STATUTORY RULES OF NORTHERN IRELAND

2005 No. 231

HEALTH AND PERSONAL SOCIAL SERVICES

Pharmaceutical Services and Charges for Drugs and Appliances (Amendment) Regulations (Northern Ireland) 2005

Made - - - -	*29th April 2005*
Coming into operation	*1st May 2005*

The Department of Health, Social Services and Public Safety(**1**) in exercise of the powers conferred on it by Articles 63(1), (2), (2A) to (2D), 64, 98, 106(b) and 107(6) of, and Schedule 15 to the Health and Personal Social Services (Northern Ireland) Order 1972(**2**) and Article 10 of the Health and Medicines (Northern Ireland) Order 1988(**3**) and of all other powers enabling it in that behalf, and in conjunction with the Department of Finance and Personnel insofar as they relate to Pharmaceutical Services, and with the approval of the Department of Finance and Personnal insofar as they relate to Charges for Drugs and Appliances, and after consultation with such organisations as appear to it to be representative of the pharmaceutical profession as required by Article 63(3) of the Health and Personal Social Services (Northern Ireland) Order 1972, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pharmaceutical Services and Charges for Drugs and Appliances (Amendment) Regulations (Northern Ireland) 2005 and shall come into operation on 1st May 2005.

(2) In these Regulations –

(a) "the Pharmaceutical Regulations" means the Pharmaceutical Services Regulations (Northern Ireland) 1997(**3**).

(b) "the Charges for Drugs and Appliances Regulations" means the Charges for Drugs and Appliances Regulations (Northern Ireland) 1997(**4**).

(**1**) *See* S.I.1999/283 (N.I.) 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 and 2001 c. 3 (N.I.) Section 48

(**3**) S.R. 1997 No. 381 relevant amending instruments are S.I. 1988/2249 (N.I. 24); S.R. 1999 No. 254; S.R. 2001 No. 222; S.R. 2002 No. 92; S.R. 2002 No. 397 and S.R. 2003 No. 447

(**3**) S.R. 1997 No. 381 relevant amending instruments are S.I. 1988/2249 (N.I. 24); S.R. 1999 No. 254; S.R. 2001 No. 222; S.R. 2002 No. 92; S.R. 2002 No. 397 and S.R. 2003 No. 447

(**4**) S.R. 1997 No. 382 relevant amending instruments are S.R. 1998 No. 135; S.R. 1999 No. 166, S.R. 2000 No. 57 and S.R. 2004 No. 94

Amendment of the Pharmaceutical Services Regulations (Northern Ireland) 1997

2.—(1) The Pharmaceutical Services Regulations (Northern Ireland) 1997 are amended as follows.

(2) In regulation 2(1) (interpretation) –

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

> ""appropriate non-proprietary name" means a non-proprietary name which is not mentioned in Schedule 1 to the Prescription of Drugs Regulations or, except where the conditions in paragraph 40(2) of Schedule 5 to the GMS Regulations are satisfied, in Schedule 2 to the Prescription of Drugs Regulations;";

(b) for the definition of "independent nurse prescriber" substitute –

> ""independent nurse prescriber" means a person –
>
> (a) who is registered in the Nursing and Midwifery Register, and
>
> (b) in respect of whom an annotation signifying that he is qualified to order drugs and appliances from –
>
> (i) the Nurse Prescribers' Formulary for District Nurses and Health Visitors in Part IX(B) of the Drug Tariff, or
>
> (ii) the Nurse Prescribers' Extended Formulary in Part IX(C) of the Drug Tariff, is also recorded in that register;";

(c) for the definition of "patient" substitute –

> ""patient" in relation to a GMS contract has the same meaning as in regulation 2 of the GMS Regulations (interpretation);";

(d) in the definition of "prescription form", at the end insert "and does not include a repeatable prescription";

(e) for the definition of "the Remission of Charges Regulations" substitute –

> ""the Remission of Charges Regulations" mean the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004(**5**).";

(f) for the definition of "the charges regulations" substitute the following –

"the Charges for Drugs and Appliances Regulations" means "the Charges for Drugs and Appliances Regulations (Northern Ireland) 1997.".

(g) after the definition of "the Remission of Charges Regulations", insert the following definitions –

> ""repeat dispensing chemist" shall be construed in accordance with regulation 4A(1);
>
> "repeat dispensing services" means pharmaceutical services which involve the provision of drugs or appliances by a chemist in accordance with a repeatable prescription;
>
> "repeatable prescription" means a prescription contained in a form provided by the Agency and issued by a repeatable prescriber to enable a person to obtain pharmaceutical services, and which –
>
> (a) is generated by a computer but signed by a repeatable prescriber; and
>
> (b) indicates that the drugs or appliances ordered on that form may be provided more than once, and specifies the number of occasions on which they may be provided.";

(**5**) S.R. 2004 No. 91

(h) for the definition of "Scheduled drug" substitute –

""Scheduled drug" means a drug or other substance specified in Schedule 1 to the Prescription of Drugs Regulations, or except where the conditions in paragraph 40(2) of Schedule 5 to the GMS Regulations are satisfied, Schedule 2 to the Prescription of Drugs Regulations;";

(i) for the definition of "supplementary prescriber" substitute –

""supplementary prescriber" means a person –

(a) whose name is registered in –

(i) the Nursing and Midwifery Register,

(ii) the Register of Pharmaceutical Chemists maintained in pursuance of section 2(1) of the Pharmacy Act 1954(**6**), or

(iii) the register maintained in pursuance of Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976(**7**), and

(b) against whose name is recorded in the relevant register an annotation signifying that he is qualified to order drugs and appliances as a supplementary prescriber.".

(j) omit the following definitions –

"doctor's list",

"doctor's terms of service",

"medical list",

"Medical Regulations",

"pilot scheme", and

"pilot scheme provider";

(j) insert each of the following definitions at the appropriate alphabetical place –

""GMS contract" means a general medical services contract;

"the GMS regulations" means the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004(**8**);

"medical performers list" means a list of doctors prepared and published pursuant to regulation 4(1) and 5(1) of the Health and Personal Social Services (Performers Lists) Regulations (Northern Ireland 2004(**9**);

"Nursing and Midwifery Register" means the register maintained by the Nursing and Midwifery Council under the Nursing and Midwifery Order 2001(**10**);

"patient list" means a list of patients kept by a Board in respect of a GMS contractor, in accordance with paragraph 14 of Schedule 5 to the GMS Regulations;

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

"the Prescription of Drugs Regulations" means the Health and Personal Services (General Medical Services Contracts) (Prescription of Drugs Etc) Regulations (Northern Ireland) 2004(**11**);

(**6**) 1954 c. 61
(**7**) S.I. 1976/1213 (N.I. 22)
(**8**) S.R. 2004 No. 140
(**9**) S.R. 2004 No. 149
(**10**) S.I. 2002/253
(**11**) S.R. 2004 No. 142

"relevant GMS contractor", in relation to any doctor means the GMS contractor by whom the doctor is employed or engaged;

"relevant patient list" means, in relation to a doctor who is (or is a legal and beneficial shareholder in a company which is) a GMS contractor, the patient list for that contractor or, where he is not a contractor, means the patient list for the GMS contractor by whom he is engaged or employed;

"relevant register" means –

(a) in relation to a nurse, the Nursing and Midwifery Register, and

(b) in relation to a pharmacist, the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954 (the registers and registration) or the register maintained in pursuance of Articles 6 (the registers) and 9 (the registrar) of the Pharmacy (Northern Ireland) Order 1976;

"repeatable prescriber" means a prescriber who is –

(a) a GMS contractor who provides repeatable prescribing services under the terms of its contract which give effect to paragraph 39A(**12**) of Schedule 5 to the GMS Regulations;

(b) employed or engaged by a GMS contractor who provides repeatable prescribing services under the terms of a contract which give effect to paragraph 40 of Schedule 5 to the GMS Regulations.".

(3) For regulation 2(1B)(**13**) substitute –

"(1B) In these Regulations –

(a) the term "pharmaceutical services", in relation to a doctor, means those services referred to in regulation 12; and

(b) the term "dispensing services" in relation to a doctor or to a GMS contractor means, any corresponding service provided, not as pharmaceutical services, but under the terms of a GMS contract which give effect to paragraphs 44 to 46 of Schedule 5 to the GMS Regulations.".

(4) After regulation 2(2) add –

"(3) For as long as there are in existence contracts entered into under Article 13 of the General Medical Services Transitional and Consequential Provisions (No. 1) (Northern Ireland) Order 2004(**14**) ("default contracts") in respect of such contracts any reference to a GMS contract shall be read as including a reference to a contract entered into under that Article, and any reference to a term of a GMS contract shall be read as including a reference to the equivalent term in the default contract.".

Insertion of Regulation 4A

3. After regulation 4 insert the following regulation –

"**Repeat dispensing services**

4A.—(1) A chemist may provide repeat dispensing services if –

(a) he satisfies the conditions in paragraph (2); and

(**12**) Paragraph 39A is inserted by S.R. 2005 No. 230
(**13**) Paragraph 1B was inserted by S.R. 2001 No. 222
(**14**) S.R. 2004 No. 141

(b) he has undertaken, in accordance with paragraphs (3) and (4), to provide repeat dispensing services,

and a chemist who satisfies the requirements of sub-paragraphs (a) and (b) is referred to in these Regulations as a repeat dispensing chemist.

(2) The conditions referred to in paragraph (1)(a) are that the chemist –

(a) is not a supplier of appliances only; and

(b) is included in the pharmaceutical list of a Board.

(3) A chemist who wishes to provide repeat dispensing services must notify the Board, in whose pharmaceutical list he is included, in writing, that he undertakes to provide those services, and that he intends to begin to provide them on a specified date.

(4) The date specified by a chemist pursuant to paragraph (3) must be –

(a) the first day of any specified month; and

(b) at least ten days after the date on which the notification specified in paragraph (3) is given.

(5) A chemist may not provide repeat dispensing services unless he is a repeat dispensing chemist.".

Amendment of regulation 6 of the principal Regulations

4. In regulation 6 (pharmaceutical list) in paragraph (2)(b)(iii) after "pharmaceutical services" insert "(other than repeat dispensing services)".

Amendment of regulation 9

5. In regulation 9 (standards of, and payments for, drugs and appliances) –

(a) in paragraph (1)(g), after "supply of drugs and appliances" insert ", repeat dispensing services";

(b) after sub-paragraph (5) insert –

"(6) A chemist shall supply, in response to a request from the Department, within 30 days of the notification of the request, any information which the Department may require for the purpose of conducting any enquiry into the prices, payments, fees, allowances and remuneration specified in paragraphs (1)(d) to (i).".

Amendment of regulation 10A

6. In regulation 10A (reward scheme) in paragraph (1) –

(a) after "paragraph 2(1)", in the first place it appears, insert "or paragraph 2(1A)";

(b) in sub-paragraph (a), for "immediately informed the Board of this action" substitute "informed the Board of this action as soon as practicable";

(c) for sub-paragraph (b) substitute –

"(b) he provided the drugs and medicines or listed appliances pursuant to paragraph (2)(1) or paragraph (2)(1A) but had reason to believe at that time or subsequently came to have reason to believe that the order was not a genuine order for the person named on the prescription form and informed the Board of this belief as soon as practicable,"; and

(d) at the end add "and the Board has established that the order referred to in this paragraph was not a genuine order for the person named on the prescription form.".