STATUTORY RULES OF NORTHERN IRELAND

2009 No. 320

HEALTH AND PERSONAL SOCIAL SERVICES

Pharmaceutical Services (Amendment) Regulations (Northern Ireland) 2009

Made - - - -	*11th September 2009*
Coming into operation	*5th October 2009*

The Department of Health, Social Services and Public Safety(**1**), in conjunction with the Department of Finance and Personnel, makes the following Regulations in exercise of the powers conferred by Articles 63(1), (2), 63AA, 64, 106(b) and 107(6) of the Health and Personal Social Services (Northern Ireland) Order 1972(**2**).

In accordance with Article 63(3) of that Order, the Department of Health, Social Services and Public Safety has consulted with such organisations as appear to it to be representative of the pharmaceutical profession.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pharmaceutical Services (Amendment) Regulations (Northern Ireland) 2009 and shall come into operation on 5th October 2009.

(2) In these Regulations "the Pharmaceutical Regulations" means the Pharmaceutical Services Regulations (Northern Ireland) 1997(**3**).

Amendment of regulation 2 of the Pharmaceutical Regulations

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

(2) After "the 1997 Order" insert:

> ""APMS" means Alternative Provider Medical Services arrangements made under Article 56(2)(b)(**4**) of the Order (primary medical services) for the provision of primary medical services and "APMS contractor" shall be construed accordingly;"

(3) After "the Prescription of Drugs Regulations" insert:

(**1**) *See*S.I. 1999/283 (N.I. 1) Article 3(6).
(**2**) S.I. 1972/1265 (N.I. 14) relevant amending instruments are S.I. 1978/1907 (N.I. 26) Article 14; S.I. 1986/2023 (N.I. 20) Articles 5(1) and (2); S.I. 1986/2229 (N.I. 24); S.I. 1988/2249 (N.I. 24) Article 7; S.I. 1991/194 (N.I. 1) Articles 31(1) and (2); 34 and Part II of Schedule 5; S.I. 1992/2671 (N.I. 18) Article 3; S.I. 1997/1177 (N.I. 7) Article 29; 2001 c. 3 (N.I.) section 48 and 2008 c. 2 (N.I.) section 10.
(**3**) S.R. 1997 No. 381 relevant amending instruments are S.R. 1999 No.254; S.R. 2001 No. 222 and S.R. 2005 No. 231.
(**4**) Article 56 was substituted by S.I. 2004/311 (N.I. 2) Article 3.

""RBMS" means a Regional Board Medical Services provider under Article 56(2)(a) of the Order (primary medical services) for the provision of primary medical services and "RBMS practice" shall be construed accordingly;"

(4) After paragraph (3) insert the following paragraphs—

"(4) In these Regulations, "emergency requiring the flexible provision of pharmaceutical services" means an emergency declared by means of a direction to the Regional Board under section 6 of the 2009 Act to the effect that, as a result of the threatened damage to human welfare caused or which may be caused by the illness designated in the direction, the Regional Board must for a specified period—

(a) exercise, or

(b) where a discretion is conferred, consider exercising,

one or more of their functions under regulation 6A, 12(7A) or paragraph 4A of Schedule 2 subject to any conditions or limitations set out in the direction.

(5) Where—

(a) a direction of the type mentioned in paragraph (4) is given; and

(b) the Department issues a further direction changing the specified period of the emergency,

the duration of the emergency is to be construed in accordance with the specified period as so changed.".

New regulation 6A of the Pharmaceutical Regulations

3. After regulation 6, insert the following regulation—

"**Temporary relocations and additional premises during an emergency requiring the flexible provision of pharmaceutical services**

6A.—(1) Regulations 6(2)(b), 6(4) and (4A) shall not apply to an application for a temporary amendment to the pharmaceutical list which the Regional Board is satisfied is necessary or desirable because of an emergency requiring the flexible provision of pharmaceutical services.

(2) In the circumstances described in paragraph (1), the Regional Board may make a temporary amendment to an entry in the pharmaceutical list, but—

(a) only for a specified period (which shall not be longer than the period of the emergency specified in the direction given by the Department) which the Regional Board may extend or curtail in appropriate circumstances; and

(b) the applicant may revert to the applicant's overridden entry in the pharmaceutical list before the end of the period specified by the Regional Board, on giving the Regional Board at least 24 hours notice.

(3) There is no right of appeal under these Regulations in respect of a decision to make or not to make, or to curtail the duration of, a temporary amendment to a pharmaceutical list made under this regulation.".

Amendment of regulation 12 of the Pharmaceutical Regulations

4. In regulation 12 (arrangements for the provision of pharmaceutical services by doctors), after paragraph (7) insert the following paragraphs—

"(7A) Notwithstanding the preceding provisions of this regulation, the Regional Board may also require a doctor who already provides pharmaceutical services to patients on a

relevant patient list to provide pharmaceutical services to patients who are not on that list ("temporary services")—

(a) during an emergency requiring the flexible provision of pharmaceutical services;

(b) where, as a result of the temporary closure of premises from which medicines, drugs or appliances are normally dispensed, the Regional Board considers that, in order to secure continuing adequate provision of pharmaceutical services during the emergency, it is necessary for it to require provision of those temporary services; and

(c) for a specified period (which shall not be longer than the period of the emergency specified in the direction given by the Department) which the Regional Board may extend or curtail in appropriate circumstances.

(7B) Where a doctor is required to provide temporary services by virtue of paragraph (7A), any services provided to a patient as a result of that requirement are to be treated as services provided as part of the arrangements under which the doctor provides primary medical services to patients on the relevant patient list.

(7C) There is no right of appeal under these Regulations in respect of a decision—

(a) to require, or not to require, a doctor to provide temporary services; or

(b) to extend or curtail the duration of any requirement imposed by virtue of paragraph (7A),

but the requirement must be curtailed if the doctor notifies the Regional Board in writing that the doctor is unwilling to provide pharmaceutical services to patients who are not on the relevant patient list during the emergency (and so wishes to revert to the doctor's overridden arrangements for the provision of pharmaceutical services).

(7D) Nothing in paragraph (7A) shall be taken as requiring a doctor (or a GMS, APMS contractor or RBMS practice) to provide pharmaceutical services to patients at times when, or from premises at which, the doctor (or contractor or practice) is not also providing pharmaceutical services to patients on a relevant patient list.".

New Regulation 13A of the Pharmaceutical Regulations

5. After regulation 13, insert the following regulation—

"**Proceedings with regard to overridden arrangements during an emergency requiring the flexible provision of pharmaceutical services**

13A. Where, during an emergency requiring the flexible provision of pharmaceutical services, arrangements for the provision of pharmaceutical services are overridden by temporary arrangements—

(a) any proceedings with regard to the overridden arrangements are unaffected by that overriding (although they may need to be stayed during the emergency for other reasons); and

(b) if as a result of those proceedings, the overridden arrangements require amendment before the end of the temporary arrangements, when the emergency ends, the reversion to the overridden arrangements shall be to the overridden arrangements as amended as a result of those proceedings.".

New paragraph 4A of Schedule 2 to the Pharmaceutical Regulations

6. After paragraph 4 of Schedule 2, insert the following paragraph—