STATUTORY INSTRUMENTS

2005 No. 893

The National Health Service (Primary Medical Services) (Miscellaneous Amendments) Regulations 2005

PART 2

AMENDMENT OF THE GMS CONTRACTS REGULATIONS

Amendment of regulation 2 of the GMS Contracts Regulations

2.—(1) Regulation 2(1) (interpretation) of the GMS Contracts Regulations shall be amended as provided in the following paragraphs.

(2) After the definition of "adjudicator", insert—

""advanced electronic signature" means an electronic signature which is—

(a) uniquely linked to the signatory,

(b) capable of identifying the signatory,

(c) created using means that the signatory can maintain under his sole control, and

(d) linked to the data to which it relates in such a manner that any subsequent change of data is detectable;".

(3) In the definition of "bank holiday", after "proclaimed as a bank holiday" insert "in England and Wales".

(4) In the definition of "batch issue"—

(a) before "prescriber", in each place where it occurs, insert "repeatable"; and

(b) for "repeatable prescription", in each place where it occurs, substitute "non-electronic repeatable prescription".

(5) After the definition of "core hours" insert—

""dispenser" means a chemist, medical practitioner or contractor whom a patient wishes to dispense his electronic prescriptions;".

(6) In the definition of "dispensing services", for "regulation 20" substitute "regulation 60".

(7) In the definition of "Drug Tariff", for "regulation 18" substitute "regulation 56".

(8) After the definition of "Drug Tariff", insert—

""electronic communication" has the same meaning as in section 15 of the Electronic Communications Act 2000(**1**);

"electronic prescription" means an electronic prescription form or an electronic repeatable prescription;

"electronic prescription form" means a prescription form which falls within paragraph (b) of the definition of "prescription form";

(**1**) 2000 c. 7.

"electronic repeatable prescription" means a prescription which falls within paragraph (a)(ii) of the definition of "repeatable prescription";".

(9) After the definition of "essential services", insert—

""ETP service" means the electronic prescription service which forms part of the NHS Care Record Service;".

(10) Omit the definition of "NCAA".

(11) After the definition of "national disqualification" insert—

""NHS Care Record" means the records relating to an individual patient held by the NHS Care Record Service;

"NHS Care Record Service" means the information technology systems procured by the Department of Health and used by the health service to hold medical records relating to patients;".

(12) After the definition of "the NHS Tribunal" insert—

""nominated dispenser" means a chemist, medical practitioner or contractor whom a patient has nominated in his NHS Care Record to dispense his electronic prescriptions;

"non-electronic prescription form" means a prescription form which falls within paragraph (a) of the definition of "prescription form";

"non-electronic repeatable prescription" means a prescription which falls within paragraph (a)(i) of the definition of "repeatable prescription";".

(13) After the definition of "normal hours" insert—

""NPSA" means the National Patient Safety Agency established as a Special Health Authority by the National Patient Safety Agency (Establishment and Constitution) Order 2001(**2**);".

(14) In the definition of "Pharmaceutical Regulations" for "National Health Service (Pharmaceutical Services) Regulations 1992" substitute "National Health Service (Pharmaceutical Services) Regulations 2005(**3**)".

(15) For the definition of "prescription form", substitute—

""prescription form" means—

(a) a form provided by the Primary Care Trust and issued by a prescriber, or

(b) where paragraph 39A(1) of Schedule 6 applies, data that are created in an electronic form, signed with a prescriber's advanced electronic signature and transmitted as an electronic communication to the ETP service,

to enable a person to obtain pharmaceutical services or local pharmaceutical services and does not include a repeatable prescription;".

(16) After the definition of "repeat dispensing services", insert—

""repeatable prescriber" means a prescriber who is—

(a) engaged or employed by a contractor which provides repeatable prescribing services under the terms of its contract which give effect to paragraph 40 of Schedule 6, or

(b) a party to a contract under which such services are provided;".

(17) For the definition of "repeatable prescription", substitute—

""repeatable prescription" means a prescription which—

(a) either—

(**2**) S.I. 2001/1743 as amended by S.I. 2005/504.
(**3**) S.I. 2005/641.

(i) is contained in a form provided by the Primary Care Trust and issued by a repeatable prescriber which is in the format specified in Part 1 of Schedule 1 and which is generated by a computer and signed in ink by a repeatable prescriber; or

(ii) where paragraph 39A(1) of Schedule 6 applies, consists of data that are created in an electronic form, signed with a repeatable prescriber's advanced electronic signature and transmitted as an electronic communication to the ETP service,

(b) is issued or created to enable a person to obtain pharmaceutical services or local pharmaceutical services, and

(c) indicates that the drugs, medicines or appliances ordered on that prescription may be provided more than once and specifies the number of occasions on which they may be provided;".

(18) In the definition of "supplementary prescriber"—

(a) in paragraph (b)(ii), omit "or";

(b) in paragraph (b)(iii), for "and", in the second place where it occurs, substitute "or"; and

(c) after paragraph (b)(iii), insert—

"(iv) the part of the register maintained by the Health Professions Council in pursuance of article 5 of the Health Professions Order 2001(**4**) relating to—

(aa) chiropodists and podiatrists;

(bb) physiotherapists; or

(cc) radiographers: diagnostic or therapeutic, and".

Amendment of Schedule 5 to the GMS Contracts Regulations

3. In Schedule 5 (fees and charges) to the GMS Contracts Regulations, in paragraph (k), for "regulation 20" substitute "regulation 60".

Amendment of Schedule 6 to the GMS Contracts Regulations

4.—(1) Schedule 6 (other contractual terms) to the GMS Contracts Regulations shall be amended as provided in the following paragraphs.

(2) After paragraph 1 (premises), insert—

"**Telephone services**

1A.—(1) The contractor shall not be a party to any contract or other arrangement under which the number for telephone services to be used by—

(a) patients to contact the practice for any purpose related to the contract; or

(b) any other person to contact the practice in relation to services provided as part of the health service,

starts with the digits 087, 090 or 091 or consists of a personal number, unless the service is provided free to the caller.

(2) In this paragraph, "personal number" means a telephone number which starts with the number 070 followed by a further 8 digits.".

(3) After paragraph 11 (standards for out of hours services), insert—

(**4**) S.I. 2002/254.

"**Supply of medicines etc. by contractors providing out of hours services**

11A.—(1) In this paragraph—

"the Charges Regulations" means the National Health Service (Charges for Drugs and Appliances) Regulations 2000(**5**);

"complete course" means the course of treatment appropriate to the patient's condition, being the same as the amount that would have been prescribed if the patient had been seen during core hours;

"necessary drugs, medicines and appliances" means those drugs, medicines and appliances which the patient requires and for which, in the reasonable opinion of the contractor, and in the light of the patient's medical condition, it would not be reasonable in all the circumstances for the patient to wait until such time as he could obtain them during core hours;

"out of hours performer" means a prescriber, a person acting in accordance with a Patient Group Direction or any other health care professional employed or engaged by the contractor who can lawfully supply a drug, medicine or appliance, who is performing out of hours services under the contract;

"Patient Group Direction" has the same meaning as in the Prescription Only Medicines (Human Use) Order 1997(**6**); and

"supply form" means a form provided by a Primary Care Trust and completed by or on behalf of the contractor for the purpose of recording the provision of drugs, medicines or appliances to a patient during the out of hours period.

(2) Where a contractor whose contract includes the provision of out of hours services has agreed with the Primary Care Trust that its contract should also include the supply of necessary drugs, medicines and appliances to patients at the time that it is providing them with out of hours services, the contractor shall comply with the requirements in sub-paragraphs (3) to (5).

(3) The contractor shall ensure that an out of hours performer—

(a) only supplies necessary drugs, medicines and appliances;

(b) supplies the complete course of the necessary medicine or drug required to treat the patient; and

(c) does not supply—

(i) drugs, medicines or appliances which he could not lawfully supply,

(ii) appliances which are not listed in Part IX of the Drug Tariff,

(iii) restricted availability appliances, except where the patient is a person, or it is for a purpose, specified in the Drug Tariff, or

(iv) a drug, medicine or other substance listed in Schedule 1 to the National Health Service (General Medical Services Contracts) (Prescription of Drugs etc) Regulations 2004(**7**), or a drug, medicine or other substance listed in Schedule 2 to those Regulations other than in the circumstances specified in that Schedule.

(4) The out of hours performer shall record on a separate supply form for each patient any drugs, medicines or appliances supplied to the patient provided that a single supply form may be completed where the out of hours performer supplies necessary drugs, medicines or appliances to two or more persons in a school or other institution in which at least 20 persons

(**5**) S.I. 2000/620.
(**6**) S.I. 1997/1830; relevant amending instruments are S.I. 2000/1917 and 2003/2915.
(**7**) S.I. 2004/629 as amended by S.I. 2004/3215.

normally reside, when the out of hours performer may write on the supply form the name of the school or institution rather than the name of the individual patient.

(5) The out of hours performer shall—

(a) ask any person who makes a declaration that the patient does not have to pay the charges specified in regulation 4(1) of the Charges Regulations(**8**) by virtue of either—

(i) entitlement to exemption under regulation 7(1) of the Charges Regulations(**9**), or

(ii) entitlement to remission of charges under regulation 5 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(**10**),

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 regulation 7(1) of the Charges Regulations, and at the time of the declaration the out of hours performer already has such evidence available to him; and

(b) if no satisfactory evidence is produced to him (and, where it is relevant, none is already available to him as mentioned in paragraph (a)), endorse the supply form to that effect.

(6) Subject to sub-paragraph (7), nothing in this paragraph shall prevent an out of hours performer supplying a Scheduled drug or a restricted availability appliance in the course of treating a patient under a private arrangement.

(7) The provisions of regulation 24 (fees and charges) apply in respect of the supply of necessary drugs, medicines and appliances under this paragraph as they apply in respect of prescriptions for drugs, medicines and appliances.".

(4) In paragraph 38 (prescribing)—

(a) after "issued" insert "or created"; and

(b) after "paragraphs 39" insert ", 39A".

(5) In paragraph 39—

(a) in sub-paragraph (1), for the words from "by issuing to that patient" to the end substitute—

"by—

(a) issuing to that patient a non-electronic prescription form or non-electronic repeatable prescription completed in accordance with sub-paragraph (3); or

(b) where paragraph 39A(1) applies, creating and transmitting an electronic prescription,

and such a non-electronic prescription form, non-electronic repeatable prescription or electronic prescription shall not be used in any other circumstances.";

(b) in sub-paragraph (3)—

(i) for "such" substitute "non-electronic",

(ii) before "repeatable prescription", in the first place that it occurs, insert "non-electronic", and

(iii) omit from the words "and—" to the end;

(c) after sub-paragraph (3), insert—

(**8**) Regulation 4(1) was amended by S.I. 2002/548 and 2004/663.
(**9**) Regulation 7(1) was amended by S.I. 2000/3189 and 2002/2352.
(**10**) S.I. 2003/2382 as amended by S.I. 2004/663 and 936.

"(3A) A prescription form or repeatable prescription shall not refer to any previous prescription form or repeatable prescription.

(3B) A separate prescription form or repeatable prescription shall be used for each patient, except where a bulk prescription is issued for a school or institution under paragraph 44.";

(d) in sub-paragraph (4)—

(i) after "buprenorphine" insert "or diazepam", and

(ii) in paragraph (a), before "prescription form" insert "non-electronic";

(e) in sub-paragraph (5), before "prescription form" insert "non-electronic"; and

(f) in sub-paragraphs (6) and (7)—

(i) after "issued" insert "or created", and

(ii) for paragraph (c), substitute—

"(c) he undertakes to—

(i) furnish the chemist within 72 hours with a non-electronic prescription form or non-electronic repeatable prescription completed in accordance with sub-paragraph (3), or

(ii) transmit to the ETP service within 72 hours an electronic prescription.".

(6) After paragraph 39 insert—

"**Electronic prescriptions**

39A.—(1) A prescriber may only order drugs, medicines or appliances by means of an electronic prescription if—

(a) the contractor holds a contract with a Primary Care Trust which is specified in directions issued by the Secretary of State under section 17 of the Act as being a Primary Care Trust which can authorise its contractors to use the ETP service(**11**);

(b) the patient to whom the prescription relates has—

(i) nominated one or more dispensers in his NHS Care Record,

(ii) confirmed that he intends to use that dispenser (or one of them) for the purposes of obtaining the drugs, medicines or appliances ordered on the electronic prescription in question, and

(iii) consents to the use of an electronic prescription on the particular occasion; and

(c) the prescription is not—

(i) for a controlled drug within the meaning of the Misuse of Drugs Act 1971(**12**), other than a drug which is for the time being specified in Schedule 4 or 5 to the Misuse of Drugs Regulations 2001(**13**),

(ii) for supply by instalments under paragraph 39(4), or

(iii) a bulk prescription issued for a school or institution under paragraph 44.

(**11**) These directions will be available on the website of the National Programme for IT (www.npfit.nhs.co.uk) and published in the Drug Tariff.

(**12**) 1971 c. 38. The relevant definition is in section 2 and Schedule 2 as amended by S.I. 1973/771, 1975/421, 1977/1243, 1979/299, 1983/765, 1984/859, 1985/1995, 1986/2230, 1989/1340, 1990/2589, 1995/1966, 1996/1300, 1998/750, 2001/3932 and 2003/1243 and 3201.

(**13**) S.I. 2001/3998; Schedule 4 was amended by S.I. 2003/1432.

(2) In relation to a patient who is a child or an adult incapable of nominating a dispenser, sub-paragraph (1)(b) shall apply as if the reference to the patient to whom the prescription relates included a reference to—

(a) in the case of a child, that patient's parent or other person referred to in paragraph 15(4)(a); or

(b) in the case of an adult, that patient's relative or primary carer.

(3) A prescriber who orders drugs, medicines or appliances by means of an electronic prescription shall—

(a) in the case of an electronic repeatable prescription, issue the patient with a form provided by the Primary Care Trust for the purpose of recording details of that electronic repeatable prescription and linked to that electronic repeatable prescription by a number contained on the form; and

(b) in the case of an electronic prescription form, issue the patient, if he so requests, with a written record of the prescription which has been created.

Nomination of dispensers for the purpose of electronic prescriptions

39B.—(1) A contractor which operates the ETP service for its patients shall, if requested to do so by a patient, enter in that patient's NHS Care Record—

(a) where he does not have a nominated dispenser, the dispenser chosen by that patient; and

(b) where he does have a nominated dispenser—

(i) a replacement dispenser, or

(ii) a further dispenser,

chosen by that patient.

(2) Sub-paragraph (1)(b)(ii) shall not apply if the number of nominated dispensers would thereby exceed the maximum number permitted by the ETP service.

(3) Paragraph 15(4) shall apply in relation to requests under sub-paragraph (1) as it applies to applications for inclusion in a list of patients.

(4) A contractor—

(a) shall not seek to persuade a patient to nominate a dispenser recommended by the prescriber or the contractor; and

(b) shall, if asked by the patient to recommend a chemist whom he might nominate as his dispenser, provide the patient with the list of all the chemists in the area who provide an ETP service as given to the contractor by the Primary Care Trust.".

(7) In paragraph 40 (repeatable prescribing services)—

(a) in sub-paragraph (2)—

(i) omit paragraph (a), and

(ii) in paragraph (b), before "repeatable prescriptions" insert "non-electronic"; and

(b) in sub-paragraph (7)(b), for "regulation 20" substitute "regulation 60".

(8) In paragraph 41 (repeatable prescriptions)—

(a) in sub-paragraph (1), before "repeatable prescription" insert "non-electronic"; and

(b) for sub-paragraphs (2) to (4) substitute—

"(2) Where a prescriber wishes to make any change to the type, quantity, strength or dosage of drugs, medicines or appliances ordered on a person's repeatable prescription he must—

(a) in the case of a non-electronic repeatable prescription—

(i) notify the person, and

(ii) make reasonable efforts to notify the chemist providing repeat dispensing services to that person,

that the original repeatable prescription should no longer be used to obtain or provide repeat dispensing services and make arrangements for a replacement repeatable prescription to be issued to that person; or

(b) in the case of an electronic repeatable prescription—

(i) arrange with the ETP service for the cancellation of the original repeatable prescription in the person's NHS Care Record, and

(ii) create a replacement electronic repeatable prescription relating to that person and notify him that he has done so.

(3) A prescriber who has created an electronic repeatable prescription for a person must as soon as practicable arrange with the ETP service for its cancellation in that person's NHS Care Record if, before the expiry of that prescription—

(a) he considers that it is no longer appropriate or safe for that person to receive the drugs, medicines or appliances ordered on his electronic repeatable prescription or no longer appropriate or safe for him to continue to receive repeatable prescribing services;

(b) he has issued the person with a non-electronic repeatable prescription in place of the electronic repeatable prescription; or

(c) it comes to his notice that that person has been removed from the list of patients of the contractor on whose behalf the prescription was issued.

(4) Where a prescriber has cancelled a person's electronic repeatable prescription in accordance with sub-paragraph (3) he must, as soon as is practicable, notify that person.

(5) A prescriber who has issued a non-electronic repeatable prescription in respect of a person must, as soon as practicable, make reasonable efforts to notify the chemist that that repeatable prescription should no longer be used to provide repeat dispensing services to that person, if, before the expiry of that repeatable prescription—

(a) he considers that it is no longer appropriate or safe for that person to receive the drugs, medicines or appliances ordered on his repeatable prescription or no longer appropriate or safe for him to continue to receive repeatable prescribing services;

(b) he issues or creates a further repeatable prescription in respect of the person to replace the original repeatable prescription other than in the circumstances referred to in sub-paragraph (2)(a) (for example, because the person wishes to obtain the drugs, medicines or appliances from a different chemist); or

(c) it comes to his notice that that person has been removed from the list of patients of the contractor on whose behalf the prescription was issued.

(6) Where the circumstances in sub-paragraph (5)(a) to (c) apply, the prescriber must as soon as practicable notify the person on whose behalf the non-electronic repeatable prescription was issued that that repeatable prescription should no longer be used to obtain repeat dispensing services.".

(9) In paragraph 42 (restrictions on prescribing by medical practitioners)—

(a) in sub-paragraph (2)(c), for "endorses the form with" substitute "includes on the prescription form"; and

(b) in sub-paragraph (3)(b), for "endorses the face of the form with" substitute "includes on the prescription form".

(10) In paragraph 43 (restrictions on prescribing by supplementary prescribers)—

(a) in sub-paragraph (1)(a), for "give" substitute "issue or create";

(b) omit sub-paragraphs (2)(b), (4)(c) and (f) and (6);

(c) in sub-paragraph (2)(d)(iii), for "giving a prescription, he endorses the face of the form with" substitute "issuing or creating a prescription, he includes on the prescription form";

(d) in sub-paragraph (3), for "give" substitute "issue or create"; and

(e) in sub-paragraph (4), in paragraphs (e)(iii) and (h)(iii), for "giving the prescription, he endorses the face of the form with" substitute "issuing or creating the prescription, he includes on the prescription form".

(11) In paragraph 44 (bulk prescribing), in sub-paragraphs (1) and (2), before "prescription form" insert "non-electronic".

(12) In paragraph 47 (provision of dispensing services)—

(a) in sub-paragraph (1), for "regulation 20" substitute "regulation 60";

(b) in sub-paragraph (4)(b), for "regulation 12(15) or 13(13)(b) of the Pharmaceutical Regulations as they apply pursuant to paragraph 48(5) or (6)" substitute "regulation 20(2) or 38(14)(b) of the Pharmaceutical Regulations as they apply pursuant to paragraph 48(5)";

(c) in sub-paragraph (9)(a), for "regulation 12(15) or 13(13) of the Pharmaceutical Regulations as they apply pursuant to paragraph 48(5) or (6)" substitute "regulation 20(2) or 38(14)(b) of the Pharmaceutical Regulations as they apply pursuant to paragraph 48(5)"; and

(d) in sub-paragraph (9)(b)(ii), for "regulation 9(10)" substitute "regulation 31(9)".

(13) In paragraph 48 (consent to dispense)—

(a) in sub-paragraph (2), for "by the Primary Care Trust in accordance with regulations 12 and 13 of the Pharmaceutical Regulations (as modified in accordance with sub-paragraphs (5) and (6)), as though it were an application under regulation 21 of those Regulations" substitute "in accordance with regulations 18, 33, 34 and 36 to 38 of the Pharmaceutical Regulations (as modified in accordance with sub-paragraph (5)), as though it were an application for outline consent under regulation 61 of those Regulations";

(b) in sub-paragraph (4), for "regulation 12(16)" substitute "regulation 39(12)"; and

(c) for sub-paragraphs (5) and (6) substitute—

"(5) Regulations 18, 20(2), 33, 34, 36 and 38 of the Pharmaceutical Regulations shall apply as if—

(a) in regulations 18(2), 33(2) and (3) and 36(1), (3) and (9), the references to provisions being "subject to regulations 25 and 26" were omitted;

(b) in regulations 18(2)(b) and (c), 33(2)(j) and 34(1)(a), for the references to "regulation 61" there were substituted references to this paragraph;

(c) in regulations 20(2) and 38(2)(c), for the references to "regulation 60" there were substituted references to paragraph 47; and

(d) in regulation 38(14)(b), for the reference to "arrangements under regulation 60 for the provision by a doctor of pharmaceutical services" there were substituted

a reference to arrangements under paragraph 47 for the provision by a contractor of dispensing services.".

(14) In paragraph 50 (terms relating to the provision of dispensing services)—

(a) in sub-paragraph (2)(a), for "on a prescription form completed in accordance with paragraph 39(3);" substitute—

"on—

(i) a non-electronic prescription form completed in accordance with paragraph 39(3), or

(ii) if the contractor is the patient's nominated dispenser (or one of them), an electronic prescription form;";

(b) for sub-paragraph (4), substitute—

"(4) Where a patient—

(a) presents to a contractor who may provide dispensing services an order on a non-electronic prescription form for drugs, medicines or appliances signed by an independent nurse prescriber, or an order for a restricted availability appliance signed by and endorsed with the reference "SLS" by an independent nurse prescriber; or

(b) informs a contractor who may provide dispensing services and who is his nominated dispenser (or one of them) that an independent nurse prescriber has ordered drugs, medicines or appliances for him by means of an electronic prescription form,

the contractor may, provided, in a case to which paragraph (b) applies, it has received the electronic prescription form from the ETP service, provide to the patient such of the drugs, medicines or appliances so ordered as it supplies in the normal course of its practice."; and

(c) for sub-paragraph (8), substitute—

"(8) A contractor providing dispensing services shall comply with paragraph 5 of Schedule 2 (terms of service of dispensing doctors) to the Pharmaceutical Regulations, as if modified as follows—

(a) for "paragraph 3, or in the circumstances set out in paragraph 4" there were substituted "paragraph 50(2) or (4) of Schedule 6 to the GMS Regulations"; and

(b) for "the dispensing doctor", in each place where it occurs, there were substituted "the contractor providing dispensing services".".

(15) In paragraph 68 (appraisal and assessment), in sub-paragraph (1)(b), for "NCAA" substitute "NPSA".

(16) Omit paragraph 74 (access to records for the purpose of the Quality Information Preparation Scheme).

(17) In paragraph 79 (inquiries about prescriptions and referrals), in sub-paragraph (1)(a), after "issued" insert "or created".

(18) In paragraph 80 (reports to a medical officer), in sub-paragraph (1)(b), after "issued" insert "or created".

(19) In paragraph 85 (notice provisions specific to a contract with a company limited by shares)—

(a) in sub-paragraph (1), after paragraph (a) insert—

"(aa) a new director or secretary is appointed;"; and

(b) after sub-paragraph (2), insert—

"(3) A notice under sub-paragraph (1)(aa) shall confirm that the new director or, as the case may be, secretary meets the conditions imposed on directors and secretaries by virtue of regulation 5.".

(20) In paragraph 106 (variation provisions specific to a contract with two or more individuals practising in partnership)—

(a) in sub-paragraph (4), omit the words from "sub-paragraphs (1), (2) and (3)" to the end and substitute "the remaining individual shall notify the Primary Care Trust in writing as soon as is reasonably practicable of the death of his partner and sub-paragraph (4A) or (4B) shall apply.";

(b) after sub-paragraph (4), insert—

"(4A) If the remaining individual is a general medical practitioner, the contract shall continue with that individual.

(4B) If sub-paragraph (4A) does not apply, the Primary Care Trust may, if it thinks fit, serve notice in writing on the remaining individual confirming that the Primary Care Trust will allow the contract to continue with that individual, for a period specified by the Primary Care Trust of up to six months (the "interim period") provided that he consents to the Primary Care Trust employing or supplying a general medical practitioner to him for the interim period to assist in the provision of clinical services under the contract.

(4C) Before deciding whether to serve a notice pursuant to paragraph (4B), the Primary Care Trust shall, whenever it is reasonably practicable to do so, consult the Local Medical Committee (if any) for its area.

(4D) If, during the interim period, the contractor withdraws his consent to the Primary Care Trust employing or supplying a general medical practitioner, the Primary Care Trust shall serve notice in writing on the contractor terminating the contract forthwith.

(4E) If, at the end of the interim period, the contractor has not entered into partnership with a general medical practitioner who is not a limited partner, the Primary Care Trust shall serve notice on the contractor terminating the contract forthwith.";

(c) in sub-paragraphs (5) and (6), for "(4)(b)" substitute "(4)"; and

(d) after sub-paragraph (7), add—

"(8) In this paragraph, "general medical practitioner" has the same meaning as in regulation 4(1).".

(21) After paragraph 107 (termination by agreement), insert—

"**Termination on the death of an individual medical practitioner**

107A.—(1) Where the contract is with an individual medical practitioner and that practitioner dies, the contract shall terminate at the end of the period of seven days after the date of his death unless, before the end of that period—

(a) the Primary Care Trust has agreed in writing with the contractor's personal representatives that the contract should continue for a further period, not exceeding 28 days after the end of the period of seven days; and

(b) the contractor's personal representatives have consented in writing to the Primary Care Trust employing or supplying one or more general medical practitioners to assist in the provision of clinical services under the contract throughout the period for which it continues.

(2) In sub-paragraph (1), "general medical practitioner" has the same meaning as in regulation 4(1).

(3) Sub-paragraph (1) does not affect any other rights to terminate the contract which the Primary Care Trust may have under paragraphs 112 to 115.".

(22) In paragraph 111 (termination by the Primary Care Trust for breach of conditions in regulation 4)—

(a) in sub-paragraph (1), insert at the beginning "Subject to sub-paragraph (1A),";

(b) after sub-paragraph (1) insert—

"(1A) Where the failure of an individual medical practitioner to continue to satisfy the condition specified in regulation 4(1) is the result of a suspension specified in sub-paragraph (3B), sub-paragraph (1) shall not apply unless—

(a) the contractor is unable to satisfy the Primary Care Trust that it has in place adequate arrangements for the provision of clinical services under the contract for so long as the suspension continues; or

(b) the Primary Care Trust is satisfied that the circumstances of the suspension are such that if the contract is not terminated forthwith—

(i) the safety of the contractor's patients is at serious risk, or

(ii) the Primary Care Trust is at risk of material financial loss.";

(c) in sub-paragraph (2), insert at the beginning "Except in a case to which paragraph 106(4) applies,";

(d) in sub-paragraph (3), for "of up to six months" substitute "in accordance with paragraph (3A)";

(e) after sub-paragraph (3) insert—

"(3A) The period specified by the Primary Care Trust under sub-paragraph (3)(b) shall not exceed—

(a) six months; or

(b) in a case where the failure of the contractor to continue to satisfy the condition in regulation 4(2)(a) or, as the case may be, 4(3)(a), is the result of a suspension referred to in sub-paragraph (3B), the period for which that suspension continues.

(3B) The suspensions referred to in sub-paragraphs (1A) and (3A)(b) are suspension—

(a) by a Fitness to Practise Panel under—

(i) section 35D (functions of a fitness to practise panel) of the Medical Act 1983(**14**) in a health case, other than an indefinite suspension under section 35D(6) of that Act, or

(ii) section 38(1) (power to order immediate suspension etc after a finding of impairment of fitness to practise) of that Act; or

(b) by a Fitness to Practise Panel or an Interim Orders Panel under section 41A (interim orders) of that Act.

(3C) In paragraph (3B), "health case" has the meaning given in section 35E(4) of the Medical Act 1983."; and

(f) after sub-paragraph (6), add—

"(7) In sub-paragraphs (3) and (5), "general medical practitioner" has the same meaning as in regulation 4(1).".

(**14**) 1983 c. 54; section 35D was inserted by, and sections 38(1) and 41A substituted by S.I. 2002/3135.

(23) In paragraph 112 (termination by the Primary Care Trust for the provision of untrue etc. information) for the words "by the contractor before the contract" to the end substitute—

"by the contractor—

(a) before the contract was entered into; or

(b) pursuant to paragraph 85(2) or (3) or 86(2),

in relation to the conditions set out in regulations 4 and 5 (and compliance with those conditions) was, when given, untrue or inaccurate in a material respect.".

(24) In paragraph 113 (other grounds for termination by the Primary Care Trust), in sub-paragraph (1) after "the existence of the contract" insert "or, if later, on or after the date on which a notice in respect of his compliance with the conditions in regulation 5 was given under paragraph 85(2) or (3) or 86(2)".

(25) In paragraph 119 (termination and the NHS dispute resolution procedure), in sub-paragraph (1) for "or 115(4) or (6)" substitute "115(4) or (6) or 116(2)".

Amendment of Schedule 9 to the GMS Contracts Regulations

5. Schedule 9 (Primary Care Trusts specified for the purposes of repeatable prescribing) of the GMS Contracts Regulations is omitted.