

This Scottish Statutory Instrument has been made to correct errors in S.S.I. 2009/183 and is being issued free of charge to all known recipients of that instrument.

SCOTTISH STATUTORY INSTRUMENTS

2009 No. 209

NATIONAL HEALTH SERVICE

**The National Health Service (Pharmaceutical Services)
(Scotland) Amendment Regulations 2009**

<i>Made</i> - - - -	<i>2nd June 2009</i>
<i>Laid before the Scottish Parliament</i>	<i>3rd June 2009</i>
<i>Coming into force</i> - -	<i>1st July 2009</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 2(5), 27, 105(7), 106(a) and 108(1) of and Schedule 1, paragraph 11(b) and (c) to, the National Health Service (Scotland) Act 1978(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the National Health Service (Pharmaceutical Services) (Scotland) Amendment Regulations 2009 and come into force on 1st July 2009.

Amendment of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009

2.—(1) The National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009(b) are amended as follows.

(2) In regulation 8 (provisional pharmaceutical list)—

(a) for paragraph (2)(a) substitute—

“any one or more of the statements in—

(i) paragraph 2(b) of Form A (for use by pharmacists, application for inclusion in the pharmaceutical list);

(a) 1978 c.29. Section 2(5) was amended by the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), Schedule 9, paragraph 19(1); section 27 was amended by the Health Services Act 1980 (c.53) (“the 1980 Act”), section 20(2), the National Health Service (Amendment) Act 1986 (c.66), section 3(3), the 1990 Act, Schedule 9, paragraph 19(7), the Medicinal Products: Prescriptions by Nurses etc. Act 1992 (c.28), section 3, the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2, Part I, paragraph 44, the Health and Social Care Act 2001 (c.15), section 44(2), S.I. 1987/2202, 2003/1590, 2004/1771, 2005/2011 and 2007/289, and is to be read with the Health and Medicines Act 1988 (c.49), section 17; section 105(7) was amended by the 1980 Act, Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 9, paragraph 24; see section 108(1) for the definitions of “prescribed” and “regulations”; paragraph 11(b) of Schedule 1 was amended by the 1980 Act, Schedule 6, paragraph 7 and the 1990 Act, Schedule 5, paragraph 7; paragraph 11(c) of Schedule 1 was amended by the 1980 Act, Schedule 7. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act (c.46).

(b) S.S.I. 2009/183.

- (ii) paragraph 3 of Form A (for use by persons other than pharmacists, application for inclusion in the pharmaceutical list); or
 - (iii) paragraph 2(b) of Form A(MR) (for use by pharmacists, application for minor relocation of pharmacy premises),

is negative; and”;
- (b) in paragraph (4) for “submit Form B” to the end of the paragraph substitute–
 - “ submit Form B set out in Schedule 2 with any information required but not given in–
 - (i) paragraph 2(b) of Form A (for use by pharmacists, application for inclusion in the pharmaceutical list);
 - (ii) paragraph 3 of Form A (for use by persons other than pharmacists, application for inclusion in the pharmaceutical list); or
 - (iii) paragraph 2(b) of Form A(MR) (for use by pharmacists, application for minor relocation of pharmacy premises),

and on receipt of such information the Board shall include the name of the applicant in the pharmaceutical list and remove it from the provisional pharmaceutical list.”.
- (3) In regulation 9(1) (removal from and amendment to pharmaceutical list) for “(3)” substitute “(4)”.
- (4) In regulation 11(5) (schemes for securing proper pharmaceutical service) for “(3)” substitute “(1)”.
- (5) In regulation 15(1)(e) (publication of particulars) for “13(2)” substitute “12(2)”.
- (6) For paragraph 4(2) of Schedule 1 (provision of pharmaceutical services) substitute–
 - “(2) In this paragraph–
 - (a) “chronic medication service” means a directed service provided by a pharmacy contractor with whom a Health Board has made arrangements in accordance with directions issued by the Scottish Ministers relating to the provision of a chronic medication service;
 - (b) “serial prescriber” means a doctor who in the course of the provision of primary medical services in terms of the Act orders drugs, medicines or listed appliances for–
 - (i) a registered patient within the meaning of regulation 2(1) of the GMS Contracts Regulations where the doctor is providing primary medical services in terms of a general medical services contract under section 17J of the Act;
 - (ii) a registered patient within the meaning of regulation 2 of the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004(a) where the doctor is providing primary medical services in terms of an agreement under section 17C of the Act; or
 - (iii) a patient registered to receive primary medical services in terms of the Act, other than as in (i) and (ii), except where that patient is a temporary resident, being a person who is resident in Scotland for more than 24 hours and less than 3 months,

and such patient has registered with a pharmacy contractor for the provision of the chronic medication service;
 - (c) “serial prescription” means an order for drugs, medicines or listed appliances which comprises:
 - (i) a non-electronic prescription form generated by a computer and signed in ink by a serial prescriber containing the following information:

(a) S.S.I. 2004/116, to which there are no relevant amending instruments.

- (aa) the drugs, medicines or listed appliances ordered for a patient;
 - (bb) the total quantity or period for which the drugs, medicines or listed appliances are ordered, which period shall not exceed 48 weeks from the date of issue of the prescription;
 - (cc) the quantity of the drugs, medicines or listed appliances which are to be dispensed to the patient at any one time; and
 - (dd) the instructions for use of the drugs, medicines or listed appliances; and
 - (ii) an electronic copy of that prescription form transmitted through the ePharmacy service to the pharmacy contractor with whom the patient has registered for the provision of the chronic medication service.
- (d) “relevant pharmacist” means:
- (i) the pharmacy contractor, where the pharmacy contractor is a pharmacist; or
 - (ii) any pharmacist employed or engaged by, that pharmacy contractor; and
 - (iii) where the pharmacy contractor is not a pharmacist, any pharmacist employed or engaged by that pharmacy contractor.”.

(7) In paragraph 4(10) of Schedule 1 (provision of pharmaceutical services) for “and” substitute “or”.

(8) In Schedule 2, Form A (for use by persons other than pharmacists, application for inclusion in the pharmaceutical list), in Note 1 omit the words “persons other than”.

(9) In Schedule 6 (consequential amendments)–

(a) for paragraph 1(2) substitute–

“In regulation 2 (interpretation), for the definition of “Drug Tariff” substitute–

““Drug Tariff” means the statement prepared by the Scottish Ministers under regulation 12 of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009;””; and

(b) for paragraph 2(2) substitute–

“In article 1 (citation, commencement and interpretation), in the definition of “Drug Tariff” part (b) for “regulation 9 (payments to pharmacists and standards of drugs and appliances) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995” substitute “regulation 12 (payments to pharmacy contractors and standards of drugs and appliances) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009”.”.

SHONA ROBISON

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
2nd June 2009

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Pharmaceutical Services) (Scotland) Regulations 2009 (“the Principal Regulations”) which regulate the terms on which pharmaceutical services are provided under the National Health Service (Scotland) Act 1978.

The Principal Regulations consolidated, with amendments, the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995.

Regulation 2(2) makes clear that there is an alternative version of Form A (for use by persons other than pharmacists) and where it is used the equivalent statements for the purposes of regulation 8 are contained in paragraph 3 of that form.

Regulation 2(3) to (8) corrects errors in regulations 9(1), 11(5), 15(1)(e), Schedule 1 paragraph 4(2) and (10) and Schedule 2 Form A (for use by persons other than pharmacists, application for inclusion in the pharmaceutical list) of the Principal Regulations.

Regulation 2(9) corrects errors in the consequential amendments made by virtue of Schedule 6 of the Principal Regulations.

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