigation or proceedings, where and approximately when that investigation or those proceedings commenced, and any outcome.

(2) P is a "relevant person" in relation to C for these purposes, in the case of a contractor that is—

(a) an individual, if P is C;

(b) a partnership, if P is a partner in C;

(c) a body corporate, if P is a director, the chief executive, the company secretary or the superintendent pharmacist of C.

(3) C or any relevant person must consent to a request being made by the NHSCB to any employer or former employer or licensing body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse.

Marginal Citations

M12 1995 c. 46; section 246(2) and (3) have been amended by the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **Schedule 2**, paragraph 26.

M13 1995 c. 46. Section 302 has been amended by: the Communications Act 2003 (c. 21), **Schedule 17**, paragraph 133; the Wireless Telegraphy Act 2006 (c. 36), **Schedule 7**, paragraph 16; the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), **section 50(1)**; and the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **section 70(3)**.

M14 1992 c. 5. Section 115A was inserted by the Social Security Administration (Fraud) Act 1997 (c. 47), **section 15**, and amended by the Social Security Fraud Act 2001 (c. 11) ("the 2001 Act"), section 14. The amendments made by the 2001 Act are to be repealed by, and other amendments to section 115A are to be made by, the Welfare Reform Act 2012 (c. 5), **sections 113 to 115**, and Schedule 14, Part 1.

Co-operation with [F46NHS England]

16. The LPS contractor must co-operate with **[**F46NHS England**]** in the discharge by **[**F46NHS England**]** of the duty under section 1F(1) of the 2006 Act M15 (duty as to education and training).

F46 Words in Sch. 7 para. 16 substituted (1.4.2023) by The Health Education England (Transfer of Functions, Abolition and Transitional Provisions) Regulations 2023 (S.I. 2023/368), reg. 1(2), **Sch. 2 para. 14(5)** (with reg. 7)

Marginal Citations

M15 Section 1F was inserted by the Health and Social Care Act 2012 (c. 7), **section 7**.

Charges for drugs, appliances and containers, and ownership of containers

17.—(1) Subject to regulations made under Part 9 of the 2006 Act (charging), all drugs, containers and appliances provided under these terms of service must be provided free of charge.

(2) Where the LPS contractor supplies a container in response to an order for drugs signed by a prescriber, other than equipment specified in the Drug Tariff as not returnable to the contractor, the container and equipment must remain the property of the LPS contractor.

Refunds of prescription charges

18.—(1) Where any person who is entitled to a repayment of any charge paid under the Charges Regulations presents the LPS contractor with a valid claim for the repayment within three months of the date on which the charge was paid, the LPS contractor must make the repayment.

(2) For the purposes of sub-paragraph (1), a claim for repayment is only valid if duly made—

(a) in such form and manner as the Secretary of State has determined for an application for such a repayment under **[**F47regulation 18(2)(b)**]** of the Charges Regulations M16 (repayment of charges); or

(b) on the equivalent form issued in Scotland, Wales or Northern Ireland.

F47 Words in Sch. 7 para. 18(2)(a) substituted (1.4.2015) by The National Health Service (Charges for Drugs and Appliances) Regulations 2015 (S.I. 2015/570), reg. 1, **Sch. 2 para. 5(7)(b)**

Marginal Citations

M16 Regulation 10 has been amended by S.I. 2000/3189, 2002/2352 and 2004/696.

Remuneration, overpayments etc

19.—(1) The NHSCB must ensure that the LPS scheme requires it to remunerate the LPS contractor (C) promptly, in accordance with the remuneration arrangements provided for in the scheme, but subject to the arrangements for reductions of and deductions from payments provided for in the scheme.

(2) The NHSCB must ensure that the LPS scheme requires that payment of any item of remuneration which would, if it were payable to an NHS pharmacist in connection with providing pharmaceutical services, be pharmaceutical reimbursement, is to be paid in accordance with the Drug Tariff.

(3) For these purposes, "pharmaceutical reimbursement" means pharmaceutical remuneration of the type which may be payable to NHS chemists in accordance with determinations by (only) the Secretary of State under section 164 of the 2006 Act M17 (remuneration for persons providing pharmaceutical services).

(4) Where an LPS scheme requires a fee, allowance or other item of remuneration to be made in accordance with the Drug Tariff and the Drug Tariff provides that the fee, allowance or other item of remuneration is to be determined by the NHSCB, that fee, allowance or other item of remuneration must be determined by the NHSCB.

(5) The NHSCB must ensure that the LPS scheme—

(a) allows it to recover any payment made to C which should not have been made;

(b) provides that any such recovery of an overpayment is without prejudice to any investigation of any alleged breach of the scheme; and

(c) provides that the remuneration arrangements under the scheme, referred to in sub-paragraphs (1) to (4), are subject to any right the NHSCB may have to set off against any amount payable to C, any amount—

(i) owed by C to it, or

(ii) which it is entitled to withhold under the terms of the scheme (including terms of the Drug Tariff applied by the scheme).

Marginal Citations

M17 Section 164 has been amended by: the Health and Social Care Act 2008 (c. 14), **section 141**, and Schedule 15, Part 4; and by the Health and Social Care Act 2012 (c. 7), **Schedule 4**, paragraph 89.

Local resolution of disputes

20. In the case of any dispute arising out of, or in connection with, the LPS scheme, the LPS contractor and the NHSCB must made every reasonable effort to communicate and co-operate with each other with a view to resolving the dispute, before referring the dispute for determination in accordance with the NHS dispute resolution procedure (or, where applicable, before commencing court proceedings).

Dispute resolution: non-NHS contracts

21.—**[**[F48](1) In the case of an LPS scheme that is not an NHS contract, any dispute arising out of or in connection with the scheme, except matters dealt with under the complaints procedure pursuant to paragraph 25, may be referred for consideration and determination to the Secretary of State—

(a) if it relates to a period when the contractor was treated as a health service body, by the contractor or by the NHSCB; or

(b) in any other case, by the contractor or, if the contractor agrees in writing, by the NHSCB.**]**

(2) In the case of a dispute referred to the Secretary of State under sub-paragraph (1)—

(a) the procedure to be followed is the NHS dispute resolution procedure; and

(b) the parties must agree to be bound by any determination made by the adjudicator.

F48 Sch. 7 para. 21(1) substituted (1.3.2015) by The National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment and Transitional Provision) Regulations 2015 (S.I. 2015/58), regs. 1(1), **9** (with reg. 10)

NHS dispute resolution procedure

22.—(1) The procedure specified in this paragraph and paragraph 23 applies in the case of any dispute arising out of or in connection with an LPS scheme which is referred to the Secretary of State—

(a) in accordance with section 9(6) of the 2006 Act (NHS contracts), where the scheme is an NHS contract; or

(b) in accordance with paragraph 21(1), where the scheme is not an NHS contract.

(2) Any party wishing to refer a dispute as mentioned in sub-paragraph (1) must send to the Secretary of State a written request for dispute resolution which must include or be accompanied by—

(a) the names and addresses of the parties to the dispute;

(b) a copy of the LPS scheme; and

(c) a brief statement describing the nature and circumstances of the dispute.

(3) Any party wishing to refer a dispute as mentioned in sub-paragraph (1) must send the request under sub-paragraph (2) within a period of 3 years beginning with the date on which the matter giving rise to the dispute happened or should reasonably have come to the attention of the party wishing to refer the dispute.

(4) Where the dispute relates to an LPS scheme which is not an NHS contract, the Secretary of State may determine the matter himself or, if the Secretary of State considers it appropriate, appoint a person or persons to consider and determine it.

(5) Before reaching a decision as to who should determine the dispute, either under sub-paragraph (4) or under section 9(8) of the 2006 Act, the Secretary of State must, within the period of 7 days beginning with the date on which a matter was referred to the Secretary of State, send a written request to the parties to make in writing, within a specified period, any representations which they may wish to make about the matter.

(6) The Secretary of State must give, with the notice given under sub-paragraph (5) to the party other than the one which referred the matter to dispute resolution a copy of any document by which the matter was referred to dispute resolution.

(7) The Secretary of State must give a copy of any representations received from a party to the other party and must in each case request (in writing) a party to whom a copy of the representations is given to make within a specified period any written observations which it wishes to make on those representations.

(8) Following receipt of any representations from the parties or, if earlier, at the end of the period for making such representations specified in the request sent under sub-paragraph (5) or (7), the Secretary of State must, if the Secretary of State decides to appoint a person or persons to hear the dispute—

(a) inform the parties in writing of the name of the person or persons whom the Secretary of State has appointed; and

(b) pass to the person or persons so appointed any documents received from the parties pursuant to sub-paragraph (2), (5) or (7).

(9) For the purpose of assisting them in their consideration of the matter, the adjudicator may—

(a) invite representatives of the parties to appear before the adjudicator to make oral representations either together or, with the agreement of the parties, separately, and may in advance provide the parties with a list of matters or questions to which the adjudicator wishes them to give special consideration; or

(b) consult other persons whose expertise the adjudicator considers will assist the adjudicator's consideration of the matter.

(10) Where the adjudicator consults another person under sub-paragraph (9)(b), the adjudicator must notify the parties accordingly and, where the adjudicator considers that the interests of any party might be substantially affected by the result of the consultation, the adjudicator must give to the parties such opportunity as the adjudicator considers reasonable in the circumstances to make observations on those results.

(11) In considering the matter, the adjudicator must consider—

(a) any written representations made in response to a request under sub-paragraph (5), but only if they are made within the specified period;

(b) any written observations made in response to a request under sub-paragraph (7), but only if they are made within a specified period;

(c) any oral representations made in response to an invitation under sub-paragraph (9)(a);

(d) the results of any consultation under sub-paragraph (9)(b); and

(e) any observations made in accordance with an opportunity given under sub-paragraph (10).

(12) In this paragraph, "specified period" means such period as the Secretary of State must specify in the request, being not less than 2, nor more than 4 weeks beginning with the date on which the notice referred to is given, but the Secretary of State may, if the Secretary of State considers that there is good reason for doing so, extend any such period (even after it has expired) and, where the

Secretary of State does so, a reference in this paragraph to the specified period is to the period as so extended.

(13) Subject to the other provisions of this paragraph and paragraph 23, the adjudicator is to have wide discretion in determining the procedure of the dispute resolution to ensure the just, expeditious, economical and final determination of the dispute.

Determination of dispute

23.—(1) The adjudicator must record the adjudicator's determination, and the reasons for it, in writing and must give notice of the determination (including a record of the reasons) to the parties.

(2) In the case of a scheme referred for determination in accordance with paragraph 21(1), section 9(11) of the 2006 Act must apply as that subsection applies in the case of an LPS scheme referred for determination in accordance with section 9(6) of that Act.

Disputes: supplemental

24.—(1) In this Schedule, where reference is made to any dispute arising out of, or in connection with, an LPS scheme, that includes any dispute arising out of, or in connection with, the termination of the scheme.

(2) Any term of the LPS scheme that makes provision in respect of the requirements in paragraphs 20 to 23 must survive even where the scheme has terminated.

Complaints

25.—(1) The LPS contractor must have in place arrangements which comply with the requirements of the Local Authority Social Services and National Health Service Complaints (England) Regulations 2009 [M18], for the handling and consideration of any complaints.

(2) In this paragraph, "complaint" means a complaint about a matter connected with the provision of local pharmaceutical services by the LPS contractor.

Marginal Citations

M18 S.I. 2009/309; amended by S.I. 2009/1768.

Variation of LPS schemes

26.—(1) Subject to sub-paragraphs (2) to (4), no amendment or variation to the LPS scheme is to have effect unless it is in writing and signed by or on behalf of the NHSCB and the (relevant) LPS contractor (C).

(2) The NHSCB may vary an LPS scheme without C's consent where it—

(a) is reasonably satisfied that it is necessary to vary the scheme so as to comply with the 2006 Act, any regulations made under that Act, or any direction given by the Secretary of State under that Act; and

(b) notifies C in writing of the wording of the proposed variation and the date upon which that variation is to take effect,

and, where it is reasonably practicable to do so, the date that the proposed variation is to take effect must be not less than 14 days after the date on which the notice under paragraph (b) is served on C.

(3) During an emergency requiring the flexible provision of pharmaceutical services, the NHSCB may, on application from C—

(a) permit C a temporary change to the days on which or times at which C is obliged to provide local pharmaceutical services at the scheme premises, or permit temporary closure of those premises, if—

(i) C gives at least 24 hours notice of the change or closure, and

(ii) the reasons given by C for the request are, in the opinion of the NHSCB adequate reasons; or

(b) permit C any other temporary variation to C's LPS scheme that, in the opinion of the NHSCB, will facilitate continuity of the provision of services of a kind that may be provided under section 126, or by virtue of section 127, of the 2006 Act [M19] (arrangements for pharmaceutical services and additional pharmaceutical services) during the emergency.

(4) The NHSCB need not approve the request referred to in sub-paragraph (3)(a)(ii) in advance of the change or closure, but if it does not do so and decides subsequently that C's reasons are not, in its opinion, adequate reasons, then the days on which or times at which C is obliged to provide local pharmaceutical services at the scheme premises are to revert to the overridden days and times, from the day after the date on which that decision is given to C.

Marginal Citations

M19 Section 126 has been amended by the Health and Social Care Act 2012 (c. 7) ("the 2012 Act"), sections 220(7) and 213(7)(k), and Schedule 4, paragraph 63. Section 127 has been amended by the 2012 Act, Schedule 4, paragraph 64.

Termination by agreement

27. The NHSCB and the LPS contractor may agree in writing to terminate the LPS scheme (or end the LPS contractor's participation in it, in the case of more than one LPS contractor being party to the scheme), and if the parties so agree, they must agree the date upon which that termination should take effect and any further terms upon which the scheme should be terminated.

Termination by serving notice

28.—(1) Either the LPS contractor or the NHSCB may terminate the LPS scheme (or end the LPS contractor's participation in it, in the case of more than one LPS contractor being party to the scheme), at any time by serving notice of not less than 6 months in writing to the other party.

(2) Where a notice is served pursuant to sub-paragraph (1), the LPS scheme must terminate on the expiry of the notice period.

(3) This paragraph is without prejudice to any other rights to terminate the agreement which the LPS contractor and the NHSCB may have.

Termination of arrangements by the NHSCB on grounds of suitability etc

29.—(1) The NHSCB may serve notice in writing on the LPS contractor terminating the LPS scheme (or ending the LPS contractor's participation in it, in the case of more than one LPS contractor being party to the scheme) with immediate effect, or from such date as may be specified in the notice, if, in the case of an LPS scheme (or an agreement that is part of an LPS scheme) entered into—

(a) with an individual as a party, that individual;

(b) with more than one individual (whether or not practising in partnership), any of those individuals; or

(c) with a body corporate—

(i) the body corporate, or

(ii) any director, chief executive, superintendent or company secretary of the body corporate,

falls within sub-paragraph (2) during the existence of the scheme (or the agreement).

(2) A person (X) falls within this sub-paragraph if—

(a) X is the subject of a national disqualification;

(b) subject to sub-paragraph (3), X is disqualified or suspended (other than by an interim suspension order or direction pending an investigation) from practising by any licensing body anywhere in the world;

(c) X is removed from, or refused admission to, a relevant list by reason that amounts to inefficiency, fraud or unsuitability (as understood by reference to the conditions in section 151(2) to (4) of the 2006 Act (disqualification of practitioners)), unless X has subsequently been included in such a list;

(d) X has been convicted in the United Kingdom of murder or a criminal offence other than murder—

(i) which was committed on or after 1st April 2006, and

(ii) for which X has been sentenced to a term of imprisonment of over six months;

(e) subject to sub-paragraph (4), X has been convicted outside the United Kingdom of an offence which, if committed in England and Wales—

(i) would constitute murder, or

(ii) would constitute an offence, and—

(aa) which was committed on or after 1st April 2006, and

(bb) for which X has been sentenced to a term of imprisonment of over six months;

(f) X has been convicted of an offence referred to in—

(i) Schedule 1 to the Children and Young Persons Act 1933 [M20] (offences against children and young persons with respect to which special provisions of this Act apply), or

(ii) Schedule 1 to the Criminal Procedure (Scotland) Act 1995 [M21] (offences against children under the age of 17 years to which special provisions apply),

which was committed on or after 1st April 2006;

(g) X—

(i) has been **[**[F49]made**]** bankrupt, or sequestration of X's estate has been ordered, unless X has been discharged from the bankruptcy or the order has been annulled,

(ii) has become a person in relation to whom a moratorium period under a debt relief order (under Part 7A of the Insolvency Act 1986 [M22] (debt relief orders)) applies,

(iii) has been made the subject of a bankruptcy restrictions order, an interim bankruptcy restrictions order, a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4A or 4ZB to the Insolvency Act 1986 [M23] or Schedule 2A of the Insolvency (Northern Ireland) Order 1989 [M24] (which relate to bankruptcy and debt relief restrictions orders and undertakings), which has not been annulled,

(iv) if X is a body corporate, has been wound up under Part 4 of the Insolvency Act 1986;

(v) has made a composition or arrangement with, or granted a trust deed for, X's creditors and X has not been discharged in respect of it;

(h) in respect of X there is—

(i) an administrator, administrative receiver or receiver appointed, or

(ii) an administration order made under Schedule B1 to the Insolvency Act 1986 [M25] (administration);

(i) X has been removed—

(i) from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners, the Charity Commission, the Charity Commission for Northern Ireland or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity—

(aa) for which the person was responsible or to which the person was privy, or

(bb) which the person by their conduct contributed to or facilitated, or

(ii) under—

(aa) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 [M26] (powers of Court of Session to deal with management of charities), or

(bb) section 34(5)(e) or (ea) of the Charities and Trustee Investment (Scotland) Act 2005 [M27] (powers of the Court of Session),

from being concerned with the management or control of any body;

(j) X has been subject to—

(i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986 [M28] or the Company Directors Disqualification (Northern Ireland) Order 2002 [M29], or

(ii) an order made under section 429(2) of the Insolvency Act 1986 [M30] (disabilities on revocation of a county court administration order);

(k) X (in the case of an individual) has refused to comply with a request by the NHSCB for X to be medically examined on the grounds that it is concerned that X is incapable of adequately providing services under the scheme; or

(l) it comes to the attention of the NHSCB that information provided to it pursuant to—

(i) regulation 12 or 17 of the 2006 Regulations,

(ii) a term of the scheme required by paragraph 16 of Schedule 2 to the 2006 Regulations,

(iii) regulation 106, or

(iv) paragraph 15,

was, when given, untrue or inaccurate in a material respect.

(3) The NHSCB is not to terminate the LPS scheme (or end an LPS contractor's participation in it) pursuant to sub-paragraph (2)(b) where it is satisfied that the disqualification or suspension imposed by a licensing body outside the United Kingdom does not make X unsuitable to be—

(a) an LPS contractor; or

(b) in the case of an LPS scheme (or agreement) with a body corporate, a director, chief executive, superintendent or company secretary of a contractor.

(4) The NHSCB is not to terminate the scheme pursuant to sub-paragraph (2)(e) where it is satisfied that the conviction does not make X unsuitable to be—

(a) an LPS contractor; or

(b) in the case of an LPS scheme (or agreement) with a body corporate, a director, chief executive, superintendent or company secretary of an LPS contractor.

F49 Word in Sch. 7 para. 29(2)(g) substituted (6.4.2016) by The Enterprise and Regulatory Reform Act 2013 (Consequential Amendments) (Bankruptcy) and the Small Business, Enterprise and Employment Act 2015 (Consequential Amendments) Regulations 2016 (S.I. 2016/481), reg. 1, **Sch. 2 para. 13**

Marginal Citations

M20 1933 c. 12. Schedule 1 has been amended by: the Sexual Offences Act 1956 (c. 69), **Schedule 4**; the Criminal Justice Act 1988 (c. 33), **Schedule 15**, paragraph 8, and Schedule 16; the Sexual Offences Act 2003 (c. 42), **Schedule 6**, paragraph 7; the Domestic Violence, Crime and Victims Act 2004 (c. 28), **Schedule 10**, paragraph 2; the Coroners and Justice Act 2009 (c. 25), **Schedule 21**, paragraph 53; and the Protection of Freedoms Act 2012 (c. 9), **Schedule 9**, paragraph 136.

M21 1995 c. 46.

M22 1986 c. 45. Part 7A was inserted by the Tribunals, Courts and Enforcement Act 2007 (c. 15), **Schedule 17**.

M23 Schedule 4A was inserted by Schedule 20 to the Enterprise Act 2002 (c.40). Schedule 4ZB was inserted by the Tribunals, Courts and Enforcement Act 2007 (c. 15), **Schedule 19**.

M24 S.I. 1989/2405 (N.I. 19); Schedule 2A was inserted by S.I. 2005/1455 (N.I. 10).

M25 Schedule B1 was inserted by the Enterprise Act 2002 (c. 40), **Schedule 16**.

M26 1990 c.40; section 7 was repealed by the Charities and Trustee Investment (Scotland) Act 2005 (asp 10), **Schedule 4**, paragraph 7(b).

M27 2005 asp 10; section 34(5) has been amended by the section the Public Services Reform (Scotland) Act 2010 (asp 8), **section 122**.

M28 1986 c.46.

M29 S.I. 2002/3150 (N.I. 4); relevant amendments were made by S.I. 2005/1454 (N.I. 9).

M30 Section 429(2) was amended by the Enterprise Act 2002 (c.40), **Schedule 23**, paragraph 15.

Termination by the NHSCB: patient safety and material financial loss

30. The NHSCB may serve notice in writing on the LPS contractor (C) terminating the LPS scheme (or ending the LPS contractor's participation in it, in the case of more than one LPS contractor being party to the scheme) with immediate effect or with effect from such date as may be specified in the notice if—

(a) C has breached the scheme and as a result of that breach, the safety of C's patients is at serious risk if the scheme is not terminated (or C's participation in it is not ended, in the case of more than one LPS contractor being party to the scheme); or

(b) C's financial situation is such that the NHSCB considers that the NHSCB is at risk of material financial loss.

Termination and the NHS dispute resolution procedure

31.—(1) Where the NHSCB is entitled to serve written notice on the LPS contractor (C) terminating the LPS scheme (or ending C's participation in it) pursuant to paragraph 29 or 30, it must, in the notice served on C pursuant to those provisions, specify a date on which the scheme terminates (or C's participation in it is to end) that is not less than 28 days after the date on which the NHSCB has served that notice on C, unless sub-paragraph (2) applies.

(2) This sub-paragraph applies if the NHSCB is satisfied that a period less than 28 days, or termination with immediate effect, is necessary in order to—

(a) protect the safety of the C's patients; or

(b) protect itself from material financial loss.

(3) In a case falling within sub-paragraph (1), where—

(a) the exceptions in sub-paragraph (2) do not apply;

(b) C invokes the NHS dispute resolution procedure before the end of the period of notice referred to in sub-paragraph (1); and

(c) C notifies the NHSCB in writing that it has done so,

subject to paragraph (5), the LPS scheme (or C's participation in it) is not to terminate at the end of the notice period but instead is only to terminate in the circumstances specified in sub-paragraph (4).

(4) Subject to paragraph (5), the LPS scheme (or C's participation in it) is only to terminate if and when—

(a) there has been a determination of the dispute pursuant to paragraph 23 and that determination permits the NHSCB to terminate the scheme; or

(b) C ceases to pursue the NHS dispute resolution procedure,

whichever is the sooner.

(5) If the NHSCB is satisfied that it is necessary to terminate the scheme before the NHS dispute resolution procedure is concluded in order to—

(a) protect the safety of the C's patients; or

(b) protect itself from material financial loss,

sub-paragraphs (3) and (4) shall not apply and the NHSCB is entitled to confirm, by written notice to be served on C, that the LPS scheme (or C's participation in it) will nevertheless terminate at the end of the period of the notice it served pursuant to paragraph 29(1) or 30.

Third party rights

32. The LPS scheme shall not create any right enforceable by any person not a party to it.

Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013. Any changes that have already been made by the team appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

– blanket amendment words substituted by S.I. 2023/1071 Sch. para. 1