SCOTTISH STATUTORY INSTRUMENTS

2004 No. 212

NATIONAL HEALTH SERVICE

The Primary Medical Services (Consequential and Ancillary Amendments) (Scotland) Order 2004

Made - - - -	*7th May 2004*
Laid before the Scottish Parliament - - - -	*10th May 2004*
Coming into force - -	*31st May 2004*

The Scottish Ministers, in exercise of the powers conferred by section 7(1) and (2) of the Primary Medical Services (Scotland) Act 2004(**1**) and of all other powers enabling them in that behalf, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Primary Medical Services (Consequential and Ancillary Amendments) (Scotland) Order 2004 and shall come into force on 31st May 2004.

Consequential and ancillary amendments

2.—(1) The instruments listed in Schedule 1 are amended as there specified.

(2) The instruments listed in Schedule 2 are revoked to the extent there specified.

St Andrew's House, Edinburgh
7th May 2004

MALCOLM CHISHOLM
A member of the Scottish Executive

(**1**) 2004 asp 1.

SCHEDULE 1

Article 2(1)

CONSEQUENTIAL AND ANCILLARY AMENDMENTS

The Medicines (Pharmacy and General Sale – Exemption) Order 1980

1. In the Medicines (Pharmacy and General Sale – Exemption) Order 1980(**2**) for paragraph (3)(b)(ii) of article 4B(**3**) substitute–

"(ii) in relation to Scotland, the provision of primary medical services under Part I of the National Health Service (Scotland) Act 1978; and"

The National Health Service (General Ophthalmic Services) (Scotland) Regulations 1986

2. In the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1986(**4**) omit paragraph 8C (complaints against ophthalmic medical practitioners) of Schedule 1 (terms of service)(**5**).

The Common Services Agency (Membership and Procedure)Regulations 1991

3. In the Common Services Agency (Membership and Procedure) Regulations 1991(**6**), in paragraph (1)(f) of regulation 4 (disqualification) for "under section 29 of the Act for inclusion in any list prepared under Part II of the Act" substitute "by the Tribunal for inclusion in any list prepared under or by virtue of Part II or Part I of the Act".

The National Health Service (Pharmaceutical Services)(Scotland) Regulations 1995

4.—(1) The National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995(**7**) shall be amended as provided in this paragraph.

(2) In regulation 2(1) (interpretation and application)(**8**)–

(a) for the definition of "appropriate non-proprietary name" substitute–

""appropriate non-proprietary name" means a non-proprietary name which is not mentioned in any directions given by the Scottish Ministers under section 17N(6) of the Act (other mandatory contract terms)(**9**) as to the drugs or other substances–

(a) which may not be ordered for patients in the provision of primary medical services under a general medical services contract;

(b) except where the conditions in paragraph 40(2) of Schedule 5 to the GMS Contracts Regulations are satisfied, which can only be ordered for specified patients and specified purposes;";

(b) omit the definition of "medical list";

(**2**) S.I. 1980/1924.
(**3**) Article 4B was inserted by S.I. 2000/1919 and amended by S.I. 2004/865.
(**4**) S.I. 1986/965.
(**5**) Paragraph 8C was inserted by S.I. 1996/843.
(**6**) S.I. 1991/564.
(**7**) S.I. 1995/414. Relevant amending instruments are S.I. 1996/840 and 1504, 1997/696, 1998/2224, 1998/3031 and S.S.I. 1999/57, 2001/70, 2002/111 and 2003/296.
(**8**) Regulation 2 was amended by S.I. 1996/840 and 1504, 1998/2224 and S.S.I. 1999/57, 2001/70, 2002/111 and 2003/296.
(**9**) 1978 c. 29. Section 17N was inserted by the Primary Medical Services (Scotland) Act 2004 (asp 1) ("the 2004 Act"), section 4. The current directions are the "Directions as to the drugs, medicines or other substances which may, or may not, be ordered for patients in the provision of primary medical services under a general medical services contract" given on 18th March 2004, and published on Scottish Health on the Web (SHOW) at http://www.show.scot.nhs.uk/sehd/pca/PCA2004(M)11.pdf.

(c) in the definition of "prescription form"–

(i) in paragraph (a)(iii) omit "doctor or"; and

(ii) for paragraph (a)(v) and (vi) substitute–

"or;

(v) prescriber; and";

(d) for the definition of "scheduled drug" substitute–

""scheduled drug" means–

(a) a drug, medicine or other substance specified in any directions given by the Scottish Ministers under section 17N(6) of the Act as being a drug or other substance which may not be ordered in the provision of primary medical services under a general medical services contract; or

(b) except where the conditions in paragraph 40(2) of Schedule 5 to the GMS Contracts Regulations are satisfied, a drug, medicine or other substance which is specified in any directions given by the Scottish Ministers under section 17N(6) of the Act as being a drug or other substance which can only be ordered for specified patients and specified purposes in the provision of primary medical services under a general medical services contract;"; and

(e) insert the following definitions at the appropriate place in alphabetical order:–

""GMS Contracts Regulations" means the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004(**10**);"

""prescriber" means a doctor, an independent nurse prescriber or a supplementary prescriber;".

(3) In regulation 2(2) omit "doctor or".

(4) Omit regulation 11(3) and (4) (publication of particulars)(**11**).

(5) In paragraph 3 (provision of pharmaceutical services) of Schedule 1 (terms of service for pharmacists)(**12**)–

(a) in sub-paragraph (1)–

(i) in paragraph (a) for "doctor, a supplementary prescriber or an independent nurse prescriber" substitute "prescriber";

(ii) for paragraph (b) substitute–

"(b) an order for a drug specified in any directions given by the Scottish Ministers under section 17N(6) of the Act as being a drug which can only be ordered for specified patients and specified purposes in the provision of primary medical services under a general medical services contract, signed by, and endorsed on its face with the reference "SLS" by a prescriber;";

(iii) in paragraph (ba) for "doctor;" substitute "prescriber; or"; and

(iv) omit paragraphs (d) and (e);

(b) in sub-paragraphs (4) and (6) for "a doctor, a dentist, a supplementary prescriber or an independent nurse prescriber" substitute "a prescriber or a dentist" in each place where it occurs;

(**10**) S.S.I. 2004/115.
(**11**) Regulation 11 was amended by S.I. 1997/696 and S.S.I. 1999/57.
(**12**) Paragraph 3 was amended by S.I. 1996/1504, 1998/3031 and S.S.I. 2001/70, 2002/111 and 2003/296.

(c) in sub-paragraph (7), for "the doctor, dentist, a supplementary prescriber or an independent nurse prescriber" substitute "the prescriber or dentist"; and

(d) in sub-paragraph (11)–

(i) for "a doctor, supplementary prescriber or an independent nurse prescriber" substitute "a prescriber"; and

(ii) for paragraph (c) substitute–

"(c) in any case the prescriber undertakes to furnish the pharmacist, within 72 hours, with such a prescription form.".

The Prescription Only Medicines (Human Use) Order 1997

5. In the Prescription Only Medicines (Human Use) Order 1997(**13**) for paragraph (3)(b)(ii) of article 12B (exemption for health professionals who supply or administer prescription only medicines under a Patient Group Direction in order to assist doctors or dentists in providing national health services) (**14**) substitute–

"(ii) in relation to Scotland, the provision of primary medical services under Part I of the National Health Service (Scotland) Act 1978; and".

The National Health Service (Proposals for Pilot Schemes) and (Miscellaneous Amendments) Regulations 1997

6. In the National Health Service (Proposals for Pilot Schemes) and (Miscellaneous Amendments) Regulations 1997(**15**)–

(a) in regulation 2 (requests to authorities for preparation of proposals)(**16**) omit paragraph (5)(b)(i); and

(b) in regulation 3 (consultation on proposals)(**17**), omit paragraph (2).

The National Health Service (Pilot Schemes – Health Service Bodies) Regulations 1997

7. In the National Health Service (Pilot Schemes – Health Service Bodies) Regulations 1997(**18**), in regulation 1(2) (citation, commencement and interpretation)(**19**), in the definition of "application" omit "personal medical services or".

The National Health Service (Scotland)(Injury Benefits) Regulations 1998

8.—(1) The National Health Service (Scotland) (Injury Benefits) Regulations 1998(**20**) shall be amended as provided in this paragraph.

(2) In regulation 2 (interpretation)(**21**)–

(a) in the definition of "assistant practitioner"–

(i) in paragraph (a) omit "medical practitioner, or" and "medical practitioner or"; and

(ii) for paragraph (b) substitute–

(**13**) S.I. 1997/1830.
(**14**) Article 12B was inserted by S.I. 2000/1917 and amended by S.I. 2002/2469 and 2004/865.
(**15**) S.I. 1997/2289.
(**16**) Regulation 2 was amended by S.I. 1998/3.
(**17**) Regulation 3 was amended by S.I. 1998/3.
(**18**) S.I. 1997/2929.
(**19**) Regulation 1 was amended by S.I. 1998/1136 and 2002/2469.
(**20**) S.I. 1998/1594
(**21**) Regulation 2 was amended by S.I. 1999/444, S.S.I. 1999/195 and 2001/437.