1987 No. 247

HEALTH AND PERSONAL SOCIAL SERVICES

General Medical and Pharmaceutical Services (Amendment No. 2) Regulations (Northern Ireland) 1987

Made	*8th June 1987*
Coming into operation . .	*1st July 1987*

The Department of Health and Social Services in exercise of the powers conferred on it by Articles 63, 64, 106 and 107(6) of the Health and Personal Social Services (Northern Ireland) Order 1972(**a**) and of all other powers enabling it in that behalf and in conjunction with the Department of Finance and Personnel(**b**) and after consultation with such organisations as appeared to the Department to be representative of the Pharmaceutical profession, as required by Article 63(3) of the said Order, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the General Medical and Pharmaceutical Services (Amendment No. 2) Regulations (Northern Ireland) 1987, and shall come into operation on 1st July 1987.

(2) In these regulations "the principal regulations" means the Health and Personal Social Services (General Medical and Pharmaceutical Services) Regulations (Northern Ireland) 1973(**c**).

Amendments to the principal regulations

2. In regulation 2 (interpretation) of the principal regulations—

(1) in paragraph (1) there shall be inserted at the appropriate point in the alphabetical order the following definition:—

"pharmaceutical list" has the meaning assigned to it in regulation 37(1);

(2) in paragraph (2) the words "firm or body corporate" shall be deleted at each place where they occur.

3. In regulation 36 (Terms of service for chemists) of the principal regulations the words "which a Board is required by Article 63 of the Order to make", shall be deleted.

4. Regulation 37 (pharmaceutical list) of the principal regulations shall be deleted and the following inserted:—

(**a**) S.I. 1972/1265 (N.I. 14). As amended by S.I. 1978/1907 (N.I. 26) and S.I. 1986/2023 (N.I. 20)
(**b**) Formerly Department of Finance: *see* S.I. 1982/338 (N.I. 6) Art. 3
(**c**) S.R. & O. (N.I.) 1973 No. 421. The relevant amending regulations are S.R. 1975 No. 180, S.R. 1985 Nos. 69 and 131

"Pharmaceutical list

37.—(1) The Agency shall from information obtained from the Boards, prepare a list to be called "the pharmaceutical list" of the names of persons, other than doctors and dentists, who undertake to provide pharmaceutical services and of the addresses of the premises within the Board's area from which these persons undertake to provide such services. The said list shall also state the nature of the pharmaceutical services to be provided, and the days and hours during which the premises are open, and show chemists as a separate category within that list.

(2) A person (hereinafter referred to in this regulation as an "applicant")—

(*a*) who wishes to be included in the pharmaceutical list for the provision of pharmaceutical services; or

(*b*) whose name is already included in the pharmaceutical list, but who intends—

(i) to open within the Board's area, additional premises from which to provide pharmaceutical services, or

(ii) to relocate within the Board's area, the premises from which he provides pharmaceutical services, or

(iii) to provide pharmaceutical services other than those already listed in relation to him from premises which are already included in the pharmaceutical list,

shall apply to the Board in accordance with whichever version of Form A set out in Part I (chemists) or in Part II (persons other than chemists) of Schedule 4A is appropriate.

(3) Where an application is made and—

(*a*) the applicant intends to provide the same pharmaceutical services from premises from which, at the time of the application, another person whose name is included in the pharmaceutical list provides those services, in place of that person, or

(*b*) the applicant intends to relocate, within the neighbourhood in which he provides pharmaceutical services, the premises already listed in relation to him and to provide from those premises the same pharmaceutical services and the Board is fully satisfied that the relocation is minor,

and, in either case, the provision of those particular pharmaceutical services will not be interrupted, except for any period during which, in terms of any scheme made under regulation 38(1)(*b*) that applies to him, or any such longer period as the Board may for good cause allow, the provision of such services is not required, the application shall be granted by the Board.

(4) An application made in any case other than one to which paragraph (3) applies shall be granted by the Board, after the procedures set out in Schedule 4B have been followed, only if it is satisfied that the provision of pharmaceutical services at the premises named in the application is necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located by persons whose names are included in the pharmaceutical list.

(5) Where an application is granted, it shall be in accordance with whichever version of Form C, set out in Part I (chemists) or Part II (persons other than chemists) of Schedule 4A is appropriate.

(6) Where an application is granted in accordance with paragraph (4), it shall be competent for the Board to grant it in respect of some only of the pharmaceutical services specified in that application.

(7) Where an application is granted, the Board shall ask the Agency to make the relevant entries in the pharmaceutical list only after the expiry of the period within which an appeal against the decision to grant the application might be intimated or the conclusion of all the appeal procedures, whichever is appropriate.''.

5. After regulation 37 (pharmaceutical list) of the principal regulations there shall be inserted the following regulation:—

''*Removal from pharmaceutical list*

37A.—(1) Where the Board determines in accordance with paragraph (2) that a person whose name has been included for the preceding six months in the pharmaceutical list has not during that period provided pharmaceutical services the Board shall ask the Agency to remove that person's name from the said list.

(2) Before making a determination under paragraph (1), the Board shall—

(*a*) give the person 28 days' notice of its intention so to do,

(*b*) afford the person an opportunity of making written representations to the Board,

(*c*) consult the Local Pharmaceutical Committee.

(3) Nothing in paragraphs (1) and (2) shall—

(*a*) prejudice the right of a person to apply to be included again in the pharmaceutical list, or

(*b*) affect a person who is performing a period of relevant service and in such a case no removal under paragraphs (1) and (2) shall be effected in respect of any such person until six months after he has completed that service, or

(*c*) apply before 1st January 1988 to a person whose name was in the pharmaceutical list on 30th June 1987.''.

6. In regulation 38 (schemes for securing proper pharmaceutical services) of the principal regulations—

(*a*) in sub-paragraph (1)(*b*) the words ''each neighbourhood'' shall be deleted and the words ''the area of the Board'' inserted in their place;

(*b*) paragraph (2) shall be deleted and the following inserted:—

''(2) In the event of the Agency, the Boards and the Local Pharmaceutical Committee failing to agree on any provision to be prepared under sub-paragraph 1(*b*) the matter shall be referred to the Department whose determination shall be final.'';

(*c*) in paragraph (3) the words "any such scheme" shall be deleted and the words "schemes prepared under sub-paragraph (1)(*b*)" inserted in their place;

(*d*) paragraph (4) shall be deleted and the following inserted:—

"(4) Where the Agency after consultation with the Boards and the Local Pharmaceutical Committee, amends the provisions of a scheme prepared under sub-paragraph (1)(*b*), the Local Pharmaceutical Committee or any person whose name is included in the pharmaceutical list may appeal in respect of any such amendment and any such appeal—

(*a*) shall be made in writing and received by the Board within 21 days from the date on which notification of that amendment was published; and

(*b*) may be determined by the Department, or if it so decides, in accordance with paragraph 4(3) to (5) and paragraphs 14 to 20 of Schedule 4B.".

7. In regulation 40 (prices and standards of drugs and appliances), of the principal regulations, there shall be inserted after paragraph (*f*) the following paragraph:—

"(*g*) A chemist whose name is included in the pharmaceutical list shall supply, in response to a request from the Department and within one month of the notification of the request, any information which the Department may require for the purpose of conducting any inquiry into the prices, payments, fees, allowances and remuneration specified in this regulation.".

8. In Schedule 4 (Terms of service for chemists) to the principal regulations—

(*a*) in paragraph 4(1) (Places and hours of business) for the expressions "place or places of business", "place or places", "each place of business", there shall be inserted the word "premises";

(*b*) paragraph 4(2) shall be deleted and the following inserted:—

"(2) At every premises at which pharmaceutical services are provided there shall be exhibited a notice on a form approved by the Department and available from the Agency, or a form to the like effect. There shall also be exhibited at such premises at times when those premises are not open, and in such manner as to be visible at such times, a notice to be provided by the Agency, indicating the facilities available for securing the dispensing of medicines urgently required.";

(*c*) in paragraph 4(3) for the expression "place or places of business" there shall be inserted the word "premises";

(*d*) in paragraph 4(4) for the words "place of business is" there shall be inserted the words "premises are".

9. After Schedule 4 to the principal regulations there shall be inserted Schedule 4A and Schedule 4B as set out in the Schedule to these regulations.

Transitional provisions

10.—(1) Subject to paragraph (2) where, before the date of the coming into operation of these regulations, there is received by a Board an application to which the principal regulations, as in operation immediately before that date, apply, but such application is not determined before that date, that application shall be determined by the Board in accordance with the provisions of the principal regulations as in operation immediately before that date, but such a determination may be made in accordance with this paragraph only if made within a period of six months from the date of the coming into operation of these regulations.

(2) Where an application to which paragraph (1) applies is granted, it shall be a condition of such grant that the applicant shall commence to provide pharmaceutical services, in accordance with the terms of service for the time being in operation, within six months of the date of the coming into operation of these regulations, otherwise the said grant shall immediately upon the expiry of the period of six months be thereby revoked and the applicant's name shall be removed forthwith from the pharmaceutical list in respect of the premises and services which were the subject of such application.

Sealed with the Official Seal of the Department of Health and Social Services on 8th June 1987.

(L.S.) *R. W. McQuiston*
Assistant Secretary

Sealed with the Official Seal of the Department of Finance and Personnel on 8th June 1987.

(L.S.) *R. G. Smartt*
Assistant Secretary