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## STATUTORY INSTRUMENTS

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### 2013 No. 349

## The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013

### PART 4

#### Excepted applications

##### **Relocations that do not result in significant change to pharmaceutical services provision**

**24.**—(1) Section 129(2A) of the 2006 Act (regulations as to pharmaceutical services) does not apply to an application from a person already included in a pharmaceutical list to relocate to different premises in the area of the relevant HWB (HWB1) if—

- (a) for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises, the location of the new premises is not significantly less accessible;
- (b) in the opinion of the NHSCB, granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical services or of pharmaceutical services other than those provided by a person on a dispensing doctor list—
  - (i) in any part of the area of HWB1, or
  - (ii) in a controlled locality in the area of a neighbouring HWB, where that controlled locality is within 1.6 kilometres of the premises to which the applicant is seeking to relocate;
- (c) the NHSCB [<sup>F1</sup>is not of the opinion that granting the application would cause] significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB1;
- (d) the services the applicant undertakes to provide at the new premises are the same as the services the applicant has been providing at the existing premises (whether or not, in the case of enhanced services, the NHSCB chooses to commission them); and
- (e) the provision of pharmaceutical services will not be interrupted (except for such period as the NHSCB may for good cause allow).

(2) Section 129(2A) of the 2006 Act does not apply to an application from a person already included in a pharmaceutical list for the area of a HWB (HWB2) for inclusion in the pharmaceutical list for the area of a neighbouring HWB (HWB3), or inclusion in the pharmaceutical list for the area of HWB3 also in respect of other premises than those already listed in relation to that person, if—

- (a) the purpose of the application is to relocate to different premises;
- (b) for the patient groups that are accustomed to accessing pharmaceutical services at the existing premises (P1), the location of the new premises (P2) is not significantly less accessible;
- (c) in the opinion of the NHSCB, granting the application would not result in a significant change to the arrangements that are in place for the provision of local pharmaceutical

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services or of pharmaceutical services other than those provided by a person on a dispensing doctor list—

- (i) in any part of HWB3's area; or
  - (ii) in a controlled locality in the area of a neighbouring HWB (including HWB2), where that controlled locality is within 1.6 kilometres of P2;
- (d) the NHSCB [<sup>F2</sup>is not of the opinion that granting the application would cause] significant detriment to proper planning in respect of the provision of pharmaceutical services in the area of HWB3;
- (e) the services the applicant undertakes to provide at P2 are the same as the services the applicant has been providing at P1 (whether or not, in the case of enhanced services, the NHSCB chooses to commission them);
- (f) the provision of pharmaceutical services will not be interrupted (except for such period as the NHSCB may for good cause allow); and
- (g) the applicant consents to—
- (i) where the applicant has only one set of listed chemist premises in the pharmaceutical list for the area of HWB2, the removal of the applicant's name from that pharmaceutical list, or
  - (ii) where the applicant has more than one set of listed chemist premises in the pharmaceutical list for the area of HWB2, the removal of P1 from being listed in relation to the applicant in that pharmaceutical list,

with effect from the date on which the applicant undertakes to provide pharmaceutical services from P2.

(3) An application pursuant to this regulation must be refused if the existing pharmacy premises from which the applicant is seeking to relocate (P3)—

- (a) were listed in relation to an NHS pharmacist as a result of an application to which regulation 13(1)(a) of the 2005 Regulations <sup>M1</sup> (exemption from the necessary or expedient test) applied, and—
  - (i) P3 are located in an area that, immediately before the 2012 Regulations came into force, was an approved retail area (within the meaning given in regulation 15 of the 2005 Regulations (approved retail areas)), and
  - (ii) the applicant proposes to relocate from P3 to premises that are outside that area;
- (b) were listed in relation to an NHS pharmacist as a result of an application to which regulation 13(1)(c) of the 2005 Regulations applied, unless—
  - (i) the provider, or where there is more than one provider all the providers, of primary medical services at the one-stop primary care centre (within the meaning given in regulation 16 of the 2005 Regulations <sup>M2</sup> (new one-stop primary care centres)) at which P3 are located are relocating with the applicant to a new discrete site or building,
  - (ii) at that new discrete site or building primary medical services are or are to be provided by one or more providers of primary medical services with a patient list of, or patient lists with a combined total of, 18,000 patients, and
  - (iii) at that site or building the services of a broad range of health care professionals are or will be regularly and frequently provided (together, where appropriate, with other health or social services); <sup>F3</sup>...
- (c) have been listed in relation to the applicant for a period of less than 12 months prior to the application, and—

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- (i) that listing arose out of the applicant relocating to P3 from other pharmacy premises,
  - (ii) that relocation arose out of the grant of an application—
    - (aa) that was an excepted application by virtue of this regulation or regulation 24 of the 2012 Regulations (relocations that do not result in significant change to pharmaceutical services provision), or
    - (bb) to which regulation 6 or 7 of the 2005 Regulations <sup>M3</sup> (which related to minor relocations) applied, and
  - (iii) the applicant is unable to satisfy the NHSCB that relocation from P3 is necessary for reasons that the NHSCB accepts are good cause [<sup>F4</sup>, or]
- [<sup>F5</sup>(d) are distance selling premises, unless—
- (i) the premises to which the applicant is seeking to relocate are also distance selling premises, and
  - (ii) if the application was one to which regulation 25(1) applied, it would not be refused pursuant to regulation 25(2).]

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| <p><b>F1</b> Words in reg. 24(1)(c) substituted (1.4.2014) by <a href="#">The National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment and Transitional Provision) Regulations 2014 (S.I. 2014/417)</a>, regs. 1, <b>8(a)</b></p> <p><b>F2</b> Words in reg. 24(2)(d) substituted (1.4.2014) by <a href="#">The National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment and Transitional Provision) Regulations 2014 (S.I. 2014/417)</a>, regs. 1, <b>8(b)</b></p> <p><b>F3</b> Word in reg. 24(3)(b) omitted (1.4.2014) by virtue of <a href="#">The National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment and Transitional Provision) Regulations 2014 (S.I. 2014/417)</a>, regs. 1, <b>8(c)(i)</b></p> <p><b>F4</b> Word in reg. 24(3)(c) inserted (1.4.2014) by <a href="#">The National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment and Transitional Provision) Regulations 2014 (S.I. 2014/417)</a>, regs. 1, <b>8(c)(ii)</b></p> <p><b>F5</b> Reg. 24(3)(d) inserted (1.4.2014) by <a href="#">The National Health Service (Pharmaceutical and Local Pharmaceutical Services) (Amendment and Transitional Provision) Regulations 2014 (S.I. 2014/417)</a>, regs. 1, <b>8(c)(iii)</b></p> |
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#### Marginal Citations

- M1** Prior to its revocation, the heading of regulation 13 was amended by [S.I. 2009/2205](#).
- M2** Prior to its revocation, regulation 16 was amended by [S.I. 2005/1501](#).
- M3** Prior to their revocation, regulations 6 and 7 were both amended by [S.I. 2005/1501](#) and [2006/3373](#).

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

- blanket amendment words substituted by [S.I. 2023/1071 Sch. para. 1](#)