STATUTORY INSTRUMENTS

1992 No. 662

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (Pharmaceutical Services) Regulations 1992

Made - - - -	*10th March 1992*
Laid before Parliament	*11th March 1992*
Coming into force - -	*1st April 1992*

The Secretary of State, in exercise of the powers conferred by the provisions set out in column (1) of Schedule 1 to this instrument, as amended in particular by the provisions set out in column (2) of that Schedule, and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the National Health Service (Pharmaceutical Services) Regulations 1992 and shall come into force on 1st April 1992.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

"the Act" means the National Health Service Act 1977(**1**);

"appliance" means an appliance which is included in a list for the time being approved by the Secretary of State for the purposes of section 41 of the Act(**2**);

(**1**) 1977 c. 49.

(**2**) Section 41 was amended by the Health Service Act 1980 (c. 53), section 20(1), Schedule 1, paragraph 53, and Schedule 7 and by Schedule 9 to the National Health Service and Community Care Act 1990 (c. 19) and by S.I. 1985/39, article 7(13).

"appropriate non-proprietary name" means a non-proprietary name which is not mentioned in Schedule 10 to the Medical Regulations or, except where the conditions in paragraph 44(2) of the doctors' terms of service are satisfied, in Schedule 11 to those Regulations;

"Community Health Council" means a body of that name established in accordance with section 20 of the Act(**3**);

"chemical reagent" means a chemical reagent included in a list for the time being approved by the Secretary of State for the purposes of section 41 of the Act;

"chemist" means—

(a) a registered pharmacist;

(b) a person lawfully conducting a retail pharmacy business in accordance with section 69 of the Medicines Act 1968(**4**); or

(c) a supplier of appliances; who is included in the list of an FHSA under section 42 of the Act;

"child" means a person who has not attained the age of 16 years;

"controlled locality" means an area which an FHSA or, on appeal, the Secretary of State has determined is rural in character in accordance with regulation 9 or, as the case may be, 10;

"dentist" means a dental practitioner;

"doctor" means a medical practitioner;

"doctors' terms of service" means the terms of service contained in Schedule 2 to the Medical Regulations;

"drugs" includes medicines;

"Drug Tariff" has the meaning given to it in regulation 18;

"FHSA" means a Family Health Services Authority;

"Family Health Services Authority" means a body of that name established by the Secretary of State under section 10(1) of the Act(**5**);

"finally granted" and "final grant" have the meaning given to them in regulation 12(16) and "finally refused" and "finally determined" shall be construed accord ingly;

"joint services committee" shall have the same meaning as in the National Health Service (Service Committees and Tribunal) Regulations 1992(**6**);

"listed drugs" means the drugs included in a list for the time being approved by the Secretary of State for the purposes of section 41(c) of the Act;

"Local Dental Committee" means a committee recognised under section 44 of the Act(**7**) as being representative of persons providing general dental services in a locality;

"Local Medical Committee" means a committee recognised under section 44 of the Act as being representative of persons providing general medical services in a locality;

"Local Pharmaceutical Committee" means a committee recognised under section 44 of the Act as being representative of persons providing pharmaceutical services in a locality;

(**3**) Section 20 was amended by the Health Services Act 1980 (c. 53), Schedule 1, paragraph 40.
(**4**) 1968 c. 67.
(**5**) Section 10 was substituted by section 5(1) of the Health and Social Security Act 1984 (c. 48) and amended by section 2(3) of the National Health Service and Community Care Act 1990 (c. 19). By virtue of section 2(1)(b) of the National Health Service and Community Care Act 1990, references in any Act to a Family Practitioners Committee fall to be construed as references to Family Health Services Authority.
(**6**) S.I. 1992/664.
(**7**) Section 44 was amended by section 12(4) of the National Health Service and Community Care Act 1990 (c. 19).

"locality", except in the expression "controlled locality", means the locality for which an FHSA is established;

"medical list" means a list, prepared under section 29 of the Act, of medical practitioners who have undertaken to provide general medical services(**8**);

"Medical Regulations" means the National Health Service (General Medical Services) Regulations 1992(**9**);

"non-proprietary name", in relation to a drug, means—

(a) where the drug is described in a monograph in the current edition (as defined in section 103(5) of the Medicines Act 1968(**10**)), as in force at the time of the supply of the drug, of the European Pharmacopoeia, the British Pharmacopoeia, the British Pharmaceutical Codex, the British National Formulary, the International Pharmacopoeia, the Cumulative List of Recommended International Non-proprietary Names or the Dental Practi tioners' Formulary, any name, or abbreviation of such name, at the head of that monograph or, where such name consists of two or more words, any name derived from a suitable inversion of such words which is permitted by that publication; or

(b) where the drug is not so described but has an approved name, being the name which appears in the current edition (as defined in section 103(5) of the Medicines Act 1968) of the list of names prepared and published under section 100 of that Act, as in force at the time of the supply of the drug, such approved name;

"outline consent" has the meaning given to it in regulation 21(1);

"patient" has the same meaning as in paragraph 4 of Schedule 2 to the Medical Regulations;

"pharmaceutical list" shall be construed in accordance with regulation 4;

"pharmaceutical service committee" shall have the same meaning as in the National Health Service (Service Committees and Tribunal) Regulations 1992(**11**);

"pharmacist" means a registered pharmacist, other than a supplier of appliances only, whose name is included in the list of an FHSA under section 42 of the Act or who is employed by a person (including a body corporate) whose name is so included;

"pharmacy" means any premises where drugs are provided by a pharmacist pursuant to arrangements made under section 41 of the Act;

"preliminary consent" has the meaning given to it in regulation 14(1);

"prescription form" means a form provided by a health authority or by an FHSA, and issued by a doctor or dentist to enable a person to obtain pharmaceutical services;

"relevant service" means—

(a) whole-time service in the armed forces of the Crown in a national emergency, whether as a volunteer or otherwise;

(b) compulsory whole-time service in those forces, including service resulting from any reserve liability; or

(c) any equivalent service by a person liable for compulsory whole-time service in those forces;

"Scheduled drug" means a drug or other substance specified in Schedule 10 to the Medical Regulations or, except where the conditions in paragraph 44(2) of the doctors' terms of service are satisfied, Schedule 11 to those Regulations;

(**8**) See S.I. 1992/635, regulation 4.
(**9**) S.I. 1992/635.
(**10**) Section 103(5) was amended by the Health and Medicines Act 1988, section 22(4).
(**11**) S.I. 1992/664.

"terms of service" means the terms of service contained or referred to—

(a) in relation to chemists, in Parts I and II of Schedule 2,

(b) in relation to doctors who provide pharmaceutical services, in Parts I and III of Schedule 2.

(2) Except where expressly provided to the contrary, any document which is required or authorised to be given or sent to a person or body under these Regulations may be given or sent by delivering it to the person or, in the case of a body, to the secretary or general manager of that body, or by sending it in a pre-paid letter addressed to that person or, in the case of a body, to the secretary or general manager of that body at his usual or last known address.

(3) Unless the context otherwise requires—

(a) any reference in these Regulations—

(i) to a numbered regulation is a reference to the regulation bearing that number in these Regulations,

(ii) to a numbered Part or Schedule is a reference to the Part of, or the Schedule to, these Regulations bearing that number,

(iii) to a form thereby prescribed includes a form substantially the same;

(b) any reference in a regulation in, or in a Schedule to, these Regulations to a numbered paragraph is a reference to the paragraph bearing that number in that regulation or Schedule.

(4) Where, by virtue of directions given under section 13 of the Act, or by virtue of any arrangements made pursuant to Regulations made under the Act, a function of the Secretary of State is exercisable by some other person or body, a reference in these Regulations to the Secretary of State in relation to that function includes a reference to the person or body exercising that function on behalf of the Secretary of State(**12**).

Terms of service

3. The arrangements for the provision of pharmaceutical services which it is the duty of an FHSA, under sections 41 to 43 of the Act(**13**), to make and, under section 15(1) of the Act(**14**), to administer shall incorporate the terms of service.

PART II

PROVISION OF PHARMACEUTICAL SERVICES BY CHEMISTS

Pharmaceutical lists

4.—(1) An FHSA shall prepare lists, to be called pharmaceutical lists, of the persons, other than doctors and dentists—

(a) whose applications to be included in a pharmaceutical list have been granted by the FHSA, subject to and in accordance with the provisions of these Regulations, and who accordingly

(**12**) See S.I. 1992/660.

(**13**) Section 41 was amended by section 20(1) of, and by paragraph 53 of Schedule 1 and by Schedule 7 to the Health Services Act 1980 (c. 53) and by S.I. 1985/39, article 7(13); section 42 was substituted by section 3(1) of the National Health Service (Amendment) Act 1986 (c. 66) and amended by S.I. 1987/2202, article 4; section 43 was amended by S.I. 1987/39, article 7(15). Sections 41 and 43 were amended by paragraph 18 of Schedule 9 to the National Health Service and Community Care Act 1990 (c. 19).

(**14**) Section 15(1) was amended by the Health Services Act 1980 (c. 53). Schedule 1, paragraphs 35 and 90, and by the Health and Social Security Act 1984 (c. 48), section 5(2) and Schedule 8, Part I.

undertake to provide pharmaceutical services from premises in the FHSA's locality by way of the provision of drugs; and

(b) whose applications to be included in a pharmaceutical list have been granted by the FHSA, subject to and in accordance with the provisions of these Regulations, and who accordingly undertake to provide pharmaceutical services from premises in the FHSA's locality by way of the provision of appliances,

and each such list shall contain the addresses of premises in the FHSA's locality from which those services are provided and particulars of the days and hours at which those premises are open for such provision and, in the case of a list referred to in sub-paragraph (a) of this paragraph, shall indicate whether or not the chemist has undertaken to provide supplemental services under regulation 16.

(2) A person, other than a doctor or dentist—

(a) who wishes to be included in a pharmaceutical list for the provision of pharmaceutical services from premises in an FHSA's locality; or

(b) who is already included in a pharmaceutical list but wishes—

(i) to open, within an FHSA's locality, additional premises from which to provide the same or different pharmaceutical services,

(ii) to change the premises from which he provides pharmaceutical services to other premises within that locality from which he wishes to provide the same or different pharmaceutical services, or

(iii) to provide from his existing premises in that locality pharmaceutical services other than those already listed in relation to him,

shall apply to the FHSA in the form set out in Part I of Schedule 3, and in this regulation "applicant" and "application" shall be construed accordingly.

(3) In the case of any application under paragraph (2), where the applicant intends—

(a) to change within the neighbourhood the premises from which he provides pharmaceutical services, being the same services as he intends to provide from the new premises, and the FHSA is satisfied that the change is a minor relocation; or

(b) to provide pharmaceutical services at premises from which those services are, at the time of the application, provided by a person who is included in a pharmaceutical list prepared by the FHSA in accordance with paragraph (1)(a) or (b), and the FHSA is satisfied that the same services will be provided from those premises,

and, in either case, the provision of pharmaceutical services will not be interrupted (except for such period as the FHSA may for good cause allow), the application shall be granted by the FHSA, subject, in a case falling within sub-paragraph (b) above, to paragraph (5).

(4) An application in any case other than those specified in paragraph (3) shall be granted by the FHSA only if it is satisfied that it is necessary or desirable to grant the application in order to secure, in the neighbourhood in which the premises from which the applicant intends to provide the services are located, the adequate provision, by persons included in the list, of the services, or some of the services, specified in the application.

(5) An application, other than one to which paragraph (3)(a) applies, which is made by a person who qualified to have his name registered under the Pharmacy Act 1954(**15**) by virtue of section 4A of that Act (qualification by European diploma) shall not be granted unless the applicant satisfies the FHSA that he has the knowledge of English which, in the interests of himself and persons making use of the services to which the application relates, is necessary for the provision of pharmaceutical services in the FHSA's locality.

(**15**) 1954 c. 61. Section 4A was inserted by S.I. 1987/2202, Article 2(4).

(6) An application to an FHSA may be granted either in respect of all, or in respect of some only, of the services specified in it.

(7) Subject to paragraph (8), any question whether an application should or should not be granted (whether in respect of some or all of the services specified in it) in accordance with the provisions of paragraphs (3) to (6), shall be determined by the FHSA in accordance with the procedure set out in regulations 5, 6, 7 and 8.

(8) Where, by virtue of regulation 11, an application is one which falls to be determined in accordance with regulation 12, the FHSA shall not include the applicant in the relevant pharmaceutical list unless the application is finally granted under the provisions of regulation 12(16).

(9) Where an application is granted by the FHSA, the applicant shall be included in the relevant pharmaceutical list or lists only if, not less than 14 days before the expiry of six months after the date on which the grant was notified to him by the FHSA in accordance with regulation 7, or of such further period or periods, not in all exceeding 24 months from the date of the grant, as it, or, on appeal the Secretary of State, may for good cause allow, he notifies the FHSA, in the form set out in Part II of Schedule 3, that he will, within the next 14 days, commence the provision of the services in respect of which the application was made at the premises to which the application related.

(10) Where, at any time after making the application, but before the expiry of the six months referred to in paragraph (9), or of any further period allowed by the FHSA or, on appeal, by the Secretary of State in accordance with that paragraph, the applicant notifies the FHSA that he intends to change within the neighbourhood the premises from which he intends to provide pharmaceutical services, being the same services as those named in the application, and the FHSA is satisfied that the change is a minor relocation, it may amend the premises named in the original application.

(11) For the purposes of regulation 4(9), the date of the notification of a grant of any application shall be—

(a) where no appeal is made under regulation 8(3) against the decision of the FHSA, the day after the expiry of the period of 30 days beginning on the date on which notice of that decision is given under regulation 7(1);

(b) where such an appeal is made, the date on which the Secretary of State gives notice of his decision under regulation 8(15).

Notification of applications

5.—(1) Where, on receiving an application under regulation 4(2), an FHSA is satisfied that the application is one to which regulation 4(4) applies, it shall, as soon as is practicable, give notice in writing, of the application, to—

(a) the Local Pharmaceutical Committee;

(b) the Local Medical Committee;

(c) any person who is included in a pharmaceutical list and whose interests might, in the opinion of the FHSA, be significantly affected if the application were granted;

(d) any FHSA any part of whose locality is within two kilometres of the premises; and

(e) any Community Health Council serving the locality of the FHSA or of any other FHSA notified under sub-paragraph (d),

and any person so notified may, within 30 days from the date on which the notification was sent, make representations in writing to the FHSA.

(2) An FHSA which is notified under paragraph (1)(d) shall, as soon as is practicable, give notice in writing, of the application, to—

(a) the Local Pharmaceutical Committee for its locality;

(b) the Local Medical Committee for its locality; and

(c) any person whose name is included in a pharmaceutical list and whose interests might, in the opinion of the FHSA, be significantly affected if the application were granted,

and any person so notified may, within 30 days from the date on which the notification was sent, make representations in writing to the FHSA to which the application was made.

(3) Any notice given under paragraph (1) or (2) shall include a notification of the right to make representations in accordance with that paragraph.

Determination of applications

6.—(1) In considering any application to which regulation 4(4) applies, an FHSA shall have regard in particular to—

(a) whether or not any of the pharmaceutical services specified in the application are already provided by persons included in a pharmaceutical list in the neighbourhood in which the premises named in the application are located;

(b) any information available to the FHSA which, in its opinion, is relevant to the consideration of the application; and

(c) any representations received by the FHSA under regulation 5(1) or (2).

(2) The FHSA may determine an application in such manner as it thinks fit and may, if it considers that oral representations are unnecessary, determine the application without hearing any oral representations.

(3) In any case where the FHSA decides to hear oral representations, it shall give the applicant and any person from whom it has received representations under regulation 5(1) or (2) not less than 14 days notice of the time and place at which the oral representations are to be heard.

(4) The applicant and any person mentioned in paragraph (3) may be assisted at any such hearing in the presentation of his representations by some other person, but no person shall be entitled to be heard in the capacity of counsel or solicitor.

(5) The procedure by which representations are heard shall be such as the FHSA may determine.

(6) No person who provides or assists in providing general medical services or pharmaceutical services under Part II of the Act shall take part in any decision under this regulation.

(7) The FHSA may, where it thinks fit, consider two or more applications together in relation to each other, and, where it proposes to do so, it shall give notice in writing to the applicants and any persons to whom copies of the application were sent under regulation 5(1).

Notification of decisions

7.—(1) An FHSA shall, as soon as practicable, give notice in writing of its decision on an application under regulation 4(2), or of its decision whether or not to amend the premises named in the original application as mentioned in regulation 4(10), to—

(a) in the case of an application to which regulation 4(3) or (10) applies—

(i) the applicant,

(ii) any person who is included in a pharmaceutical list and whose interests might, in the opinion of the FHSA, be significantly affected by the decision,

(iii) the Local Pharmaceutical Committee,

(iv) the Local Medical Committee,

(v) any FHSA any part of whose locality is within two kilometres of the premises, and

(vi) any Community Health Council serving the locality of the FHSA or of any other FHSA notified under regulation 5(1)(d); and

(b) in the case of an application to which regulation 4(4) applies—

(i) the applicant, and

(ii) any person who has made representations to the FHSA in accordance with regulation 5(1) or (2),

and shall include with the notice a statement of the reasons for the decision and of any rights of appeal.

(2) Any FHSA which is notified under sub-paragraph (1)(a)(v) shall, as soon as practicable, give notice in writing of the decision and reasons to—

(a) the Local Pharmaceutical Committee for its locality;

(b) the Local Medical Committee for its locality; and

(c) any person whose name is included in the pharmaceutical list and whose interests might in the opinion of that Authority be significantly affected by the decision;

and shall notify them of any rights of appeal arising under regulation 8.

Appeals

8.—(1) Where an FHSA has determined an application to which regulation 4(3) applied or made a decision whether or not to amend the premises named in the original application as mentioned in regulation 4(10), the applicant and any person who has been notified of the decision under regulation 7(1)(a)(ii) or regulation 7(2)(c) may appeal to the Secretary of State.

(2) Where an FHSA has determined an application to which regulation 4(4) applied, the persons who may appeal to the Secretary of State are—

(a) the applicant; and

(b) any person who—

(i) has been notified of the decision under regulation 7(1)(a)(ii) or regulation 7(2)(c), and

(ii) made representations to the FHSA in accordance with regulation 5(1) or (2).

(3) Where an FHSA refuses to allow an extension to the period within which an applicant is to notify the FHSA that he will commence the provision of services, as mentioned in regulation 4(9), the applicant may appeal to the Secretary of State.

(4) Any appeal under this regulation shall be made by sending to the Secretary of State a notice of appeal in writing within 30 days from the date on which the FHSA sent its decision to the appellant or, in the case of an appeal against a determination to which regulation 4(3) applied or a decision pursuant to regulation 4(10), such longer period as the Secretary of State may for reasonable cause allow.

(5) Where in determining an application, an FHSA has, pursuant to regulation 6(7), considered that application together with one or more other applications, any of the applicants and any of the persons mentioned in paragraph (1) or (2) may appeal against the determination of any of the applications, and where the Secretary of State receives appeals against two or more of the determinations, those appeals shall be considered together.

(6) Any notice of appeal made under this regulation shall contain a concise statement of the grounds of appeal.

(7) If the Secretary of State, after considering the notice of appeal, is of the opinion that it discloses no reasonable grounds of appeal or that the appeal is otherwise vexatious or frivolous, he may determine the appeal by dismissing it.

(8) Unless paragraph (7) applies, the Secretary of State shall send a copy of the notice of appeal to the FHSA whose determination is appealed against and—

(a) in the case of an appeal to which paragraph (1) or (3) relates, to the persons mentioned in regulation 7(1)(a); or

(b) in the case of an appeal to which paragraph (2) relates, to the persons mentioned in regulation 7(1)(b).

(9) Any person to whom a copy of the notice of appeal is sent pursuant to paragraph (8) may, within 30 days from the date on which the notice was sent to him, make representations in writing to the Secretary of State on the appeal.

(10) The Secretary of State may require an oral hearing before he determines the appeal.

(11) The Secretary of State shall, where he requires an oral hearing, appoint one or more persons to hear the appeal and to report to him on it.

(12) The procedure of any oral hearing shall be determined by the person or persons hearing the appeal.

(13) An oral hearing shall take place at such time and place as the Secretary of State may direct, and notice of the hearing shall be sent, not less than 14 days before the date fixed for the hearing, to the appellant and to any person to whom a copy of the notice of appeal was sent under paragraph (8).

(14) The appellant and any person to whom a notice of the hearing is sent under paragraph (13) may attend the hearing and be heard in person or by counsel, solicitor or other representative, and the FHSA may be represented at the hearing by any duly authorised officer or member, or by counsel or solicitor.

(15) On determining an appeal under this regulation, the Secretary of State shall either—

(a) allow the appeal; or

(b) confirm the decision of the FHSA.

(16) The Secretary of State shall, as soon as practicable, send to the appellant and to any person to whom a copy of the notice of appeal was sent pursuant to paragraph (8) and who made representations under paragraph (9) notice in writing of his decision on the appeal and shall include in the notice a statement of his reasons for the decision and of his findings of fact.

Determination of controlled locality

9.—(1) Where, before the coming into force of these Regulations, it was determined under any provision of regulations revoked by and not re-enacted in these Regulations, that an area was a controlled locality, subject to the provisions of this regulation, that area shall continue to be a controlled locality.

(2) Subject to paragraph (11), an FHSA may at any time consider and determine whether or not an area is rural in character.

(3) A Local Medical Committee or a Local Pharmaceutical Committee may at any time apply in writing to an FHSA to consider and determine whether or not an area specified in the application is rural in character.

(4) On receiving an application under paragraph (3) the FHSA shall, subject to paragraph (11), consider and determine whether or not the area specified in the application or any part of such area is rural in character.

(5) The FHSA shall, before making a determination under this regulation, give notice in writing to the Local Medical Committee, the Local Pharmaceutical Committee and any doctor or chemist who, in the opinion of the FHSA, may be affected by the determination, and shall inform them that they may make representations in writing within 30 days from the date on which the notice was sent.

(6) Where the FHSA determines that any area of part of an area is or is not rural in character, it shall consider whether the provision of general medical services by any doctor, or pharmaceutical services by any chemist, is likely to be adversely affected in consequence of that determination.

(7) Where the FHSA considers that the provision of general medical services by any doctor or pharmaceutical services by any chemist is likely to be adversely affected in consequence of a determination under paragraph (4), it may impose conditions to postpone, for such period as it thinks fit, the making or termination of arrangements under regulation 20 for the provision by a doctor of pharmaceutical services to his patients.

(8) The FHSA shall determine the boundaries of any area or part of an area referred to in the application which it determines to be rural in character, and—

(a) any area determined to be rural in character by the FHSA or, on appeal under regulation 10, by the Secretary of State shall be a controlled locality; and

(b) the FHSA shall delineate precisely the boundaries of any controlled locality on a map.

(9) Any area forming part of an area referred to in an application under paragraph (3) which is determined not to be rural in character shall not be or, as the case may require, shall cease to be a controlled locality.

(10) The FHSA shall not in consequence of a determination under paragraph (4)—

(a) include any particulars in a pharmaceutical list;

(b) give notice to a doctor pursuant to regulation 20(6); or

(c) determine an application under regulation 12,

during the period for bringing an appeal or pending the determination of any such appeal.

(11) Subject to paragraph (12), where the question whether or not an area is rural in character has been determined—

(a) by an FHSA under this regulation; or

(b) on appeal, under regulation 10,

that question shall not again be considered in relation to that area or any part of it during the period of five years immediately following the date of the determination.

(12) A question to which paragraph (11) applies may be considered by an FHSA during the period referred to in that paragraph only where it is satisfied, whether on an application under paragraph (3) or otherwise, that there has been a substantial change of circumstances in relation to the area in question, or the relevant part of it, since the question was last determined.

(13) The FHSA shall, upon any determination by it under this regulation, give to the persons mentioned in paragraph (5) notice in writing of its determination and of the reasons for it, and shall inform the Local Medical Committee and Local Pharmaceutical Committee that they may appeal to the Secretary of State in accordance with regulation 10.

Appeals relating to rurality of an area

10.—(1) Where an FHSA—

(a) has determined, pursuant to regulation 9, that an area is, or is not, rural in character;

(b) has refused to consider that question on the ground that it is not satisfied as mentioned in paragraph (12) of that regulation; or

(c) has determined that it should, or should not, postpone the making or determination of arrangements, as mentioned in paragraph (7) of that regulation,

the Local Medical Committee or the Local Pharmaceutical Committee may appeal to the Secretary of State against any such determination or, as the case may be, refusal, by giving notice of appeal in accordance with paragraph (2).

(2) Any notice of appeal under paragraph (1) shall be sent to the Secretary of State, within 30 days of the date on which the decision of the FHSA was sent to the Local Medical Committee or

the Local Pharmaceutical Committee making the appeal, and shall contain a concise statement of the grounds of appeal.

(3) The Secretary of State shall, on receipt of any notice of appeal under this regulation, send copies thereof to the FHSA and to all the persons to whom it has given notice of its determination under regulation 9(13).

(4) The FHSA and the persons to whom the notice of appeal was sent under paragraph (3) may, within 30 days from the date on which the Secretary of State sent copies to them of the notice of appeal under this regulation, make representations in writing to him on the appeal.

(5) The Secretary of State may require an oral hearing before he determines an appeal under this regulation.

(6) The Secretary of State shall, where he requires an oral hearing, appoint one or more persons to hear the appeal and to report to him on it.

(7) The procedure at any oral hearing shall be determined by the person or persons hearing the appeal.

(8) An oral hearing shall take place at such time and place as the Secretary of State may direct, and notice of the hearing shall be sent, not less than 14 days before the date fixed for the hearing, to the appellant and to any person to whom a copy of the notice of appeal was sent under paragraph (3).

(9) The appellant and any person to whom a notice of the hearing is sent under paragraph (8) may attend the hearing and be heard in person or by counsel, solicitor or other representative, and the FHSA may be represented at the hearing by any duly authorised officer or member, or by counsel or solicitor.

(10) On determining an appeal under this regulation, the Secretary of State—

(a) shall, where he allows an appeal against a refusal mentioned in paragraph (1)(b), also determine the question whether or not the relevant area is rural in character;

(b) may, in a case where the FHSA, on determining the application, considered the question whether to postpone the making or termination of arrangements under regulation 20 for the provision by a doctor of pharmaceutical services to his patients, himself postpone, for such a period as he thinks fit, the making or termination of such arrangements;

(c) shall, in a case where that question was not considered by the FHSA when it determined the application, remit the question to the FHSA for determination.

(11) The Secretary of State shall, upon the determination by him of an appeal under this regulation, give notice of the decision in writing, together with his reasons for it, to all the persons to whom the notice of appeal was sent under paragraph (3).

Applications for inclusion in pharmaceutical lists in respect of controlled localities

11.—(1) Subject to paragraph (4), where the premises specified in an application under regulation 4(2)(a) are in a controlled locality, that application shall be determined in accordance with regulation 12 unless—

(a) the applicant is seeking only to change within that controlled locality the premises at which he provides pharmaceutical services; and

(b) the granting of the application would not, in the view of the FHSA, result in a significant change in the arrangements for the provision of pharmaceutical services in any part of a controlled locality.

(2) Subject to paragraph (4), where—

(a) the premises specified in an application under regulation 4(2)(a) (not being in a controlled locality) are within one mile of any part of any controlled locality in which reside patients for whom a doctor provides pharmaceutical services; and

(b) the granting of the application would, in the view of the FHSA, result in a significant change in the arrangements for the provision of pharmaceutical services in any part of a controlled locality,

the FHSA shall, where it grants the application, consider the conditions (if any) which are to be imposed in relation to that grant under regulation 12(15) and, pending the final determination of such conditions, shall not in consequence of the grant give notice to any doctor to discontinue the provision of pharmaceutical services to any patient.

(3) Where the premises specified in an application under regulation 4(2)(a) are within one mile of the locality of another FHSA, the FHSA shall make enquiries as to controlled localities in that locality in order to determine—

(a) whether the application is of the description specified in paragraph (2); and

(b) which controlled localities are to be considered for the purposes of paragraph (1)(b) or (2)(b),

and where it is satisfied that there is a relevant controlled locality in that locality, it shall consult that other FHSA before forming a view for the purposes of paragraph (1)(b) or (2)(b).

(4) An application shall not be determined under regulation 12—

(a) where regulation 15 applies; or

(b) where the applicant intends to provide pharmaceutical services in the place of, and at the same location as, another person who provides pharmaceutical services.

Determination of applications in respect of controlled localities

12.—(1) Where an FHSA receives an application which it is required, by virtue of regulation 11, 14(3) or 21, to determine in accordance with the provisions of this regulation, it shall send a notice of the application and a copy of the application to—

(a) the Local Medical Committee;

(b) the Local Pharmaceutical Committee;

(c) any person whose name is included in the medical list or the pharmaceutical list of the FHSA who, in its opinion, might be affected by the grant of the application;

(d) any other FHSA in whose medical list or pharmaceutical list is included the name of a person who, in the opinion of the FHSA, might be so affected; and

(e) any Community Health Council serving the locality of the FHSA or of any other FHSA notified under sub-paragraph (d).

(2) Where an FHSA is sent a copy of an application under paragraph (1)(d), it shall, as soon as practicable, send a copy to—

(a) the Local Medical Committee for its locality;

(b) the Local Pharmaceutical Committee for its locality; and

(c) any person whose name is included in its medical list or pharmaceutical list who might, in its opinion, be affected by the grant of the application.

(3) Any person to whom an FHSA has sent a copy of the application may, within 30 days of the date on which that copy was sent to him make representations in writing to the FHSA to which the application was made.

(4) Any other person who considers that he might be affected by the decision on the application may, within such reasonable period as the FHSA to whom the application was made may allow, make representations in writing to it.

(5) The FHSA may determine an application in such manner as it thinks fit and may, if it considers that oral representations are unnecessary, determine the application without hearing any oral representations.

(6) In any case where the FHSA decides to hear oral representations, it shall give the applicant and any person from whom it has received representations under paragraph (3) or (4) not less than 14 days notice of the time and place at which the representations are to be heard.

(7) The FHSA may invite any other person to give oral evidence as it thinks fit.

(8) The applicant and any person mentioned in paragraph (6) may be assisted at any such hearing in the presentation of his representations by some other person, but no person shall be entitled to be heard in the capacity of counsel or solicitor.

(9) The procedure by which representations are heard shall be such as the FHSA may determine.

(10) No person who provides or assists in providing general medical services or pharmaceutical services under Part II of the Act shall take part in any decision under this regulation.

(11) The FHSA shall, as soon as practicable after determining the application, give notice in writing—

(a) of its decision and the reasons for that decision to—

(i) the applicant,

(ii) the Local Medical Committee,

(iii) the Local Pharmaceutical Committee,

(iv) any other FHSA to which notice was sent pursuant to paragraph (1)(d),

(v) any Local Medical Committee or Local Pharmaceutical Committee notified pursuant to paragraph (2)(a), and

(vi) any other person who has given evidence under the provisions of paragraph (3) or (4); and

(b) of the rights of appeal arising under regulation 13 to—

(i) the applicant, and

(ii) any person who gave evidence under the provisions of paragraph (3).

(12) The FHSA may, where it thinks fit, consider two or more applications together in relation to each other, and, where it proposes to do so, it shall so inform the applicants and the persons to whom copies of the applications were sent under this regulation.

(13) The FHSA—

(a) shall refuse an application to the extent that it is of the opinion that to grant it would prejudice the proper provision of general medical services or pharmaceu tical services in any locality;

(b) shall refuse an application under regulation 21 in relation to any part of the area specified in the application—

(i) which is not in a controlled locality, or

(ii) which is within one mile of any pharmacy; and

(c) may refuse an application in a case to which paragraph (12) applies (notwithstanding that it would, if determining that application in isolation, grant it) where the number of applications is such, or the circumstances in which they are made are such, that to grant all (or more than one of them) would prejudice the proper provision of general medical services or pharmaceutical services in any locality;

and any refusal of such an application may relate to all or any part of the area within the controlled locality.

(14) Subject to paragraph (13) and to regulation 4(4), the FHSA shall grant every application and shall consider whether the provision of general medical services by any doctor or pharmaceutical services by any chemist is likely to be adversely affected in consequence of that grant.

(15) Where the FHSA considers that the provision of general medical services by any doctor or pharmaceutical services by any chemist is likely to be adversely affected in consequence of a grant under paragraph (14), it may impose conditions to postpone, for such period as it thinks fit, the making or termination of arrangements under regulation 20 for the provision by a doctor of pharmaceutical services to his patients.

(16) An application granted in accordance with the provisions of this regulation shall not be treated as finally granted for the purposes of these Regulations until the end of the period for bringing an appeal under regulation 13 or until the determination of any such appeal, whichever is the later, and "final grant" shall be construed accordingly.

(17) Subject to paragraph (18), an FHSA shall not consider under this regulation—

(a) any application for outline consent under regulation 21 where, during the relevant period, an application made under that regulation in respect of the same area has been finally refused;

(b) any application to which regulation 11 or 14 applies, where the location of the premises at which the pharmacist intends to provide pharmaceutical services is in a controlled locality and—

(i) is in an area in respect of which an application under regulation 21 was finally granted during the relevant period, or

(ii) is within one mile of the location of premises in respect of which an application to which regulation 4 or 11 applies was finally refused during the relevant period.

(18) An FHSA may at any time consider an application to which paragraph (17) applies where it is satisfied that, since the date of the refusal or, as the case may be, grant referred to in paragraph (17) (a) or (b), or, where there has been more than one such refusal or grant during the relevant period, the last such refusal or grant, there has been a substantial change of circumstances affecting the controlled locality.

(19) In this regulation "relevant period" means the period of 5 years immediately preceding the making of the application.

Appeals in connection with determinations under regulation 12

13.—(1) Where an FHSA—

(a) has determined an application under regulation 12;

(b) has refused to consider an application under that regulation on the ground that it is not satisfied as mentioned in paragraph (18) of that regulation;

(c) has determined that it should, or should not, postpone the making or termination of arrangements under regulation 20, as mentioned in regulation 12(15); or

(d) has refused to consider an application for preliminary consent under regulation 14(1) on the ground that it is not satisfied as mentioned in regulation 14(4),

an appeal to the Secretary of State may be made, in accordance with paragraph (4), against that determination or, as the case may be, against that refusal, by any person specified in paragraph (2).

(2) The persons who may make an appeal under this regulation are—

(a) in the case of an appeal against a determination under regulation 12, the applicant or any person whose name is included in the medical list or a pharmaceutical list of—

(i) the FHSA, or

(ii) any other FHSA to which a copy of the application was sent under regulation 12(1)(d),

and who submitted evidence pursuant to paragraph (3) of that regulation in connection with the application; and

(b) in the case of an appeal against a refusal mentioned in paragraph (1)(b), the applicant.

(3) Where, in determining any application, an FHSA has, pursuant to regulation 12(12), considered that application together with one or more other applications, any of the applicants and any of the persons mentioned in paragraph (2)(a) may appeal against the determination of any of the applications, and where the Secretary of State receives appeals against two or more of the determinations, those appeals shall be considered together.

(4) An appeal shall be made in writing within 30 days from the date on which notice of the decision was sent to the appellant and shall contain a concise statement of the grounds of appeal upon which the appellant intends to rely.

(5) If the Secretary of State, after considering the notice of appeal, is of the opinion that it discloses no reasonable grounds of appeal or that the appeal is otherwise vexatious or frivolous, he may determine the appeal by dismissing it.

(6) Unless paragraph (5) applies, the Secretary of State shall send a copy of the notice of appeal to the FHSA whose determination is appealed against and to those persons mentioned in paragraph (2)(a).

(7) Any person to whom a copy of the notice of appeal is sent pursuant to paragraph (6) may, within 30 days from the date the copy was sent to him, make representations in writing on the appeal to the Secretary of State.

(8) The Secretary of State may require an oral hearing of an appeal before he determines it.

(9) The Secretary of State shall, where he requires an oral hearing, appoint one or more persons to hear the appeal who shall report to him thereon with recommendations as to the relevant findings of fact and their conclusions.

(10) The procedure at any oral hearing shall be determined by the person or persons hearing the appeal.

(11) An oral hearing shall take place at such time and place as the Secretary of State may direct, and notice of the hearing shall be sent, not less than 14 days before the date fixed for the hearing, to—

(a) the appellant;

(b) the FHSA;

(c) the Local Medical Committee;

(d) the Local Pharmaceutical Committee; and

(e) any other person who gave evidence to the FHSA in connection with the application.

(12) The appellant and any of the persons to whom notice of the hearing is required to be sent under paragraph (11) may attend and be heard in person or by counsel, solicitor or other representative, and the FHSA may be represented at the hearing by any duly authorised officer or member, or by counsel or solicitor.

(13) On an appeal under this regulation, the Secretary of State—

(a) may allow the appeal;

(b) may, in a case where the FHSA, on determining the application, considered the question whether to impose conditions to postpone the making or termination of arrangements under regulation 20 for the provision by a doctor of pharmaceutical services to his patients, himself impose conditions to postpone for such period as he thinks fit, the making or termination of such arrangements;

(c) shall, in a case where that question was not considered by the FHSA when it determined the application, remit the question to the FHSA for determination;

(d) shall, where he allows an appeal against a refusal of the FHSA as mentioned in paragraph (1)(b), remit the application to the FHSA and direct that regulation 12(17) shall not apply; or

(e) may dismiss the appeal.

(14) The decision of the Secretary of State shall be given in writing and shall—

(a) include a statement of his reasons for the decision and of his findings of fact; and

(b) as soon as practicable, be sent to the persons mentioned in paragraph (11).

Preliminary consent to be included in a pharmaceutical list

14.—(1) A person who wishes to be granted the right under regulation 4 to be included in a pharmaceutical list upon a subsequent application may apply to an FHSA for consent (in these Regulations referred to as "preliminary consent").

(2) An application for preliminary consent shall be in writing and shall specify—

(a) the location of the premises at which it is proposed to provide pharmaceutical services; and

(b) the pharmaceutical services which it is proposed to provide.

(3) Where any application for preliminary consent under this regulation would, if it were an application under regulation 4(2), fall, by virtue of regulation 11, to be determined in accordance with regulation 12, the provisions of regulations 12 and 13 shall apply to the determination of that application as if it were an application under regulation 4(2).

(4) An application for preliminary consent, other than an application to which paragraph (3) applies, shall be determined as if it were an application under regulation 4(2) and the provisions of regulations 4, 5, 6, 7 and 8 shall apply to that determination.

(5) A preliminary consent shall have effect for a period of 12 months from its final grant, but if, before the expiration of that period, the FHSA allows an extension for such further period as it considers reasonable in the circumstances, the preliminary consent shall have effect for such extended period.

Effect of preliminary consent

15.—(1) Subject to paragraph (2), where the applicant has been finally granted preliminary consent, the FHSA shall grant an application under regulation 4(2) provided that—

(a) the date specified for inclusion in the pharmaceutical list falls within the period referred to in regulation 14(5);

(b) the pharmaceutical services which it is proposed to provide are the same as those specified in the application for preliminary consent; and

(c) the premises specified in the application have the same location as that in respect of which the preliminary consent was granted.

(2) Where sub-paragraphs (a) and (b) of paragraph (1) are satisfied but the premises specified in the application have a different location from that in respect of which preliminary consent was granted, the FHSA shall treat the application as though it were an application under regulation 4(2)(b) to change the location of the premises.

(3) The grant of an application under this regulation shall be subject to any conditions imposed under regulation 12(15) or 13(13)(b) in relation to the final grant of the corresponding preliminary consent.

Supplemental services

16.—(1) A chemist may, in addition, undertake to provide either or both of the supplemental services specified in paragraph (2)(a) and (b).

(2) In these Regulations "supplemental services" means—

(a) where a chemist regularly provides drugs to persons resident in a home registered under the Registered Homes Act 1984(**16**) or in respect of which registration is, by virtue of section 1(5)(j) of that Act, not required—

(i) giving advice for the safe keeping and correct administration of those drugs; and

(ii) keeping records of visits made to those homes;

(b) keeping records in connection with drugs supplied to any person—

(i) who claims exemption under regulation 6(1)(c) of the National Health Service (Charges for Drugs and Appliances) Regulations 1989(**17**)(remission from charges for drugs and appliances), or

(ii) who, in the opinion of the pharmacist providing the drug, is likely to have difficulty understanding the nature and dosage of the drug provided and the times at which it is to be taken,

in circumstances where the nature of the drug is such that, in the opinion of the pharmacist providing it, the same or a similar drug is likely to be prescribed for that person regularly on future occasions.

(3) In this regulation "records" shall include—

(a) in the case of those kept for the purposes of paragraph (2)(a), a record of—

(i) the name and address of the home,

(ii) the date of each visit by the pharmacist, and

(iii) the nature of any advice given by him in the course of the visit; and

(b) in the case of those kept for the purposes of paragraph (2)(b), a record of—

(i) the name and address of the person to whom the drug is supplied,

(ii) the name, quantity and dosage of the drug provided, and

(iii) the date on which it is provided.

Removal from pharmaceutical lists

17.—(1) Where an FHSA determines that a chemist—

(a) has died; or

(b) is no longer a chemist,

the FHSA shall, subject to paragraph (2), remove his name from that list.

(2) The name of any chemist whose business is carried on by representatives in accordance with the provisions of the Pharmacy Act 1954(**18**) shall not be removed from the pharmaceutical list under paragraph (1) so long as the business is carried on by them in accordance with the provisions of that Act, and the representatives agree to be bound by the terms of service.

(3) Where an FHSA determines that a chemist, whose name has been included for the preceding six months in a pharmaceutical list, has not during that period provided pharmaceutical services, it may remove the chemist's name from that list.

(**16**) 1984 c. 23, as amended by the Registered Homes (Amendment) Act 1991 (c. 20).
(**17**) S.I. 1989/419, as amended by S.I. 1990/537.
(**18**) 1954 c. 61.

(4) Before making any determination under paragraph (3), the FHSA shall—

(a) give the chemist 28 days' notice of its intention;

(b) afford the chemist an opportunity of making representations to the FHSA in writing or, if he so desires, in person; and

(c) consult the Local Pharmaceutical Committee.

(5) Where under paragraph (3) the FHSA decides to remove a chemist's name from its pharmaceutical list, it shall give notice in writing of its decision to the chemist.

(6) A chemist to whom a notice has been given under paragraph (5) may, within 30 days of receiving the notice, appeal to the Secretary of State against the decision of the FHSA and the FHSA shall not remove the chemist's name from the pharmaceutical list until—

(a) if no appeal is made, the expiration of the period of 30 days; or

(b) if an appeal is made, the appeal is determined.

(7) An appeal under paragraph (6) shall be in writing and shall set out the grounds of appeal.

(8) Where the Secretary of State allows the appeal, he shall direct the FHSA not to remove the chemist's name from the pharmaceutical list.

(9) Nothing in this regulation shall—

(a) prejudice the right of a chemist to be included again in a pharmaceutical list; or

(b) affect a chemist who is performing a period of relevant service, and no removal under paragraph (3) shall be effected in respect of any such chemist until six months after he has completed that service.

Standards of, and payments for, drugs and appliances

18.—(1) For the purpose of enabling arrangements to be made for the provision of pharmaceutical services, the Secretary of State shall compile and publish a statement (in these Regulations referred to as "the Drug Tariff") which he may amend from time to time and which shall include—

(a) the list of appliances for the time being approved by the Secretary of State for the purposes of section 41 of the Act;

(b) the list of chemical reagents for the time being approved by the Secretary of State for the purposes of section 41 of the Act;

(c) the list of drugs for the time being approved by the Secretary of State for the purposes of section 41 of the Act;

(d) the prices on the basis of which the payment for drugs and appliances ordinarily supplied is to be calculated;

(e) the method of calculating the payment for drugs not mentioned in the Drug Tariff;

(f) the method of calculating the payment for containers and medicine measures;

(g) the dispensing or other fees payable in respect of the supply of drugs and appliances and of supplemental services;

(h) arrangements for claiming fees, allowances and other remuneration for the provision of pharmaceutical services;

(i) the method by which a claim may be made for compensation for financial loss in respect of oxygen equipment.

(2) The prices referred to in paragraph (1)(d) may be fixed prices or may be subject to monthly or other periodical variations to be determined by reference to fluctuations in the cost of drugs and appliances.

(3) A chemist shall supply, in response to a request from the Secretary of State within 30 days of the notification of the request, any information which the Secretary of State may require for the purpose of conducting any inquiry into the prices, payments, fees, allowances and remuneration specified in paragraph (1)(d) to (i).

PART III

PROVISION OF PHARMACEUTICAL SERVICES BY DOCTORS

Provision of pharmaceutical services for immediate treatment or personal administration

19. A doctor—

(a) shall provide to a patient any appliance or drug, not being a Scheduled drug, where such provision is needed for the immediate treatment of that patient before a provision can otherwise be obtained; and

(b) may provide to a patient any appliance or drug, not being a Scheduled drug, which he personally administers or applies to that patient.

Arrangements for provision of pharmaceutical services by doctors

20.—(1) Where a patient—

(a) satisfies an FHSA that he would have serious difficulty in obtaining any necessary drugs or appliances from a pharmacy by reason of distance or inadequacy of means of communication; or

(b) is resident in a controlled locality, at a distance of more than one mile from any pharmacy, and one of the conditions specified in paragraph (2) is satisfied in his case,

he may at any time request in writing the doctor on whose list he is included to provide him with pharmaceutical services.

(2) The conditions referred to in paragraph (1)(b) are—

(a) that—

(i) there is in effect an outline consent granted to that doctor or to his partner or to any previous doctor in his practice in respect of the area in which the patient resides; and

(ii) any conditions imposed under regulation 12(15) or regulation 13(13)(b) in connection with that grant are such as to permit arrangements to be made under this regulation for the provision of pharmaceutical services by that doctor to the patient; or

(b) immediately before these Regulations came into force arrangements or requirements were in effect under regulations revoked by these Regulations for that doctor or his partner or any previous doctor in his practice to provide drugs or appliances to patients, and the patient—

(i) has not previously been included in a doctor's list, or

(ii) has changed his address from that last notified to the FHSA, or

(iii) has not changed his address but, immediately before his acceptance as a patient by that doctor, was being provided with pharmaceutical services by a doctor pursuant to an arrangement or requirement under these Regulations.

(3) If a doctor so requested by a patient under paragraph (1)—

(a) applies to provide pharmaceutical services to the patient, and sends with his application the patient's request in writing, the FHSA shall make arrangements with him for the provision of such services by him; or

(b) does not so apply within 30 days, the FHSA may, subject to paragraph (5), require him to undertake such provision and shall give him notice in writing to that effect.

(4) An arrangement made by an FHSA under paragraph (3)(a) shall—

(a) have effect from the date of the patient's request in writing; and

(b) enable that doctor, any partner of his or any doctor who subsequently joins his practice to provide pharmaceutical services for the patient so long as the arrangement remains in effect.

(5) An FHSA shall not under paragraph (3)(b) require a doctor to provide pharmaceutical services to a person on his list if that doctor satisfies the FHSA or, on appeal, the Secretary of State that—

(a) he does not normally provide pharmaceutical services under this regulation; or

(b) in the case of a person to whom paragraph (1)(b) applies, the person would not have serious difficulty, by reason of distance or inadequacy of means of communication, in obtaining drugs and appliances from a pharmacy.

(6) An FHSA shall give a doctor reasonable notice—

(a) that it requires him to provide pharmaceutical services to any person; or

(b) subject to paragraph (8), that, where a person no longer satisfies the provisions of paragraph (1), the doctor shall discontinue the provision of pharmaceutical services to that person.

(7) A notice under paragraph (6)(b)—

(a) shall be subject to any postponement or termination of arrangements for the provision of pharmaceutical services to that person by that doctor made under regulation 12(15) or 13(13); and

(b) shall not be given—

(i) pending any appeal against a decision by an FHSA to postpone the making or termination of such arrangements, or

(ii) where regulation 9(10) so requires.

(8) Notwithstanding paragraph (3), where a drug or appliance is one for which a doctor is entitled to an additional payment if he provides it, he may, with the consent of the patient, instead of providing it himself, order it by issuing a prescription to the patient in accordance with paragraph 43 of the doctors' terms of service.

(9) Where under any provision of regulations revoked by, and not re-enacted in, these Regulations an arrangement or requirement for a doctor to provide drugs or applicances to a patient was in effect immediately before these Regulations came into force, that arrangement or requirement shall have effect as though made under this regulation notwithstanding that neither of the conditions specified in paragraph (2) is satisfied.

(10) A doctor who provides pharmaceutical services to some or all of his patients in accordance with this regulation may provide any necessary pharmaceutical services to a person whom he has accepted as a temporary resident.

(11) An appeal under paragraph (5) shall be made in writing within 30 days from the date on which notice of the decision was sent to the doctor and shall contain a concise statement of the grounds of appeal.

(12) The Secretary of State shall, on receipt of any notice of appeal under this regulation, send a copy of that notice to the FHSA and the FHSA may, within 30 days from the date on which the Secretary of State sent a copy of the notice of appeal, make representations in writing to him.

(13) The Secretary of State may determine an appeal pursuant to paragraph (5) in such manner as he thinks fit.

(14) The Secretary of State shall, upon determination by him of an appeal under this regulation, give notice of his decision in writing, together with the reasons for it, to the appellant and to the FHSA.

(15) Any question whether a substance provided by a doctor was a drug, the provision of which formed part of pharmaceutical services under the Act, shall be determined in accordance with regulation 36 of the Medical Regulations and the provisions of that regulation shall apply according as though references to—

(a) the doctor who ordered the substance were to the doctor who provided it; and

(b) the person to whom the order was given were to the person to whom the substance was provided.

Outline consent

21.—(1) A doctor wishing to be granted the right to provide pharmaceutical services under regulation 20 by arrangement with an FHSA to patients residing in an area, may apply to the FHSA in writing for consent (in these Regulations referred to as "outline consent") specifying the area in relation to which he wishes the outline consent to be granted.

(2) An application under paragraph (1) shall be determined in accordance with regulation 12.

(3) An outline consent shall have effect from its final grant but shall cease to have effect where either—

(a) no arrangement under regulation 20 has been made pursuant to it within 12 months from its final grant; or

(b) more than 12 months elapses after the last provision of drugs and appliances under an arrangement made pursuant to it.

PART IV

MISCELLANEOUS

Publication of particulars

22.—(1) An FHSA shall make available for inspection at its offices copies of—

(a) its pharmaceutical lists;

(b) the terms of service for chemists;

(c) the terms of service for doctors who provide pharmaceutical services; and

(d) the Drug Tariff;

and shall keep them up to date.

(2) The FHSA may—

(a) make such documents available for inspection at such other places in its locality as appear to it convenient for informing all persons interested; or

(b) publish at such places a notice of the places and times at which copies of such documents may be seen.

(3) The FHSA shall send a copy of its pharmaceutical list to the Secretary of State, the Local Medical Committee, the Local Dental Committee, and the Local Pharmaceutical Committee, and shall, within 14 days of any alteration in the pharmaceutical lists, so inform them in writing.

Exercise of choice of chemist in certain cases

23. An application to a chemist for pharmaceutical services may be made (other than by the chemist concerned)—

(a) on behalf of any child by either parent, or in the absence of both parents, the guardian or other person who has the care of the child; or

(b) on behalf of any person under 18 years of age who is—

(i) in the care of an authority to whose care he has been committed under the provisions of the Children Act 1989(**19**), by a person duly authorised by that authority,

(ii) in the care of a voluntary organisation, by that organisation or a person duly authorised by them.

(c) on behalf of any other person by any duly authorised person.

Claims and overpayments

24.—(1) Any claim for fees, allowances or other remuneration by chemists or doctors shall be made in accordance with the provisions of the Drug Tariff.

(2) Where it considers that a payment has been made to a chemist, or to a doctor who provides pharmaceutical services in circumstances when it was not due, the FHSA, except to the extent that the Secretary of State, on the application of the FHSA, directs otherwise, shall draw the overpayment to the attention of the chemist or the doctor, and—

(a) where the overpayment is admitted by him; or

(b) where the overpayment is not so admitted but, the matter having been referred under regulation 7(1) of the National Health Service (Service Committees and Tribunal) Regulations 1992(**20**) for investigation, the FHSA, or the Secretary of State on appeal under regulation 10(1)(c) of those Regulations, decides that there has been an overpayment,

the amount overpaid shall be recoverable either by deduction from the remuneration of the doctor or chemist or in some other manner.

(3) Recovery of an overpayment under this regulation shall be without prejudice to the investigation of an alleged breach of the terms of service.

Transitional provisions

25. Where, before 1st April 1992, an appeal has been made under—

(a) regulation 29(4A) of the National Health Service (General Medical and Pharmaceutical Services) Regulations(**21**) or

(b) paragraph 4 of Schedule 4C to those Regulations, by an FHSA or by a Local Medical Committee or a Local Pharmaceutical Committee,

(**19**) 1989 c. 41.
(**20**) S.I. 1992/664.
(**21**) S.I. 1974/160, as amended by S.I. 1987/401, 1987/1425, 1989/1360, 1990/1757 and 1991/555.

the provisions of those regulations shall, notwithstanding regulation 26, continue to apply on and after that date as respects that appeal.

Revocations

26. The Regulations specified in column (1) of Schedule 4 are revoked to the extent specified in column (3) of that Schedule.

William Waldegrave
One of Her Majesty's Principal Secretaries of State

10th March 1992

SCHEDULE 1

PROVISIONS CONFERRING POWERS EXERCISED IN MAKING THESE REGULATIONS

(1) *Provision*	(2) *Relevant amendments*
National Health Service Act 1977(**22**)—	
section 7(2)(a)	Health Services Act 1980(**23**) ("the 1980 Act"), Schedule 1, paragraphs 35 and 90
section 15(1)	Health and Social Security Act 1984(**24**)("the 1984 Act"), section 5(2) and Schedule 8
	National Health Service and Community Care Act 1990(**25**) ("the 1990 Act"), section 12
section 16(1)(b)	Health Services Act 1980(**26**) ("the 1980 Act"), Schedule 1, Part I, paragraph 36(a)
section 29(2), (3), (5), (7)	Health and Social Services and Social Security Adjudications Act 1983(**27**) Schedule 6, paragraph 2; Family Practitioner Committees (Consequential Modifications) Order 1985(**28**)("the 1985 Order"), article 7(3)
section 30(1)	1980 Act, Schedule 1, paragraph 43(a) and Schedule 7; European Communities (Medical, Dental and Nursing Professions) (Linguistic Knowledge) Order 1981(**29**), article 3(1)(a); 1985 Order, article 7(4)
section 31(1)	1985 Order, article 7(5)
section 33(2A), (4)	1985 Order, article 7(7)
section 34	1980 Act Schedule 1 paragraph 57
	1985 Order, article 7(8);
	1990 Act, section 23
section 41	1980 Act, section 20(1), Schedule 1, paragraph 53, and Schedule 7
	The 1985 Order article 7(13)
1990 Act, Schedule 9, paragraph 18	
section 42	1980 Act, section 21 and Schedule 1, paragraph 55

(**22**) 1977 c. 49.
(**23**) 1980 c. 53.
(**24**) 1984 c. 48.
(**25**) 1990 c. 19.
(**26**) 1980 c. 53.
(**27**) 1983 c. 41.
(**28**) S.I. 1985/39.
(**29**) S.I. 1981/432. SCHEDULE 1 — continued

(1) *Provision*	(2) *Relevant amendments*
	National Health Service (Amendment) Act 1986(**30**), section 3(1)
	Pharmaceutical Qualifications (EEC Recognition) Order 1987(**31**), article 4
	1990 Act section 12(3)
section 43	1985 Order, article 7(15)
	1990 Act, Schedule 9, paragraph 18(2)
section 45(1)	1980 Act, Schedule 1, paragraph 57
	1984 Act, Schedule 3, paragraph 7(a)
section 126(4)	1990 Act section 65(2)
section 127(a)	
section 128(1) (definitions of "prescribed" and "regulations")	1990 Act, section 26(2)
Schedule 5, paragraph 12(b) and (c)	
Medicines Act 1968(**32**), section 103(3)	Health and Medicines Act 1988(**33**) section 22(4) Health and Medicines Act 1988 section 8(1)(a) and (5)

SCHEDULE 2 Regulation 3

PART I

GENERAL

Interpretation

1. In this Schedule, unless the context otherwise requires, any reference in a paragraph to a numbered sub-paragraph is a reference to the sub-paragraph bearing that number in that paragraph.

Incorporation of provisions

2. Any provisions of the following affecting the rights and obligations of chemists or doctors who provide pharmaceutical services shall be deemed to form part of the terms of service for chemists or, as the case may be, of the terms of service for doctors who provide pharmaceutical services—

(a) the Regulations;

(b) the Drug Tariff in so far as it lists drugs and appliances for the purposes of section 41 of the Act;

(**30**) 1986 c. 66.
(**31**) S.I. 1987/2202.
(**32**) 1968 c. 67.
(**33**) 1988 c. 49.

(c) so much of Part II of the National Health Service (Service Committees and Tribunal) Regulations 1992(**34**) as relates to—

(i) the investigation of questions arising between chemists and persons receiving pharmaceutical services and other investigations to be made by the pharmaceutical service committee and the joint services committee and the action which may be taken by the FHSA as a result of such investigations, and,

(ii) appeals to the Secretary of State from decisions of the FHSA.

PART II

TERMS OF SERVICE FOR CHEMISTS

Provision of pharmaceutical services

3.—(1) Where any person presents on a prescription form—

(a) an order for drugs, not being Scheduled drugs, or appliances, signed by a doctor; or

(b) an order for a drug specified in Schedule 11 to the Medical Regulations, signed by, and endorsed on its face with the reference "SLS" by, a doctor; or

(c) an order for listed drugs or medicines, signed by a dentist or his deputy or assistant,

a chemist shall, with reasonable promptness, provide the drugs or medicines so ordered, and such of the appliances so ordered as he supplies in the normal course of his business.

(2) Any drug which is provided as part of pharmaceutical services and included in the Drug Tariff, the British National Formulary, the Dental Practitioner's Formulary, the European Pharmaceopoeia or the British Pharmaceutical Codex, shall comply with the standard or formula specified therein.

(3) Subject to any regulations in force under the Weights and Measures Act 1985(**35**) and subject to sub-paragraphs (3), (4) and (5) a chemist shall provide pharmaceutical services only in response to and in accordance with an order on a prescription form, signed as specified in sub-paragraph (1).

(4) Where an order, not being an order to which the Poisons Rules 1982(**36**) or the Misuse of Drugs Regulations 1985(**37**) applies, which is issued by a doctor or a dentist on a prescription form for drugs does not prescribe their quantity, strength or dosage, a chemist may provide the drugs in such strength and dosage as in the exercise of his professional skill, knowledge and care he considers to be appropriate and, subject to sub-paragraph (3), in such quantity as he considers to be appropriate for a course of treatment, for the patient to whom the order relates, for a period not exceeding five days.

(5) Where an order to which sub-paragraph (3) applies is for—

(a) an oral contraceptive substance;

(b) a drug, which is available for supply as part of pharmaceutical services only together with one or more drugs; or

(c) an antibiotic in a liquid form for oral administration in respect of which pharmaceutical considerations require its provision in an unopened package,

(**34**) S.I. 1992/664.
(**35**) 1985 c. 72.
(**36**) S.I. 1982/218, amended by S.I. 1985/1077, 1986/10 and 1986/1704.
(**37**) S.I. 1985/2066, amended by S.I. 1986/2330, 1988/916 and 1989/1460. the chemist shall, subject to sub-paragraph (7), provide the drug in the pack whose quantity is nearest to the quantity which has been so ordered.

which is not available for provision as part of pharmaceutical services except in such packages that the minimum available package contains a quantity appropriate to a course of treatment for a patient for a period of more than 5 days, the chemist may provide that minimum available package.

(6) Where any drug, not being one to which the Misuse of Drugs Regulations 1985 apply, ordered by a doctor or dentist on a prescription form, is available for provision by a chemist in a pack in a quantity which is different to the quantity which has been so ordered, and that drug is—

(a) sterile;

(b) effervescent or hygroscopic;

(c) a liquid preparation for addition to bath water;

(d) a coal tar preparation;

(e) a viscous preparation; or

(f) packed at the time of its manufacture in a calendar pack or special container,

the chemist shall, subject to sub-paragraph (7), provide the drug in the pack whose quantity is nearest to the quantity which has been so ordered.

(7) A chemist shall not provide, pursuant to sub-paragraph (6), a drug in a calendar pack where, in his opinion, it was the intention of the doctor or dentist who ordered the drug that it should be provided only in the exact quantity ordered.

(8) In this paragraph—

(a) "calendar pack" means a blister or strip pack showing the days of the week or month against each of the several units in the pack; and

(b) "special container" means any container with an integral means of application or from which it is not practicable to dispense an exact quantity.

(9) Where, in a case of urgency, a doctor personally known to a chemist requests him to provide a drug, the chemist may provide that drug before receiving a prescription form, provided that—

(a) that drug is not a Scheduled drug;

(b) that drug is not a controlled drug within the meaning of the Misuse of Drugs Act 1971(**38**), other than a drug which is for the time being specified in Schedule 1 to the Misuse of Drugs Regulations 1985(**39**); and

(c) the doctor undertakes to give the chemist such a prescription form within 72 hours.

(10) Except as provided in sub-paragraph (11), a chemist shall not provide a Scheduled drug, by way of pharmaceutical services or otherwise, in response to an order by name, formula or other description on a prescription form.

(11) Where a drug has an appropriate non-proprietary name and it is ordered on a prescription form either by that name or by its formula, a chemist may provide a drug which has the same specification notwithstanding that it is a Scheduled drug, provided that where a Scheduled drug is a pack which consists of a drug in more than one strength, such provision does not involve the supply of part only of the pack.

(12) Where a drug which is ordered as specified in sub-paragraph (11) combines more than one drug, that sub-paragraph shall apply only if the combination has an appropriate non-proprietary name, whether the individual drugs which it combines do so or not.

(13) A chemist shall provide any drug which he is required to provide under this paragraph in a suitable container.

(**38**) 1971 c. 38.
(**39**) S.I. 1985/2066.

(14) A chemist shall not give, promise or offer to any person any gift or reward (whether by way of a share of or dividend on the profits of the business or by way of discount or rebate or otherwise) as an inducement to or in consideration of his presenting an order for drugs or appliances on a prescription form.

Premises and hours

4.—(1) Pharmaceutical services shall be provided at each of the premises from which the chemist has undertaken to provide pharmaceutical services at such times as, following an application in writing by the chemist, shall have been approved in his case by an FHSA or, on appeal, the Secretary of State, in accordance with the following provisions of this paragraph.

(2) An FHSA shall not approve any application submitted by a chemist in relation to the times at which he is to provide pharmaceutical services unless it is satisfied that—

(a) the times proposed are such that a pharmacist will normally be available—

(i) subject to sub-paragraph (4), for no less than 30 hours in any week, and

(ii) on 5 days in any such week; and

(b) the hours when a pharmacist will normally be available in any week are to be allocated between the days on which he will normally be available in that week in such a manner as is likely to meet the needs of persons in the neighbourhood for pharmaceutical services.

(3) In this paragraph "available" means, in relation to a pharmacist, available to provide pharmaceutical services of the kind he has undertaken to provide and "availability" shall be construed accordingly.

(4) The FHSA may approve an application to provide pharmaceutical services for less than 30 hours in any week provided that it is satisfied that the provision of pharmaceutical services in the neighbourhood is likely to be adequate to meet the need for such services at times when the pharmacist is not available.

(5) An application for approval pursuant to sub-paragraph (2) shall be made in writing to an FHSA.

(6) The FHSA shall determine an application within 30 days of receiving it.

(7) Subject to sub-paragraph (8), in determining any application, the FHSA shall either—

(a) grant approval;

(b) grant approval subject to any requirements that it considers appropriate for the purpose of ensuring that a chemist is available for the provision of pharmaceutical services at such times as are necessary to meet the need for such services; or

(c) refuse approval.

(8) Where the FHSA is considering whether to grant approval subject to any requirements, as mentioned in sub-paragraph (7)(b), it shall consult the Local Pharmaceutical Committee before determining the application.

(9) An FHSA shall notify the chemist in writing of its determination, and, where it refuses an application or grants an application subject to any requirements under sub-paragraph 7(b), it shall send the chemist a statement in writing of the reasons for its determination or, as the case may be, for the imposition of the requirements and of the chemist's right of appeal under sub-paragraph (10).

(10) A chemist may, within 30 days of receiving a notification pursuant to sub-paragraph (9), appeal in writing to the Secretary of State against any refusal of approval or against any condition imposed pursuant to sub-paragraph (7)(b).

(11) The Secretary of State may, when determining an appeal, either confirm the determination of the FHSA or substitute his own determination for that of the FHSA.

(12) The Secretary of State shall notify the chemist in writing of his determination and shall in every case include with the notification a written statement of the reasons for the determination.

(13) At each of the premises at which a chemist provides pharmaceutical services he shall exhibit—

(a) a notice provided by the FHSA specifying the times at which the premises are open for the provision of drugs and appliances; and

(b) at times when the premises are not open, a notice, where practicable legible from outside the premises, to be provided by the FHSA in the form prescribed in Part IV of Schedule 3 specifying the addresses of other chemists included in the pharmaceutical list and the times at which drugs and appliances may be obtained from those addresses.

(14) An FHSA shall notify the chemist in writing of the names and addresses of other chemists included in the pharmaceutical list whose premises are in the neighbourhood and of the times at which they are required to provide pharmaceutical services.

(15) Where a chemist is prevented by illness or other reasonable cause from complying with his obligations under this paragraph, he shall, where practicable, make arrangements with one or more chemists whose premises are situated in the neighbourhood for the provision of pharmaceutical services during that time.

(16) A chemist may apply to an FHSA for a variation of the times at which, in accordance with a determination under this paragraph ("the earlier determination"), a pharmacist is required to be normally available, and sub-paragraphs (3) to (13) shall apply to the making and determination ("the subsequent determination") of an application under this sub-paragraph as if it were the first application by that chemist for the purposes of this paragraph.

(17) Where an application made under sub-paragraph (16) is approved, the earlier determination mentioned in sub-paragraph (16) shall cease to have effect and the subsequent determination mentioned in that sub-paragraph shall have effect instead—

(a) where the subsequent determination is made by an FHSA and no appeal is made, from the day falling 8 weeks after the date on which the chemist receives notification of that FHSA's determination; or

(b) where the subsequent determination is made on appeal, from the day falling 8 weeks after the date on which the chemist receives notification of the Secretary of State's determination.

(18) Where it appears to the FHSA, after consultation with or at the request of the Local Pharmaceutical Committee, that the times at which a pharmacist is available no longer meet the needs of persons in the neighbourhood for pharmaceutical services, it may review the terms of—

(a) any approval granted by the FHSA under sub-paragraph (7)(a) or (b) or by the Secretary of State under sub-paragraph (12); or

(b) any direction given under sub-paragraph (20)(a) by the FHSA or, on appeal, by the Secretary of State.

(19) On any review under sub-paragraph (18) the FHSA shall—

(a) give notice to the chemist of its proposed changes in the times at which the pharmacist is to be available; and

(b) allow him 30 days within which to make representations to the FHSA about its proposals.

(20) After considering any representations made in accordance with sub-paragraph (19)(b), the FHSA shall either—

(a) direct the chemist to revise the times at which the pharmacist is to be available in the manner specified in the direction; or

(b) confirm that the existing times of availability continue to meet the need for pharmaceutical services.

(21) The FHSA shall notify the chemist in writing of its determination under sub-paragraph (20), and where it gives a direction under head (a) of that sub-paragraph it shall include with the notification a statement in writing of the reasons for its determination and of the chemist's right of appeal under sub-paragraph (22).

(22) A chemist may, within 30 days of receiving notification under sub-paragraph (21), appeal in writing to the Secretary of State against a direction under sub-paragraph (20)(a).

(23) Sub-paragraphs (11) and (12) shall apply to any appeal made under sub-paragraph (22) but as though in sub-paragraph (12) any reference to a determination were a reference to a decision.

(24) A chemist in respect of whom a direction is given under sub-paragraph (20) shall revise the times of availability of the pharmacist so as to give effect to the direction—

(a) where the direction is given by the FHSA and no appeal is made, not later than 8 weeks after the date on which he receives notification under sub-paragraph (21); or

(b) where the direction is given or confirmed on appeal, not later than 8 weeks after the date on which he receives notification of the Secretary of State's decision.

Provision of drugs and fitting of appliances

5.—(1) Drugs shall be provided either by or under the direct supervision of a pharmacist who shall not be a person disqualified for inclusion in a pharmaceutical list under section 46 of the Act(**40**).

(2) Subject to paragraph 3(1), a chemist shall make all necessary arrangements—

(a) for measuring a person who presents a prescription for a truss or other appliance of a type requiring measurement and fitting by the chemist; and

(b) for fitting the appliance.

Particulars of chemists

6. A chemist shall give the FHSA, if it so requires, the name of any pharmacist employed by him for the provision of drugs for persons from whom he has accepted an order for the provision of pharmaceutical services under paragraph 3.

Charges for drugs

7.—(1) Subject to regulations made under section 77 of the Act(**41**), all drugs, containers and appliances provided under these terms of service shall be provided free of charge.

(2) Where a chemist supplies a container in response to an order for drugs signed by a doctor under paragraph 43 of Schedule 2 to the Medical Regulations or supplies an oxygen container or oxygen equipment, other than equipment specified in the Drug Tariff as not returnable to the chemist, the container and equipment shall remain the property of the chemist.

Remuneration of chemists

8.—(1) A chemist who has undertaken to provide supplemental services within the meaning of regulation 16 shall, on request, make available to the FHSA all records kept in accordance with regulation 16(2)(b).

(**40**) Section 46 was amended by Schedule 8 to the Health and Social Security Act 1984 (c. 48) and by S.I. 1985/39, article 7(16).
(**41**) See S.I. 1989/419 as amended by S.I. 1991/579.

(2) The FHSA shall make payments, calculated in the manner provided by the Drug Tariff (subject to any deduction required to be made by regulations made under section 77 of the Act) to chemists in respect of drugs and appliances, containers, medicines measures and dispensing fees.

(3) Where a chemist so requires, the FHSA shall afford him reasonable facilities for examining all or any of the forms on which the drugs or appliances provided by him were ordered, together with particulars of the amounts calculated to be payable in respect of such drugs and appliances and the FHSA shall take into consideration any objections made by the chemist in relation to those amounts.

(4) Where so required by the Local Pharmaceutical Committee or any organisation which is, in the opinion of the Secretary of State, representative of the general body of chemists, the FHSA shall give the Local Pharmaceutical Committee or the organisation in question similar facilities for examining such forms and particulars relating to all or any of the chemists which it represents.

Fair wages for staff

9. Where a chemist employs any person belonging to a category whose wages and conditions of work are approved by the National Joint Industrial Council for Retail Pharmacy, he shall not pay wages or require conditions of work which are less favourable than those for the time being so approved.

Withdrawal from pharmaceutical list

10.—(1) Subject to sub-paragraph (2), a chemist may at any time give notice in writing to the FHSA that he wishes to withdraw his name from the pharmaceutical list and his name shall be removed accordingly on the expiry of the period of three months from the date of such notice or of such shorter period as the FHSA may agree.

(2) Where representations are made to the Tribunal under section 46 of the Act (disqualification of practitioner) that the continued inclusion of a chemist in the pharmaceutical list would be prejudicial to the efficiency of pharmaceutical services, he shall not, except with the consent of the Secretary of State, be entitled to have his name removed from such a list pending the determination of the proceedings on those representations.

PART III

TERMS OF SERVICE FOR DOCTORS WHO PROVIDE PHARMACEUTICAL SERVICES

11. Where a doctor is authorised or required by an FHSA under regulation 20 to provide drugs or appliances to a patient—

(a) he shall record an order for the provision of any drugs, or appliances which are needed for the treatment of the patient on a prescription form completed in accordance with paragraph 43(2) of the doctors' terms of service;

(b) he shall provide those drugs or appliances in a suitable container; and

(c) he shall provide for the patient a drug specified in Schedule 11 to the General Medical Services Regulations only where the conditions in paragraph 44(2) of the doctor's terms of service are satisfied.

12.—(1) Subject to sub-paragraph (2), a doctor who is authorised or required by an FHSA under regulation 20 to provide drugs or appliances to a patient shall not provide for a patient any Scheduled drug, except that, where he has ordered a drug which has an appropriate non- proprietary name either by the name or by its formula, he may provide a drug which has the same specification

notwithstanding that it is a Scheduled drug (but, in the case of a drug which combines more than one drug, only if the combination has an appropriate non-proprietary name).

(2) Nothing in this paragraph shall prevent a doctor providing, otherwise than under pharmaceutical services, a scheduled drug for a patient.

13.—(1) The provisions of paragraphs 38 to 42 of the doctors' terms of service (items of service relating to acceptance of fees) apply in respect of the provision of any drugs or appliances by a doctor as they apply in respect of prescriptions for drugs or appliances.

(2) Where paragraph 39 of those terms of service applies and the doctor has provided any drug or appliance for which, in the case of a person on his list, he would have been entitled to payment from the FHSA, the FHSA shall credit him with the appropriate amount.

SCHEDULE 3

Regulation 4(2)

PART I

APPLICATION FOR INCLUSION IN A PHARMACEUTICAL LIST OR INCLUSION IN A LIST IN RESPECT OF DIFFERENT SERVICES OR PREMISES*

APPLICATION FOR INCLUSION IN A PHARMACEUTICAL LIST OR INCLUSION IN A LIST IN RESPECT OF DIFFERENT SERVICES OR PREMISES*

TO THE .....

FHSA

1. I/We .....

of .....

(a) apply in my/our own right/on behalf of ..... to be included in the FHSA's pharmaceutical list(s) for the provision of the services listed in paragraph 6 below. I/We are not already included in any pharmaceutical list kept by the FHSA;

(b) am/are already included in a pharmaceutical list kept by the FHSA, but apply to open additional premises for the provision of the services listed in paragraph 6 below;

(c) am/are already included in a pharmaceutical list kept by the FHSA, but apply to relocate the premises from which I/we are to provide the services listed in paragraph 6 below;

(d) am/are already included in a pharmaceutical list kept by the Authority, but apply to provide from my/our existing premises additional services to those already provided;

(e) am/are already included in a pharmaceutical list kept by the FHSA, but apply to withdraw the provision of a service/services from an existing premises.

2. (*To be completed only by persons applying under paragraph 1(a), (b), (c) or 4*)

(a) The premises from which I/we wish to provide those

services are at

.....

.....

.....

(b) Those premises are–

– already constructed

already in my/our possession/not yet in my/our possession (by rental, leasehold or freehold)

– under negotiation

– registered by the Royal Pharmaceutical Society of Great Britain

If so, state reference number

.....

3. (*To be completed only by persons who are included in a pharmaceutical list kept by the Authority*)

The premises from which I/we provide pharmaceutical

services are at .....

.....

The services I/we provide from those premises are .....

.....

4. (*To be completed only by persons applying under paragraph 1(a) above who are proposing to provide services at premises from which services are already provided ie change of ownership*)

The name of the chemist who is providing services from the

premises named in paragraph 2(a) above is

.....

.....

The provision of services from those premises will be

continuous/interrupted by (*state period*) .....

.....

5. (*To be completed only by persons applying under paragraph 1(c) above*)
The relocation is for the following reasons:

.....

.....

(*To be completed only if the applicant considers relocation to be minor*)
I/We consider the relocation to be minor for the following reasons:–

.....

.....

The provision of services by me/us will be

continuous/interrupted by (*state period*) .....

.....

6. (*To be completed by all applicants*)
I/We propose to provide/withdraw the following pharmaceutical services

PROVISION OF DRUGS

PROVISION of the following listed appliances: -

OXYGEN CYLINDERS

STOMA APPLIANCES

ELASTIC HOSIERY

TRUSSES

OTHER APPLIANCES (please specify)

.....

OTHER SERVICES (please specify)

.....

7. (*To be completed by all applicants except those proposing either to provide services from premises from which the services listed in paragraph 6 are already provided or to change within the neighbourhood the premises from which pharmaceutical services listed in paragraph 6 are already provided*)
In my/our view the provision of the proposed services at the premises named in this application is necessary or desirable in order to secure in the neighbourhood in which the premises are located the adequate provision of those services by persons in the list of services for the following reasons:–

.....

.....

.....

8. I/we undertake that if my/our application is granted, I/we will provide/continue to provide the pharmaceutical services specified in paragraph 6 at the premises specified in paragraph 2.

Signed .....

Date .....

*The sections or words which do not apply should be deleted as necessary.

regulation 4(8)

PART II

NOTIFICATION OF COMMENCEMENT DATE*

TO THE .....
FHSA

1. The application which

I/We .....

of .....

made on .....

was granted on .....

2. The application related to premises at .....

.....

.....

3. The services I/we are entitled to provide are .....

.....

.....

4. I/We intend to commence provision of those services at

those premises on .....

.....

5. Those premises have been registered by the Royal Pharmaceutical Society of Great Britain

Reference No. .....

6. The pharmacist in charge at those premises will be

Name .....

Registration No. .....

7. I/We undertake to provide the said services under the terms of service for the time being in operation by the FHSA.

Signed .....

Date .....

*The sections or words which do not apply should be deleted as necessary.

SCHEDULE 4

Regulation 26

REVOCATIONS

(1) Regulations revoked	(2) References	(3) Extent of revocations
The National Health Service (General Medical and Pharmaceutical Services) Regulations 1974	S.I. 1974/160	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment Regulations 1976	S.I. 1975/719	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment Regulations 1976	S.I. 1976/690	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment (No. 2) Regulations 1976	S.I. 1976/1407	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment Regulations 1982	S.I. 1982/1283	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment Regulations 1983	S.I. 1983/313	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment Regulations 1985	S.I. 1985/290	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment (No. 2) Regulations 1985	S.I. 1985/540	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment (No. 3) Regulations 1985	S.I. 1985/803	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services)	S.I. 1985/955	The whole Regulations

(1) Regulations revoked	(2) References	(3) Extent of revocations
Amendment (No. 4) Regulations 1985		
The National Health Service (General Medical and Pharmaceutical Services) Amendment (No. 5) Regulations 1985	S.I. 1985/1053	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment (No. 6) Regulations 1985	S.I. 1985/1712	The Whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment Regulations 1986	S.I. 1986/381	The Whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment (No. 2) Regulations 1986	S.I. 1986/916	The Whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment (No. 3) Regulations 1986	S.I. 1986/1486	The Whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment (No. 2) Regulations 1987	S.I. 1987/5	The Whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment (No. 4) Regulations 1987	S.I. 1987/401	The Whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment (No. 3) Regulations 1987	S.I. 1987/407	The Whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment (No. 4) Regulations 1987	S.I. 1987/1425	The Whole Regulations

(1) Regulations revoked	(2) References	(3) Extent of revocations
The National Health Service (General Medical and Pharmaceutical Services and Charges for Drugs) Amendment Regulations 1988	S.I. 1988/866	Regulation 2(2), (3) and (4)
The National Health Service (General Medical and Pharmaceutical Services) Amendment Regulations 1988	S.I. 1988/1106	The Whole Regulations
The National Health Services (General Medical and Pharmaceutical Services) Amendment (No. 2) Regulations 1988	S.I. 1988/2297	The Whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment Regulations 1989	S.I. 1989/1360	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment (No. 2) Regulations 1989	S.I. 1989/1897	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment Regulations 1990	S.I. 1990/801	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment (No. 2) Regulations 1990	S.I. 1990/1757	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Amendment (No. 3) Regulation 1990	S.I. 1990/2513	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services) Regulations 1991	S.I. 1991/555	The whole Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate, with amendments, those provisions of The National Health Service (General Medical and Pharmaceutical Services) Regulations 1974 ("the 1974 Regulations) which relate to pharmaceutical services. The provisions of the 1974 Regulations which relate to General Medical Services are consolidated, with amendments, in The National Health Service (General Medical Services) Regulations 1992. The 1974 Regulations and all subsequent amendments to them are revoked by regulation 26 and Schedule 4. These Regulations now regulate the terms on which pharmaceutical services are provided under The National Health Service Act 1977.

The principal changes effected by these Regulations are the following.

The 1974 Regulations contained provision enabling Family Health Services Authorities ("FHSAs") to make arrangments for the provision of oxygen concentrators in their localities. Those provisions have been deleted.

Where an application to be included in the pharmaceutical list has been determined in accordance with the Regulations, the persons who are entitled to appeal no longer include the Local Medical Committee and the Local Pharmaceutical Committee.

In the terms of service for chemists, the prohibition on any form of advertising has been removed.

A new paragraph 4 is substituted in the terms of service to require a chemist to obtain the approval of the FHSA for the times at which he proposes to provide pharmaceutical services from the premises in respect of which he is included on a pharmaceutical list. Provision is made for the FHSA to grant approval subject to any conditions that it considers necessary to meet local needs. A chemist may apply for a variation of the approved times or of any condition and may appeal either against a refusal to approve his proposed times or against the imposition of any conditions.

These Regulations also make a number of amendments to the 1974 Regulations which are either minor or consequential drafting amendments or procedural in nature.