



# National Health Service Act 1977

## 1977 CHAPTER 49

### PART II

#### GENERAL MEDICAL, GENERAL DENTAL, GENERAL OPHTHALMIC, AND PHARMACEUTICAL SERVICES

##### *Pharmaceutical services*

#### **41 Arrangements for pharmaceutical services.**

[<sup>F1</sup>It is the duty of every Family Practitioner Committee, in accordance with regulations, to arrange as respects their locality for the [<sup>F2</sup>provision to persons who are in that locality 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 Scottish health service, the Northern Ireland health service or the armed forces of the Crown (excluding forces of a Commonwealth country and forces raised in a colony; . . . <sup>F3</sup>
- [<sup>F4</sup>(b) proper and sufficient drugs and medicines which are ordered for those persons by a dental practitioner in pursuance of the provision by [<sup>F5</sup>a health authority][<sup>F6</sup>or an NHS trust] of dental services; . . . <sup>F7</sup>
- (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>F8</sup>and
- (d) such other services as may be prescribed.]

The services so provided are in this Act referred to as “pharmaceutical services”.

In this section—

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

“the Scottish health service” and “the Northern Ireland health service” mean respectively the health service established in pursuance of section 1 of

*Status: Point in time view as at 06/03/1991. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service Act 1977. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

the <sup>M1</sup>National Health Service (Scotland) Act 1947 or any service provided in pursuance of Article 4(a) of the <sup>M2</sup>Health and Personal Social Services (Northern Ireland) Order 1972.

#### Textual Amendments

- F1** Words substituted by S.I. 1985/39, **art. 7(13)(a)**
- F2** Words substituted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 18(1)(a)**
- F3** Word repealed by Health Services Act 1980 (c. 53, SIF 113:2), **Sch. 7**
- F4** S. 41(b)(c) substituted for s. 41(b) by Health Services Act 1980 (c. 53, SIF 113:2), s. **20(1)**
- F5** Words substituted by S.I. 1985/39, **art. 7(13)(b)**
- F6** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 18(1)(b)**
- F7** Word repealed by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1)(2), **Sch. 9 para. 18(1)(b), Sch. 10**
- F8** S. 41(d) and the word “and” directly preceding it inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 18(c)**

#### Marginal Citations

- M1** 1947 c. 27.
- M2** 1972 S.I. 1972/1265 (N.I. 14).

VALID FROM 15/08/1997

#### [<sup>F9</sup>41A Arrangements for providing additional pharmaceutical services.

- (1) The Secretary of State may—
  - (a) give directions to a Health Authority requiring them to arrange for the provision to persons in their area of additional pharmaceutical services; or
  - (b) by giving directions to a Health Authority 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 41) as may be specified in the directions; and

“Drug Tariff” means the Drug Tariff published under regulation 18 of the <sup>M3</sup>National Health Service (Pharmaceutical Services) Regulations 1992 or under any corresponding provision replacing, or otherwise derived from, that regulation.]

*Status: Point in time view as at 06/03/1991. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service Act 1977. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

**F9** S. 41A inserted (15.8.1997) by 1997 c. 46, s. 27(1); S.I. 1997/1780, art. 2, Sch.

### Marginal Citations

**M3** S.I. 1992/662.

VALID FROM 15/08/1997

## [<sup>F10</sup>41B Terms and conditions etc.

- (1) Directions under section 41A 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
  - (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 42(2)(a) of this Act; or
  - (b) published by any body in accordance with regulations made under section 27(2)(a) of the <sup>M4</sup>National Health Service (Scotland) Act 1978 or Article 63(2A)(a) of the <sup>M5</sup>Health and Personal Social Services (Northern Ireland) Order 1972.]

### Textual Amendments

**F10** S. 41B inserted (15.8.1997) by 1997 c. 46, s. 28(1); S.I. 1997/1780, art. 2, Sch.

### Marginal Citations

**M4** 1978 c. 29.

*Status: Point in time view as at 06/03/1991. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service Act 1977. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

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

**[<sup>F11</sup>42 Regulations as to pharmaceutical services.**

- (1) Regulations shall provide for securing that arrangements made by a Family Practitioner Committee under section 41 above will enable persons in the Committee's locality for whom drugs, medicines or appliances mentioned in that section are ordered as there mentioned to receive them from persons with whom such arrangements have been made.
- (2) The regulations shall include provision—
  - (a) for the preparation and publication by a Committee of one or more lists of persons, other than medical practitioners and dental practitioners, who undertake to provide pharmaceutical services from premises in the Committee's locality;
  - (b) that an application to a Committee for inclusion in such a list shall be made in the prescribed manner and shall state—
    - (i) the 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 services or premises other than those already listed in relation to him,

shall be granted only if the Committee 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 services, or any of the services, which he is listed as undertaken to provide from them.
- (3) The regulations may include provision—
  - (a) that an application to a Committee may be granted in respect of some only of the services specified in it;
  - (b) that an application to a Committee relating to services of a prescribed description shall be granted only if it appears to the Committee that the applicant has satisfied such conditions with regard to the provision of those services as may be prescribed;
  - <sup>F12</sup>(ba) that an application to a Committee by a person who qualified to have his name registered under the Pharmacy Act 1954 by virtue of section 4A of that Act (qualification by European diploma) shall not be granted unless the applicant satisfies the Committee that he has the knowledge of English which, in the interests of himself and persons making use of the services to which the

*Status: Point in time view as at 06/03/1991. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service Act 1977. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- application relates, is necessary for the provision of pharmaceutical services in the Committee's locality.]
- (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 services are in an area of a prescribed description, the applicant shall not be included in the list unless his inclusion is approved by <sup>F13</sup>reference to prescribed criteria by the Family Health Services Authority in whose locality those premises are situated; and]
- (e) that <sup>F14</sup>that Family Health Services Authority] may give its approval subject to conditions.
- (4) The regulations shall include provision conferring on such persons as may be prescribed rights of appeal from decisions made by virtue of this section.
- (5) The regulations shall be so framed as to preclude—
- (a) a person included in a list published under subsection (2)(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 (2)(c) above should be granted or an appeal against such a decision brought by virtue of subsection (4) above should be allowed.]

#### Textual Amendments

**F11** S. 42 substituted by [National Health Service \(Amendment\) Act 1986 \(c. 66, SIF 113:2\), s. 3](#)

**F12** S. 42(3)(ba) inserted by [S.I. 1987/2202, art. 4](#)

**F13** Words substituted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 12\(3\)\(a\)](#)

**F14** Words substituted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 12\(3\)\(b\)](#)

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

**C1** S. 42 extended by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\), s. 17\(1\)](#)

### 43 Persons authorised to provide pharmaceutical services.

- (1) No arrangements shall be made by <sup>F15</sup>a Family Practitioner Committee] (except as may be provided by <sup>F16</sup>or under] regulations) 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) No arrangements for the dispensing of medicines shall be made (except as may be provided by <sup>F16</sup>or under] regulations) 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 that all medicines supplied by them under the arrangements made under this Part of this Act shall be dispensed either by or under the direct supervision of a registered pharmacist.
- <sup>F17</sup>(3) No arrangements for the provision of pharmaceutical services falling within section 41(d) above shall be made with persons other than those who are registered pharmacists or are of a prescribed description.]

*Status: Point in time view as at 06/03/1991. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service Act 1977. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

- F15** Words substituted by [S.I. 1985/39, art. 7\(15\)](#)  
**F16** Words inserted by [Health Services Act 1980 \(c. 53, SIF 113:2\), s. 21\(2\)](#)  
**F17** [S. 43\(3\)](#) added by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 66\(1\), Sch. 9 para. 18\(2\)](#)

#### Marginal Citations

- M6** [1968 c. 67\(84\)](#).

VALID FROM 22/11/2001

### <sup>F18</sup>**43ZAC** Conditional inclusion in medical, dental, ophthalmic and pharmaceutical lists

- (1) The Secretary of State may by regulations provide—
- (a) that if a person is to be included in a list referred to in subsection (3), he is to be subject, while he remains included in the list, to conditions determined by the Health Authority,
  - (b) for the Health Authority to vary that person's terms of service for the purpose of or in connection with the imposition of any such conditions,
  - (c) for the Health Authority to vary the conditions or impose different ones,
  - (d) for the consequences of failing to comply with a condition (including removal from the list), and
  - (e) for the review by the Health Authority of any decision made by virtue of the regulations.
- (2) The imposition of conditions must be with a view to—
- (a) preventing any prejudice to the efficiency of the services in question, or
  - (b) preventing any acts or omissions within section 49F(3)(a) below.
- (3) The lists in question are—
- (a) a list of persons undertaking to provide general medical services,
  - (b) a list of persons undertaking to provide general dental services,
  - (c) a list of persons undertaking to provide general ophthalmic services,
  - (d) a list of persons undertaking to provide pharmaceutical services.
- (4) If regulations provide for a practitioner's removal from the list for breach of condition—
- (a) the regulations may provide that he may not withdraw from the list while the Health Authority are investigating whether there are grounds for exercising their power to remove him, or after the Health Authority have decided to remove him but before they have given effect to that decision; and
  - (b) the regulations must include provision—
    - (i) requiring the practitioner to be given notice of any allegation against him,
    - (ii) giving him the opportunity of putting his case at a hearing before the Health Authority make any decision as to his removal from the list, and

*Status: Point in time view as at 06/03/1991. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service Act 1977. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

- (iii) requiring him to be given notice of the Health Authority's decision and the reasons for it and of his right of appeal under subsection (5).
- (5) If regulations provide as mentioned in subsection (1), they must also provide for an appeal by the person in question to the FHSAA against the Health Authority's decision—
- (a) to impose conditions, or any particular condition,
  - (b) to vary a condition,
  - (c) to vary his terms of service,
  - (d) on any review of an earlier such decision of theirs,
  - (e) to remove him from the list for breach of condition,
- and the appeal shall be by way of redetermination of the Health Authority's decision.
- (6) The regulations may provide for any such decision not to have effect until the determination by the FHSAA of any appeal against it, and must so provide in relation to a decision referred to in subsection (5)(e).
- (7) Regulations under this section may provide for the disclosure by a Health Authority, to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about persons whose inclusion in the lists referred to in subsection (3) is subject to conditions imposed under this section, and about the removal of such persons from such lists for breach of condition.]

#### Textual Amendments

- F18** S. 43ZA inserted (22.11.2001 for E. and 1.7.2002 for W.) by 2001 c. 15, ss. 21, 70(2) (with ss. 64(9), 65(4)); S.I. 2001/3738, art. 2(1), Sch. 1 Pt. I; S.I. 2002/1475, art. 2(1), Sch. Pt. 1

**Status:**

Point in time view as at 06/03/1991. This version of this cross heading contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to National Health Service Act 1977. Any changes that have already been made by the team appear in the content and are referenced with annotations.