



# National Health Service (Scotland) Act 1978

## 1978 CHAPTER 29

### PART II

#### PROVISION OF SERVICES

##### *Pharmaceutical services*

#### 27 Arrangements for provision of pharmaceutical services.

(1) It shall be the duty of every Health Board to make, in accordance with regulations, arrangements as respects its area for the <sup>[F1]</sup>provision to persons who are in that area of—

- (a) proper and sufficient drugs and medicines and listed appliances which are ordered for those persons by a medical practitioner in pursuance of his functions in the health service, the health service for England and Wales, the Northern Ireland health service or the armed forces of the Crown (excluding forces of a Commonwealth country and forces raised in a colony), and
- <sup>[F2]</sup>(b) proper and sufficient drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of the provision by that Board <sup>[F3]</sup>or by an NHS trust of dental services; and
- (c) listed drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of the provision by him of general dental services <sup>[F4]</sup>; and
- (d) such services as may be prescribed,]]

and the <sup>[F5]</sup>provision of drugs, medicines, appliances and services in accordance with the arrangements is] in this Act referred to as “pharmaceutical services”.

In this subsection—

“listed” means included in a list for the time being approved by the Secretary of State for the purposes of this subsection;

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“the health service for England and Wales” and “the Northern Ireland health service” mean respectively the health service established in pursuance of section 1 of the <sup>M1</sup>National Health Service Act 1946 or any service provided in pursuance of Article 4(a) of the <sup>M2</sup>Health and Personal Social Services (Northern Ireland) Order 1972.

[<sup>F6</sup>(2) Regulations shall provide for securing that arrangements made by a Health Board under subsection (1) will enable persons in the Board’s area for whom drugs, medicines or appliances mentioned in that subsection are ordered as there mentioned [<sup>F7</sup>, or to whom services mentioned in subsection (1)(d) are to be provided,] to receive them from persons with whom such arrangements have been made.

(3) The regulations shall include provision—

- (a) for the preparation and publication by a Health Board of one or more lists of persons, other than medical practitioners and dental practitioners, who undertake to provide pharmaceutical services from premises in the Board’s area;
- (b) that an application to a Health Board for inclusion in such a list shall be made in the prescribed manner and shall state—
  - (i) the [<sup>F8</sup>pharmaceutical] services which the applicant will undertake to provide and, if they consist of or include the supply of appliances, which appliances he will undertake to supply; and
  - (ii) the premises from which he will undertake to provide those services;
- (c) that, except in prescribed cases—
  - (i) an application for inclusion in such a list by a person not already included; and
  - (ii) an application by a person already included in such a list for inclusion also in respect of [<sup>F8</sup>pharmaceutical] services or premises other than those already listed in relation to him,

shall be granted only if the Health Board is satisfied, in accordance with the regulations, that it is necessary or desirable to grant it in order to secure in the neighbourhood in which the premises are located the adequate provision by persons included in the list of the services, or some of the services, specified in the application; and

- (d) for the removal of an entry in respect of premises from a list if it has been determined in the prescribed manner that the person to whom the entry relates—
  - (i) has never provided from those premises; or
  - (ii) has ceased to provide from them, the [<sup>F8</sup>pharmaceutical] services, or any of the services, which he is listed as undertaking to provide from them.

(4) The regulations may include provision—

- (a) that an application to a Health Board may be granted in respect of some only of the [<sup>F8</sup>pharmaceutical] services specified in it;
- (b) that an application to a Health Board relating to [<sup>F8</sup>pharmaceutical] services of a prescribed description shall be granted only if it appears to the Board that the applicant has satisfied such conditions with regard to the provision of those [<sup>F8</sup>pharmaceutical] services as may be prescribed;

[<sup>F9</sup>(ba) that an application to a Health Board by a person who qualified to have his name registered under the Pharmacy Act 1954 by virtue of section 4A of

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that Act (qualification by European diploma) shall not be granted unless the applicant satisfies the Board that he has the knowledge of English which, in the interests of himself and the persons making use of the services to which the application relates, is necessary for the provision of pharmaceutical services in the Board's area.]

- (c) that the inclusion of a person in a list in pursuance of such an application may be for a fixed period;
  - (d) that, where the premises from which an application states that the applicant will undertake to provide [<sup>F8</sup>pharmaceutical] services are in an area of a prescribed description, the applicant shall not be included in the list unless his inclusion is approved by a prescribed body and by reference to [<sup>F10</sup>prescribed criteria]; and
  - (e) that the prescribed body may give its approval subject to conditions.
- (5) The regulations shall include provision conferring on such persons as may be prescribed rights of appeal from decisions made by virtue of subsection (3) or (4).
- (6) The regulations shall be so framed as to preclude—
- (a) a person included in a list published under subsection (3)(a) above; and
  - (b) an employee of such a person;
- from taking part in the decision whether an application such as is mentioned in subsection (3)(c) above should be granted or an appeal against such a decision brought by virtue of subsection (5) above should be allowed.]

#### Textual Amendments

- F1** Words substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(7)(a)(i)**
- F2** S. 27(1)(b)(c) substituted for s. 27(1)(b) by Health Services Act 1980 (c. 53), **s. 20(2)**
- F3** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(7)(a)(ii)**
- F4** S. 27(1)(d) and “; and” preceding it inserted by National Health Service and Community Care Act 1990 (c.19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(7)(a)(iii)**
- F5** Words substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(7)(a)(iv)**
- F6** S. 27(2)–(6) substituted for (2) by National Health Service (Amendment) Act 1986 (c. 66, SIF 113:2), **s. 3(3)**
- F7** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(7)(b)**
- F8** Word inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(7)(c)**
- F9** S. 27(4)(ba) inserted by S.I. 1987/2202, **art. 5**
- F10** Words substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(7)(d)**

#### Modifications etc. (not altering text)

- C1** S. 27(2) extended by Health and Medicines Act 1988 (c. 49, SIF 113:2), **s. 17(1)**

#### Marginal Citations

- M1** 1946 c. 81.
- M2** S.I. 1972/1265.

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VALID FROM 15/08/1997

### [<sup>F11</sup>27A Arrangements for providing additional pharmaceutical services.

- (1) The Secretary of State may—
  - (a) give directions to a Health Board requiring them to arrange for the provision to persons in their area of additional pharmaceutical services; or
  - (b) by giving directions to a Health Board authorise them to arrange for such provision if they wish to do so.
- (2) Directions under this section may make different provision in relation to different services specified in the directions.
- (3) The Secretary of State must publish any directions under this section in the Drug Tariff or in such other manner as he thinks appropriate.
- (4) In this section—
 

“additional pharmaceutical services”, in relation to directions, means such services (of a kind that do not fall within section 27) as may be specified in the directions; and

“Drug Tariff” means the Drug Tariff published under regulation 9 of the <sup>M3</sup>National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995 or under any corresponding provision replacing, or otherwise derived from, that regulation.]

#### Textual Amendments

**F11** S. 27A inserted (15.8.1997) by 1997 c. 46, s. 27(2); S.I. 1997/1780, art. 2(1), Sch.

#### Marginal Citations

**M3** S.I. 1995/414.

VALID FROM 15/08/1997

### [<sup>F12</sup>27B Terms and conditions etc.

- (1) Directions under section 27A may require the Health Authority to whom they apply, when making arrangements—
  - (a) to include, in the terms on which the arrangements are made, such terms as may be specified in the directions;
  - (b) to impose, on any person providing a service in accordance with the arrangements, such conditions as may be so specified.
- (2) The arrangements must secure that any service to which they apply is provided only by a person whose name is included in a pharmaceutical list.
- (3) Different arrangements may be made with respect to—
  - (a) the provision of the same service by the same person but in different circumstances; or

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(b) the provision of the same service by different persons.

- (4) A Health Authority must provide details of proposed arrangements (including the remuneration to be offered for the provision of services) to any person who asks for them.
- (5) After making any arrangements, a Health Authority must publish, in such manner as the Secretary of State may direct, such details of the arrangements as he may direct.
- (6) In this section, “pharmaceutical list” means, subject to any provision of the directions in question, a list—
- (a) published by the Health Authority concerned, or by any other Health Authority, in accordance with regulations made under section 27(2)(a) of this Act; or
  - (b) published by any body in accordance with regulations made under section 42(2)(a) of the <sup>M4</sup>National Health Service Act 1977 or Article 63(2A) (a) of the <sup>M5</sup>Health and Personal Social Services (Northern Ireland) Order 1972.]

#### Textual Amendments

**F12** S. 27B inserted (15.8.1997) by 1997 c. 46, s. 28(2); S.I. 1997/1780, art. 2(1), Sch.

#### Marginal Citations

**M4** 1978 c. 29.

**M5** S.I. 1972/1265 (N.I.14).

## 28 Persons authorised to provide pharmaceutical services.

- (1) Except as may be provided by [<sup>F13</sup>or under] regulations, no arrangements shall be made by a Health Board with a medical practitioner or dental practitioner under which he is required or agrees to provide pharmaceutical services to any person to whom he is rendering general medical services or general dental services.
- (2) Except as may be provided by [<sup>F14</sup>or under] regulations, no arrangements for the dispensing of medicines [<sup>F15</sup>or the provision of pharmaceutical services] shall be made with persons other than persons who are registered pharmacists or are persons lawfully conducting a retail pharmacy business in accordance with section 69 of the <sup>M6</sup>Medicines Act 1968, and who undertake [<sup>F16</sup>(a)] that all medicines [<sup>F17</sup>provided] by them under the arrangements made under this Part shall be dispensed [<sup>F18</sup>, and (b) that all services mentioned in section 27(1)(d) provided by them under those arrangements shall be provided] either by, or under the direct supervision of, a registered pharmacist.

#### Textual Amendments

**F13** Words inserted by National Health Service (Amendment) Act 1986 (c. 66, SIF 113:2), s. 3(4)

**F14** Words inserted by National Health Service (Amendment) Act 1986 (c. 66, SIF 113:2), s. 3(4)

**F15** Words inserted by National Health Service and Community Care Act 1990 (c.19, SIF 113:2), s. 66(1), Sch. 9 para. 19(8)(a)

**F16** “(a)” inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), Sch. 9 para. 19(8)(b)

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**F17** Word substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(8)(c)**

**F18** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 19(8)(d)**

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**Marginal Citations**

**M6** 1968 c. 67.(84).

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