SCHEDULE 1 Regulation 2(1)

CONDITIONS AND PRINCIPLES OF GOOD CLINICAL PRACTICE AND FOR THE PROTECTION OF CLINICAL TRIAL SUBJECTS

PART 1

APPLICATION AND INTERPRETATION

1.—(1) The conditions and principles specified in Part 2 apply to all clinical trials.

(2) If any subject of a clinical trial is—

(a) an adult able to give informed consent, or

(b) an adult who has given informed consent to taking part in the clinical trial prior to the onset of incapacity,

the conditions and principles specified in Part 3 apply in relation to that subject.

(3) If any subject of a clinical trial is a minor, the conditions and principles specified in Part 4 apply in relation to that subject.

(4) If any subject—

(a) is an adult unable by virtue of physical or mental incapacity to give informed consent, and

(b) did not, prior to the onset of incapacity, give or refuse to give informed consent to taking part in the clinical trial,

the conditions and principles specified in Part 5 apply in relation to that subject.

(5) If any person—

(a) is an adult unable by virtue of physical or mental incapacity to give informed consent, and

(b) has, prior to the onset of incapacity, refused to give informed consent to taking part in the clinical trial,

that person cannot be included as a subject in the clinical trial.

2. In this Schedule—

"Declaration of Helsinki" means the Declaration of Helsinki adopted by the World Medical Assembly in June 1964, as amended by the General Assembly of the Association in October 1975, October 1983, September 1989 and October 1996;

"guardian" shall be construed in accordance with section 51(8) of the Adults with Incapacity (Scotland) Act 2000(**1**);

"legal representative" means, in relation to a minor or to an adult unable by virtue of physical or mental incapacity to give informed consent, and who is, or is being considered as, a subject for a clinical trial—

(a) in relation to adults and minors in England, Wales and Northern Ireland, and minors in Scotland—

(i) a person, other than a person involved in the conduct of the trial, who—

(aa) by virtue of their relationship with that adult or that minor, is suitable to act as their legal representative for the purposes of that trial, and

(bb) is available and willing to so act for those purposes, or

(**1**) 2000 asp 4.

(ii) if there is no such person, a person, other than a person connected with the conduct of the clinical trial, who is—

(aa) the doctor primarily responsible for the medical treatment provided to that adult, or

(bb) a person nominated by the relevant health care provider; and

(b) in relation to adults in Scotland—

(i) any guardian or welfare attorney who has power to consent to the adult's participation in research, or

(ii) if there is no such guardian or welfare attorney, the adult's nearest relative, or

(iii) if it is not reasonably practicable to contact a guardian or welfare attorney or the adult's nearest relative before the decision to enter the adult as a subject of the clinical trial is made, a person, other than a person connected with the conduct of the clinical trial, who is—

(aa) the doctor primarily responsible for the medical treatment provided to that adult, or

(bb) a person nominated by the relevant health care provider;

"nearest relative" has the meaning given by section 87(1) of the Adults with Incapacity (Scotland) Act 2000;

"parental responsibility"—

(a) in relation to England and Wales, has the same meaning as in the Children Act 1989(**2**),

(b) in relation to Scotland, has the same meaning as in the Children (Scotland) Act 1985(**3**), and

(c) in relation to Northern Ireland, has the same meaning as in the Children (Northern Ireland) Order 1995(**4**);

"person connected with the conduct of the trial" means—

(a) the sponsor of the trial,

(b) a person employed or engaged by, or acting under arrangements made with, the sponsor and who undertakes activities in connection with the management of the trial,

(c) an investigator for the trial,

(d) a health care professional who is a member of an investigator's team for the purposes of the trial, or

(e) a person who provides health care under the direction or control of a person referred to in paragraphs (c) and (d) above, whether in the course of the trial or otherwise;

"relevant health care provider" means—

(a) in relation to a person receiving services in pursuance of the National Health Service Act 1977(**5**), the National Health Service (Scotland) Act 1978(**6**), or the Health and Personal Social Services (Northern Ireland) Order 1972(**7**)—

(i) in a case where a health service body is providing those services, that body, or

(**2**) 1989 c. 41; *see*, in particular, sections 3(1) and 5(6).
(**3**) 1995 c. 36; *see*, in particular, sections 1(3) and 7(5).
(**4**) S.I. 1995/755 (N.I.2); *see*, in particular, article 6.
(**5**) 1977 c. 49.
(**6**) 1978 c. 29.
(**7**) S.I. 1972/1265 (N.I. 14).

(ii) in any other case, the health service body which entered the arrangements under which those services are provided, or

(b) in relation to any other person receiving health care, the person primarily responsible for providing that health care; and

"welfare attorney" shall be construed in accordance with section 51(8) of the Adults with Incapacity (Scotland) Act 2000.

3.—(1) For the purposes of this Schedule, a person gives informed consent to take part, or that a subject is to take part, in a clinical trial only if his decision—

(a) is given freely after that person is informed of the nature, significance, implications and risks of the trial; and

(b) either—

(i) is evidenced in writing, dated and signed, or otherwise marked, by that person so as to indicate his consent, or

(ii) if the person is unable to sign or to mark a document so as to indicate his consent, is given orally in the presence of at least one witness and recorded in writing.

(2) For the purposes of this Schedule, references to informed consent—

(a) shall be construed in accordance with paragraph (1); and

(b) include references to informed consent given or refused by an adult unable by virtue of physical or mental incapacity to give informed consent, prior to the onset of that incapacity.

PART 2

CONDITIONS AND PRINCIPLES WHICH APPLY TO ALL CLINICAL TRIALS

Principles based on International Conference on Harmonisation GCP Guideline(8)

1. Clinical trials shall be conducted in accordance with the ethical principles that have their origin in the Declaration of Helsinki, and that are consistent with good clinical practice and the requirements of these Regulations.

2. Before the trial is initiated, foreseeable risks and inconveniences have been weighed against the anticipated benefit for the individual trial subject and other present and future patients. A trial should be initiated and continued only if the anticipated benefits justify the risks.

3. The rights, safety, and well-being of the trial subjects are the most important considerations and shall prevail over interests of science and society .

4. The available non-clinical and clinical information on an investigational medicinal product shall be adequate to support the clinical trial.

5. Clinical trials shall be scientifically sound, and described in a clear, detailed protocol.

6. A trial shall be conducted in compliance with the protocol that has a favourable opinion from an ethics committee.

7. The medical care given to, and medical decisions made on behalf of, subjects shall always be the responsibility of an appropriately qualified doctor or, when appropriate, of a qualified dentist.

(**8**) ***See*** **Section 2 of the Note for Guideline on Good Clinical Practice (CPMP/ICH/135/95) published by the European Agency for the Evaluation of Medicinal Products in July 2002.**

8. Each individual involved in conducting a trial shall be qualified by education, training, and experience to perform his or her respective task(s).

9. Subject to the other provisions of this Schedule relating to consent, freely given informed consent shall be obtained from every subject prior to clinical trial participation.

10. All clinical trial information shall be recorded, handled, and stored in a way that allows its accurate reporting, interpretation and verification.

11. The confidentiality of records that could identify subjects shall be protected, respecting the privacy and confidentiality rules in accordance with the requirements of the Data Protection Act 1998 and the law relating to confidentiality.

12. Investigational medicinal products used in the trial shall be—

(a) manufactured or imported, and handled and stored, in accordance with the principles and guidelines of good manufacturing practice, and

(b) used in accordance with the approved protocol.

13. Systems with procedures that assure the quality of every aspect of the trial shall be implemented.

Conditions based on Article 3 of the Directive

14. A trial shall be initiated only if an ethics committee and the licensing authority comes to the conclusion that the anticipated therapeutic and public health benefits justify the risks and may be continued only if compliance with this requirement is permanently monitored.

15. The rights of each subject to physical and mental integrity, to privacy and to the protection of the data concerning him in accordance with the Data Protection Act 1998 are safeguarded.

16. Provision has been made for insurance or indemnity to cover the liability of the investigator and sponsor which may arise in relation to the clinical trial.

PART 3

CONDITIONS WHICH APPLY IN RELATION TO AN ADULT ABLE TO CONSENT OR WHO HAS GIVEN CONSENT PRIOR TO THE ONSET OF INCAPACITY

1. The subject has had an interview with the investigator, or another member of the investigating team, in which he has been given the opportunity to understand the objectives, risks and inconveniences of the trial and the conditions under which it is to be conducted.

2. The subject has been informed of his right to withdraw from the trial at any time.

3. The subject has given his informed consent to taking part in the trial.

4. The subject may, without being subject to any resulting detriment, withdraw from the clinical trial at any time by revoking his informed consent.

5. The subject has been provided with a contact point where he may obtain further information about the trial.

PART 4

CONDITIONS AND PRINCIPLES WHICH APPLY IN RELATION TO A MINOR

Conditions

1. Subject to paragraph 6, a person with parental responsibility for the minor or, if by reason of the emergency nature of the treatment provided as part of the trial no such person can be contacted prior to the proposed inclusion of the subject in the trial, a legal representative for the minor has had an interview with the investigator, or another member of the investigating team, in which he has been given the opportunity to understand the objectives, risks and inconveniences of the trial and the conditions under which it is to be conducted.

2. That person or legal representative has been provided with a contact point where he may obtain further information about the trial.

3. That person or legal representative has been informed of the right to withdraw the minor from the trial at any time.

4. That person or legal representative has given his informed consent to the minor taking part in the trial.

5. That person with parental responsibility or the legal representative may, without the minor being subject to any resulting detriment, withdraw the minor from the trial at any time by revoking his informed consent.

6. The minor has received information according to his capacity of understanding, from staff with experience with minors, regarding the trial, its risks and its benefits.

7. The explicit wish of a minor who is capable of forming an opinion and assessing the information referred to in the previous paragraph to refuse participation in, or to be withdrawn from, the clinical trial at any time is considered by the investigator.

8. No incentives or financial inducements are given—

(a) to the minor; or

(b) to a person with parental responsibility for that minor or, as the case may be, the minor's legal representative,

except provision for compensation in the event of injury or loss.

9. The clinical trial relates directly to a clinical condition from which the minor suffers or is of such a nature that it can only be carried out on minors.

10. Some direct benefit for the group of patients involved in the clinical trial is to be obtained from that trial.

11. The clinical trial is necessary to validate data obtained—

(a) in other clinical trials involving persons able to give informed consent, or

(b) by other research methods.

12. The corresponding scientific guidelines of the European Medicines Agency are followed.

Principles

13. Informed consent given by a person with parental responsibility or a legal representative to a minor taking part in a clinical trial shall represent the minor's presumed will.

14. The clinical trial has been designed to minimise pain, discomfort, fear and any other foreseeable risk in relation to the disease and the minor's stage of development.

15. The risk threshold and the degree of distress have to be specially defined and constantly monitored.

16. The interests of the patient always prevail over those of science and society.

PART 5

CONDITIONS AND PRINCIPLES WHICH APPLY IN RELATION TO AN INCAPACITATED ADULT

Conditions

1. The subject's legal representative has had an interview with the investigator, or another member of the investigating team, in which he has been given the opportunity to understand the objectives, risks and inconveniences of the trial and the conditions under which it is to be conducted.

2. The legal representative has been provided with a contact point where he may obtain further information about the trial.

3. The legal representative has been informed of the right to withdraw the subject from the trial at any time.

4. The legal representative has given his informed consent to the subject taking part in the trial.

5. The legal representative may, without the subject being subject to any resulting detriment, withdraw the subject from the trial at any time by revoking his informed consent.

6. The subject has received information according to his capacity of understanding regarding the trial, its risks and its benefits.

7. The explicit wish of a subject who is capable of forming an opinion and assessing the information referred to in the previous paragraph to refuse participation in, or to be withdrawn from, the clinical trial at any time is considered by the investigator.

8. No incentives or financial inducements are given to the subject or their legal representative, except provision for compensation in the event of injury or loss.

9. There are grounds for expecting that administering the medicinal product to be tested in the trial will produce a benefit to the subject outweighing the risks or produce no risk at all.

10. The clinical trial is essential to validate data obtained—

(a) in other clinical trials involving persons able to give informed consent, or

(b) by other research methods.

11. The clinical trial relates directly to a life-threatening or debilitating clinical condition from which the subject suffers.

Principles

12. Informed consent given by a legal representative to an incapacitated adult in a clinical trial shall represent that adult's presumed will.

13. The clinical trial has been designed to minimise pain, discomfort, fear and any other foreseeable risk in relation to the disease and the cognitive abilities of the patient.

14. The risk threshold and the degree of distress have to be specially defined and constantly monitored.

15. The interests of the patient always prevail over those of science and society.