
STATUTORY INSTRUMENTS

2016 No. 1077

The National Health Service (Pharmaceutical Services,
Charges and Prescribing) (Amendment) Regulations 2016

PART 2

Amendments relating to consolidation applications

New regulation 26A of the principal Regulations

7. After regulation 26 of the principal Regulations⁽¹⁾ (change of ownership applications), insert—

“Consolidation onto an existing site

26A.—(1) A person already included in a pharmaceutical list may make an application pursuant to this paragraph (“a consolidation application”) in respect of the consolidation onto the site (S1) of listed chemist premises in the area of the relevant HWB (HWB1) of the provision of pharmaceutical services provided at or from S1 and other listed chemist premises (S2) in the area of HWB1.

(2) Section 129(2A) of the 2006 Act (regulations as to pharmaceutical services) does not apply to a consolidation application by a person already included in a pharmaceutical list for inclusion in respect of premises not already listed in relation to that person.

(3) Subject to paragraph (4), a consolidation application—

- (a) must be made by the person (P1) included in the pharmaceutical list in relation to S1; and
- (b) if different persons are listed in relation to S1 and S2, must include as part of the application an application by P1 to change the ownership of S2.

(4) If different persons are listed in relation to S1 and S2, and the person (P2) listed in relation to S2 is seeking to become the person listed in relation to S1, a consolidation application—

- (a) must be made by P2; and
- (b) must include as part of the application an application by P2 to change the ownership of S1.

(5) The NHSCB must refuse a consolidation application—

- (a) if it is satisfied that granting the application would create a gap in pharmaceutical services provision that could be met by a routine application—
 - (i) to meet a current or future need for pharmaceutical services, or
 - (i) to secure improvements, or better access, to pharmaceutical services; or

- (b) if either S1 or S2 are distance selling premises or appliance contractor premises.
- (6) In the case of an application to which paragraph (3) applies, the NHSCB must refuse the application unless it is satisfied—
- (a) if the NHSCB intends to commission from P1 at or from S1 enhanced services which P2 provides at or from S2 but which P1 has not been providing at or from S1, that the provision of those services will not be interrupted except for such period as the NHSCB may for good cause allow;
 - (b) in the case of an application to which paragraph (3)(b) applies, that—
 - (i) P2 consents to the change of ownership of S2, and
 - (ii) P1 and P2 consent to S2 ceasing to be listed chemist premises as a consequence of the application;
 - (c) in the case of an application to which paragraph (3)(b) does not apply, that P1 consents to S2 ceasing to be listed chemist premises as a consequence of the application.
- (7) In the case of an application to which paragraph (4) applies, the NHSCB must refuse the application unless it is satisfied—
- (a) that P2 is proposing to carry on at S1, in place of P1, the business in the course of which P1 is providing pharmaceutical services at S1;
 - (b) that P2 is undertaking to provide the same pharmaceutical services as those that P1 is providing (whether or not P2 is also to provide other services that P2 is providing at S2);
 - (c) that the provision of pharmaceutical services at S1 is not to be interrupted, except for such period as the NHSCB may for good cause allow;
 - (d) if the NHSCB intends to commission from P2 at or from S1 enhanced services which P2 provides at or from S2 but which P1 has not been providing at or from S1, that the provision of those services will not be interrupted except for such period as the NHSCB may for good cause allow; and
 - (e) that—
 - (i) P1 consents to the change of ownership of S1, and
 - (ii) P1 and P2 consent to S2 ceasing to be listed chemist premises as a consequence of the application.
- (8) If two or more consolidation applications are being considered together, as regards the issue of a gap in provision, as mentioned in paragraph (5)(a), each application may be refused on the basis of the cumulative effect on provision of all the applications being considered together.”.