STATUTORY RULES OF NORTHERN IRELAND

2005 No. 368

HEALTH AND PERSONAL SOCIAL SERVICES

The Health and Personal Social Services (Primary Medical Services) (Miscellaneous Amendments) Regulations (Northern Ireland) 2005

Made - - - -	*4th August 2005*
Coming into operation	*25th August 2005*

The Department of Health, Social Services and Public Safety(**1**) in exercise of the powers conferred upon it by Articles 57A, 57B, 57E, 57F, 57G, 106(b) and 107(6) of the Health and Personal Social Services (Northern Ireland) Order 1972(**2**) and Article 8(6) of the Health and Personal Social Services (Northern Ireland) Order 1991(**3**) and all other powers enabling it in that behalf, in conjunction with the Department of Finance and Personnel, hereby makes the following Regulations:

PART 1

GENERAL

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Primary Medical Services) (Miscellaneous Amendments) Regulations (Northern Ireland) 2005 and shall come into operation on 25th August 2005.

(2) In these Regulations —

"GMS Contract Regulations" means the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004(**4**);

"Performers Lists Regulations" means the Health and Personal Social Services (Primary Medical Services Performers Lists) Regulations (Northern Ireland) 2004(**5**).

(**1**) See S.I.1999/283 (N.I. 1) - Article 3(6).
(**2**) S.I. 1972/1265 (N.I. 14). Articles 57A, 57B, 57E and 57F were inserted by S.I. 2004/311 (N.I. 2) – Article 4. Article 57G was inserted by Article 8 of that Order.
(**3**) S.I. 1991/194 (N.I. 1).
(**4**) S.R. 2004/140 as amended by S.R. 2005/230
(**5**) S.R. 2004/149

PART 2

AMENDMENT OF THE GMS CONTRACTS REGULATIONS

Amendment of Regulation 2 of the GMS Contracts Regulations

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

(2) 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(**6**) relating to—

(aa) chiropodists and podiatrists;

(bb) physiotherapists; or

(cc) radiographers: diagnostic or therapeutic;

(dd) optometrists, and".

Amendment of Schedule 5 to the GMS Contracts Regulations

3.—(1) Schedule 5 (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—

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

(b) by 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—

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

11A.—(1) In this paragraph—

"the Charges Regulations" means the Charges for Drugs and Appliances Regulations (Northern Ireland) 1997(**7**);

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

(**7**) S.R. 1997 No. 382; relevant amending instruments are S.R. 1999 No. 166, S.R. 2000 No. 57 and S.R. 2005 No. 97.

"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, 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 during core hours;

"out of hours performer" means a prescriber, a person acting in accordance with a Patient Group Direction or any other health 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 Prescriptions Only Medicines (Human Use) Order 1997(**8**); and

"supply form" means a form provided by the Agency 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 Board that its contract should also include the supply of necessary drugs, medicines or 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 Health and Personal Social Services (General Medical Services Contracts) (Prescription of Drugs Etc) Regulations (Northern Ireland) 2004(**9**), 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 that 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 by virtue of either—

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

(ii) entitlement to remission of charges under regulation 5 of the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004(**10**),

(**8**) S.I. 1997/1830; relevant amending instruments are S.I. 2000/1907 and 2003/2915
(**9**) S.R. 2004 No. 142
(**10**) S.I. 2004/91

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 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 as they apply in respect of prescriptions for drugs, medicines and appliances.".

(4) In paragraph 39, sub-paragraph (3) after "buprenorphine" insert "or diazepam".

(5) In paragraph 41 (restrictions on prescribing by supplementary prescribers), omit sub-paragraphs (2)(b), (4)(c) and (f) and (6);

(6) Omit paragraph 69 (access to records for the purpose of the Quality Information Preparation Scheme).

(7) In paragraph 79 (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.".

(8) In paragraph 98 (variation provisions 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 need and substitute "the remaining individual shall notify the Board in writing as soon as it 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 Board may, if it thinks fit, serve notice in writing on the remaining individual confirming that the Board will allow the contract to continue with that individual, for a period specified by the Board of up to six months (the "interim period") provided that he consents to the Board 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 Board 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 Board employing or supplying a general medical practitioner, the Board 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 Board 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).".

(9) After paragraph 99 (termination by agreement), insert—

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

99A.—(1) Where the contract is with an individual medical practitioner and that practitioner dies, the contract shall terminate at the end of the period seven days after the date of his death unless, before the end of that period—

(a) the Board 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 Board 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 Board may have under paragraphs 104 to 107.".

(10) In paragraph 103 (termination by the Board 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 Board that it has in place adequate arrangements for the provision of clinical services under the contract for as long as the suspension continues; or

(b) the Board 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 Board is at risk of material financial loss.";

(c) in sub-paragraph (2), insert at the beginning "Except in a case to which paragraph 98(4) applies,";

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

(e) after sub-paragraph (3) insert—

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

(a) six months; or