

HEALTH AND SOCIAL CARE ACT 2012

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 6 – Primary Care Services

Section 208 - Lists of performers of pharmaceutical services and assistants etc.

1245. This section makes provision for the NHS Commissioning Board to establish lists of Local Pharmaceutical Service performers and those who assist pharmaceutical contractors in the provision of pharmaceutical services.
1246. *Subsection (1)* of this section omits sections 146, 149 and 150 of the NHS Act which make provision for the compilation and publication of lists of Local Pharmaceutical Service performers and those who assist pharmaceutical contractors in the provision of services.
1247. *Subsection (2)* of this section inserts new sections 147A and 147B into the NHS Act which introduce composite regulation making powers in respect of, among other things, the compilation and publication of lists of Local Pharmaceutical Service performers and those who assist pharmaceutical contractors in the provision of pharmaceutical services.
1248. Subsection (1) of new section 147A provides that the Secretary of State may make regulations providing for the NHS Commissioning Board to maintain and publish one or more lists of those persons who assist pharmaceutical contractors or who are Local Pharmaceutical Service performers.
1249. Subsection (2) of new section 147A enables the regulations to provide that persons of a prescribed description (such as pharmacist managers and employees or pharmacy technicians) may not assist in the provision of pharmaceutical services which the Board arranges, or perform local pharmaceutical services, unless such persons are included in a list prepared by virtue of regulations made under subsection (1).
1250. Subsection (3) of new section 147A makes detailed provision, carried forward from sections 146 and 149 of the NHS Act, in respect of other matters that may be included in the regulations about such lists. These matters include how such lists are to be published and maintained, the criteria for inclusion in a list, how applications are to be made and the supporting information that is required, the grounds for admittance, refusal, or suspension from the list and corresponding appeal rights.
1251. Subsection (4) of new section 147A enables the regulations to provide for the approval of a person who is entered on a pharmaceutical list for the purposes of either paragraph (a) or (b) of subsection (1) to be treated as approval for the purposes of the other paragraph. The regulations may therefore provide that approval for the purposes of entry to a Local Pharmaceutical Service performer's list may similarly be treated as approval for the purposes of entry to a pharmaceutical assistants' list and vice versa.
1252. Subsections (5) and (6) of new section 147A enable the regulations to make provision in respect of conditional entry to a pharmaceutical performers' or assistants' list and to specify the purposes for which such conditions may be imposed.

*These notes refer to the Health and Social Care Act 2012
(c.7) which received Royal Assent on 27 March 2012*

1253. Subsections (7) to (9) of new section 147A enable further provision to be made relating to the suspension or removal of a person from a list and for appeals against decisions to suspend or remove a person from a list or to impose conditions.
1254. Subsection (10) of new section 147A enables provision to be made authorising the disclosure by the NHS Commissioning Board of information about applicants for inclusion on a list, grants or refusals of applications, or suspensions or removals.
1255. New section 147B makes further provision about regulations under section 147A.
1256. Subsection (1) of new section 147B enables regulations under section 147A to make provision requiring a person who is included in a pharmaceutical list or a list made under section 132(2) of the NHS Act not to employ or engage another person to assist in the provision of pharmaceutical services unless that person is included in a list mentioned in subsection (2).
1257. Subsection (2) of new section 147B sets out the lists referred to in subsection (1) in which a person would need to be included in order to be employed by a person who is included in a pharmaceutical list. These include the lists made under section 147A and also medical, dental or ophthalmic lists.
1258. Subsection (3) of new section 147B enables regulations to require that persons referred to in subsection (1) of section 147A must both be included in lists prepared by the Board.
1259. *Subsection (7)* of this section makes transitional provision which preserves the effect of any regulations made under section 146 or 149 of the NHS Act despite the repeal of those sections so that the provisions of those regulations continue to have effect as if they had been made under section 147A of the NHS Act.