
STATUTORY INSTRUMENTS

1998 No. 681

**NATIONAL HEALTH SERVICE,
ENGLAND AND WALES**

**The National Health Service (Pharmaceutical
Services) Amendment Regulations 1998**

<i>Made</i>	- - - -	<i>11th March 1998</i>
<i>Laid before Parliament</i>		<i>11th March 1998</i>
<i>Coming into force</i>	- -	<i>1st April 1998</i>

The Secretary of State for Health, in exercise of powers conferred on him by sections 41, 42, 43 and 126(4) of the National Health Service Act 1977(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Pharmaceutical Services) Amendment Regulations 1998 and shall come into force on 1st April 1998.

(2) In these Regulations, “the principal Regulations” means the National Health Service (Pharmaceutical Services) Regulations 1992(2).

Amendment of regulation 2 of the principal Regulations

2.—(1) Regulation 2 of the principal Regulations (interpretation) is amended as follows.

(2) In paragraph (1)—

(1) 1977 c. 49; see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i), for the definitions of “prescribed” and “regulations”. Section 41 was amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), sections 1 and 20(1) and Schedule 1, paragraph 53 and Schedule 7; by S.I. 1985/39, article 7(13); by the 1990 Act, Schedule 9, paragraph 18(1) and Schedule 10; by the Medicinal Products: Prescription by Nurses etc. Act 1992 (c. 28), section 2; by the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), Schedule 1, paragraph 29; and by the National Health Service (Primary Care) Act (c. 46) (“the 1997 Act”), Schedule 2, paragraph 13. Section 42 was substituted by the National Health Service (Amendment) Act 1986 (c. 66), section 3(1); extended by the Health and Medicines Act 1988 (c. 49), section 17; and amended by S.I. 1987/2202, article 4; by the 1990 Act, section 12(3); and by the 1995 Act, Schedule 1, paragraph 30. Section 43 was amended by the 1980 Act, sections 1 and 21(2) and Schedule 1, paragraph 55; by S.I. 1985/39, article 7(15); by the 1990 Act, Schedule 9, paragraph 18(2); by the 1995 Act, Schedule 1, paragraph 31; and (from 1st April 1998) by the 1997 Act, section 29 and Schedule 2, paragraph 14. Section 126(4) was amended by the 1990 Act, section 65(2).

(2) S.I. 1992/662; the relevant amending instruments are S.I. 1994/2402, 1995/644 and 1996/698.

- (a) in the appropriate alphabetical positions insert—
- ““the 1997 Act” means the National Health Service (Primary Care) Act 1997(3);”;
- ““dispensing doctor list” shall be construed in accordance with regulation 11;”;
- ““doctor’s list” means a list of a doctor’s patients kept by a Health Authority—
- (i) in respect of a doctor providing general medical services, in accordance with regulation 19 of the Medical Regulations(4), or
- (ii) in respect of a doctor performing personal medical services in connection with a pilot scheme, in accordance with paragraph 3 of the Directions to Health Authorities Concerning Patient Lists (Personal Medical Services) made under section 6(1) of the 1997 Act;”;
- ““personal medical services” has the meaning assigned to it in section 1(8) of the 1997 Act;”;
- ““pilot scheme” shall be construed in accordance with section 1(1) of the 1997 Act;”;
- ““pilot scheme provider” means a person, other than a Health Authority, who is a party to a pilot scheme;”;
- and
- (b) in the definition of “patient”, at the end, insert “except in relation to a doctor who performs personal medical services under a pilot scheme and whose name is not included in the medical list, in which case it has the meaning assigned to it in directions made by the Secretary of State in exercise of powers conferred on him by section 17 of the Act and section 6(1) of the 1997 Act.”.
- (3) In paragraph (1A) (which describes nurse prescribers who may issue prescription forms)(5), in each of sub-paragraphs (a)(iii) and (b)(ii), after the words “medical list” insert the words “or by a pilot scheme provider in connection with the provision of personal medical services under a pilot scheme.”.
- (4) After paragraph (1A), insert a new paragraph—
- “(1B) In these Regulations—
- (a) the term “pharmaceutical services”, in relation to a doctor whose name is not included in a medical list but who performs personal medical services under a pilot scheme, means those services referred to in regulation 20; and
- (b) the term “dispensing services”, in relation to such a doctor, means any corresponding service performed, not as pharmaceutical services, but under a pilot scheme by virtue of section 1(3) of the 1997 Act.”.

Amendment of regulation 6 of the principal Regulations

3. In regulation 6 of the principal Regulations (determination of applications to which regulation 4(4) applies), in paragraph (6), after the word “Act” insert the words “or who is a pilot scheme provider, or a director, officer or employee of a pilot scheme provider, or who performs or assists in performing personal medical services under a pilot scheme”.

Amendment of regulation 9 of the principal Regulations

4. Regulation 9 of the principal Regulations (determination of controlled locality), is amended as follows—

(3) 1997 c. 46.

(4) S.I. 1992/635; the relevant amending instruments are S.I. 1994/633 and 1998/682.

(5) Paragraph (1A) of regulation 2 was inserted by S.I. 1994/2402 and amended by S.I. 1996/698.

- (a) in paragraph (6), after the words “general medical services” insert the words “or personal medical services”; and
- (b) in paragraph (7), after the words “general medical services” insert the words “or personal medical services”.

Amendment of regulation 11 of the principal Regulations

5. Regulation 11 of the principal Regulations (applications for inclusion in pharmaceutical lists in respect of controlled localities) is amended as follows—

- (a) in paragraph (1)(b), after the words “pharmaceutical services” insert the words “or dispensing services”; and
- (b) in paragraph (2)(b), after the words “pharmaceutical services” insert the words “or dispensing services”.

Amendment of regulation 12 of the principal Regulations

6. Regulation 12 of the principal Regulations (determination of applications in respect of controlled localities), is amended as follows—

- (a) in paragraph (1), after the words “pharmaceutical list” insert—
 - (i) in sub-paragraph (c), the words “, or in Part 2 of the dispensing doctor list,” and
 - (ii) in sub-paragraph (d), the words “, or in Part 2 of whose dispensing doctor list,”;
- (b) in paragraph (2)(c), after the words “pharmaceutical list” insert the words “, or in Part 2 of its dispensing doctor list”;
- (c) after paragraph (2), insert—

“(2A) Where paragraph (1) or (2) requires a notice to be sent to a person whose name is included in Part 2 of the dispensing doctor list, and that person is not a pilot scheme provider, a notice shall also be sent to the pilot scheme provider under the relevant pilot scheme.”;
- (d) in paragraph (10), after the word “Act” insert the words “or who is a pilot scheme provider or a director, officer or employee of a pilot scheme provider or who performs or assists in performing personal medical services under a pilot scheme”;
- (e) in paragraph (13), in each of sub-paragraphs (a) and (c), after the words “general medical services” insert the words “, personal medical services, dispensing services”;
- (f) in paragraph (14), after the words “general medical services” insert the words “or personal medical services”;
- (g) in paragraph (15), after the words “general medical services” insert the words “, or personal medical services”, and
- (h) in paragraph (17), in sub-paragraph (a) after the words “that regulation” and in sub-paragraph (b)(i) after the words “regulation 21” insert in each case the words “or any corresponding provision of directions relating to dispensing services”.

Amendment of regulation 13 of the principal Regulations

7. In regulation 13 of the principal Regulations (appeals in connection with determinations under regulation 12), in paragraph (2)(a), after the words “pharmaceutical list” insert the words “, or in Part 2 of the dispensing doctor list”; and before the words “and who submitted” insert the words “(and also any person to whom a copy of the application was sent under regulation 12(2A))”.

Amendment of regulation 19 of the principal Regulations

8. In regulation 19 of the principal Regulations (provision of pharmaceutical services for immediate treatment or personal administration), for the words “A doctor—” substitute the words “A doctor whose name is included in a medical list—”.

Amendment of regulation 20 of the principal Regulations

9.—(1) Regulation 20 of the principal Regulations (arrangements for provision of pharmaceutical services by doctors) is amended as follows.

(2) In paragraph (1), after “included” insert “or a doctor falling within paragraph (1A)”.

(3) After paragraph (1), insert—

“(1A) A doctor falls within this paragraph if—

- (a) he performs personal medical services under a pilot scheme to which the Health Authority is a party;
- (b) his name was included in the medical list of the Health Authority immediately before he started to perform personal medical services (whether under that pilot scheme or under another pilot scheme to which the Health Authority was also a party);
- (c) the pilot scheme provides for him to have a doctor’s list, and the patient is included in that list; and
- (d) by virtue of the pilot scheme, any services of the kind referred to in this regulation provided to persons who receive personal medical services under the scheme are to be carried out under these Regulations as pharmaceutical services rather than as dispensing services under the pilot scheme.”.

(4) After paragraph (2) insert—

“(2A) In paragraphs (2) and (4), in relation to a doctor who falls within paragraph (1A)—

- (a) references to his partner are to any other doctor who also performs personal medical services under the same pilot scheme; and
- (b) references to a practice include the doctors who collectively carry on a practice by way of performing personal medical services under a pilot scheme.”.

(5) In paragraph (5), after “list” insert “(or, in the case of a doctor falling within paragraph (1A), his doctor’s list)”.

(6) In paragraph (8), at the end insert “or, in the case of a doctor falling within paragraph (1A), in accordance with the requirements of the pilot scheme”.

(7) In paragraph (10), at the end insert “whether under the Medical Regulations or, in the case of a doctor falling within paragraph (1A), under the pilot scheme”.

Doctors who previously performed personal medical services

10. After regulation 21 of the principal Regulations insert—

“Doctors who previously performed personal medical services

21A.—(1) This regulation applies to a doctor—

- (a) whose name is included in the medical list;
- (b) who immediately before the inclusion of his name in that list satisfied the requirements of paragraphs (a) and (b) of regulation 20(1A);

- (c) who, when his name was included in the medical list as mentioned in regulation 20(1A)(b), was authorised or required under regulation 20 to provide pharmaceutical services to any patient, or had been granted outline consent under regulation 21; and
 - (d) who then provided dispensing services under a pilot scheme to any person who received personal medical services under that pilot scheme.
- (2) A doctor to whom this regulation applies shall be treated as being required or authorised under regulation 20 to provide pharmaceutical services to any patient to whom immediately before his rejoining the medical list he provided dispensing services under the pilot scheme and who wishes him to continue to provide such services.
- (3) In relation to a doctor to whom this regulation applies, regulation 21 shall have effect as if—
- (a) the reference in regulation 21(3)(a) to regulation 20 included a reference to any corresponding provision of a pilot scheme; and
 - (b) the reference in regulation 21(3)(b) to an arrangement included a corresponding arrangement made pursuant to a pilot scheme.”.

Dispensing doctor lists

11. After the regulation 21A inserted by regulation 10, insert the following new regulation—

“Dispensing doctor lists

- 21B.**—(1) Subject to paragraph (2), a Health Authority shall prepare and publish a list, to be called the dispensing doctor list, of the names of those doctors authorised or required by the Health Authority under regulation 20 to provide pharmaceutical services to their patients and who are actually doing so (below referred to as “dispensing doctors”).
- (2) The dispensing doctor list shall be divided into two parts as follows—
- (a) Part 1 shall contain the names of those dispensing doctors whose names are included in the Health Authority’s medical list; and
 - (b) Part 2 shall contain the names of those dispensing doctors whose names are not included in the Health Authority’s medical list but who perform personal medical services in the Health Authority’s area.
- (3) The dispensing doctor list shall indicate—
- (a) in respect of any doctor whose name is included in Part 1, the address of his practice premises; and
 - (b) in respect of any doctor whose name is included in Part 2, the address of the place specified in the pilot scheme as the place at which the doctor will normally be available during normal hours to perform personal medical services.
- (4) For the purposes of paragraph (3)—
- (a) “practice premises” has the same meaning as in regulation 2(1) of the Medical Regulations(6); and
 - (b) “normal hours” means those days and times specified in a pilot scheme as the days on which and times at which a doctor will normally be available to perform personal medical services.”.

(6) S.I. 1992/635, to which there are amendments not relevant to that definition.

“**21C.**—(1) A Health Authority shall remove the name of a doctor from its dispensing doctor list when—

- (a) the doctor has died; or
- (b) the doctor is no longer providing general medical services or (as the case may be) performing personal medical services; or
- (c) more than 12 months have elapsed since the doctor last provided pharmaceutical services pursuant to the authorisation or requirement to provide such services given by the Health Authority under regulation 20.”.

Amendment of regulation 22 of the principal Regulations

12. Regulation 22 of the principal Regulations (publication of particulars) shall be amended as follows—

- (a) in paragraph (1), omit the word “and” at the end of sub-paragraph (d), and at the end of sub-paragraph (e)(7), insert—
 - “and
 - (f) its dispensing doctor list;”;
- (b) in paragraph (3)—
 - (i) after the words “pharmaceutical list” insert the words “and of its dispensing doctor list”, and
 - (ii) for the words “in the pharmaceutical lists,” substitute the words “in either of those lists,”.

Amendment of Schedule 2 to the principal Regulations

13.—(1) Part III of Schedule 2 to the principal Regulations (terms of service for dispensing doctors) is amended as follows.

- (2) In paragraph 13, after sub-paragraph (2) insert—
 - “(3) In relation to a doctor falling within regulation 20(1A), sub-paragraph (1) shall have effect as if “paragraph 41” were substituted for “paragraphs 38 to 42”, and sub-paragraph (2) shall not apply.”.
- (3) After paragraph 14 insert—

- “**15.**—(1) In relation to a doctor who—
 - (a) falls within regulation 20(1A); and
 - (b) is authorised or required by a Health Authority under regulation 20 to provide drugs or appliances to a person,

the complaints procedure established and operated in accordance with Directions under section 6(1) of the 1997 Act as to complaints procedures for pilot schemes shall apply in relation to any matter reasonably connected with his provision of pharmaceutical services to that person, as it applies as respects his performance of personal medical services.

(2) Accordingly, any requirement imposed by virtue of such Directions on a person providing personal medical services under the 1997 Act as to co-operation with any investigation of a complaint by the Health Authority also applies in relation to complaints about such matters.”.

(7) Sub-paragraph (e) and the word “and” preceding it were inserted by [S.I. 1995/644](#).

11th March 1998

Frank Dobson
One of Her Majesty's Principal Secretaries of
State
Department of Health

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (Pharmaceutical Services) Regulations 1992 which govern the arrangements to be made by Health Authorities for the provision in their area of pharmaceutical services under the National Health Service Act 1977 (“the 1977 Act”).

The Regulations make amendments to provide for the arrangements to be made for those doctors who perform personal medical services in connection with a pilot scheme under section 1(1) of the National Health Service (Primary Care) Act 1997 (“the 1997 Act”) when the pilot scheme requires the doctor to provide certain patients with pharmaceutical services under these Regulations. Such arrangements apply only to a doctor performing personal medical services who immediately before the coming into force of these Regulations was providing general medical services together with pharmaceutical services to patients under Part II of the 1977 Act (regulation 9).

The Regulations also provide for arrangements to be made for those doctors who formerly performed personal medical services under a pilot scheme which requires dispensing services to be provided to certain patients under the pilot scheme, and who rejoin the medical list, to re-commence the provision of pharmaceutical services to their patients under Part II of the 1977 Act (regulation 10).

Health Authorities are required by these Regulations to make a list of dispensing doctors consisting of the names of those doctors in their area who provide general medical services together with pharmaceutical services under Part II of the 1977 Act in Part 1 of the list, and the names of those doctors in their area who perform personal medical services under a pilot scheme and who also provide pharmaceutical services under Part II of the 1977 Act in Part 2 of the list (regulation 11).

Other provisions of the Regulations make consequential amendments to the principal Regulations.

These Regulations impose no cost on business.

A copy of any directions given under the 1997 Act may be obtained from NHS Executive Headquarters, Primary Care Division, Primary Care Act—Personal Medical Services Pilots, Room 7E60, Quarry House, Quarry Hill, Leeds LS2 7UE.