



# Health Act 2009

## 2009 CHAPTER 21

### PART 3

#### MISCELLANEOUS

##### *Pharmaceutical services in England*

#### **26 New arrangements for entry to pharmaceutical list**

- (1) Section 129 of the National Health Service Act 2006 (regulations as to pharmaceutical services) is amended as follows.
- (2) In subsection (2)(c), for the words from “may be granted” to “specified in the application,” substitute “ must be granted if the Primary Care Trust is satisfied as mentioned in subsection (2A), and may otherwise be granted only if the Primary Care Trust is satisfied as mentioned in subsection (2B), ”.
- (3) After subsection (2) insert—
  - “(2A) The Primary Care Trust is satisfied as mentioned in this subsection if, having regard to its needs statement and to any matters prescribed by the Secretary of State in the regulations, it is satisfied that it is necessary to grant the application in order to meet a need in its area for the services or some of the services specified in the application.
  - (2B) The Primary Care Trust is satisfied as mentioned in this subsection if, having regard to its needs statement and to any matters prescribed by the Secretary of State in the regulations, it is satisfied that to grant the application would secure improvements, or better access, to pharmaceutical services in its area.
  - (2C) In relation to cases where the Primary Care Trust is satisfied as mentioned in subsection (2B), the regulations may make provision as to—
    - (a) the manner in which the Primary Care Trust is to determine whether to grant the application,

**Changes to legislation:** Health Act 2009, Section 26 is up to date with all changes known to be in force on or before 18 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) matters which the Primary Care Trust must or must not take into account for the purpose of determining whether to grant the application.”
- (4) After subsection (3) insert—
  - “(3A) The regulations may prescribe circumstances in which two or more applications referred to in subsection (2)(c)(i) or (ii) may be considered together by the Primary Care Trust.”
- (5) In subsection (4)—
  - (a) for the words from “include” to “subsection (5) for” substitute “ make provision for the Primary Care Trust to take into account prescribed matters in ”;
  - (b) omit paragraph (a);
  - (c) in paragraph (b), for “they” substitute “ two or more applications referred to in subsection (2)(c)(i) or (ii) ”;
  - (d) in paragraph (c), for “subsection (2)(c)” substitute “ subsection (2A) or (2B) ”.
- (6) After subsection (4) insert—
  - “(4A) Regulations under subsection (4) may in particular make the provision mentioned in subsection (5), with or without modifications.”
- (7) In subsection (6), before paragraph (a) insert—
  - “(za) for the circumstances and manner in which a Primary Care Trust may invite applications for inclusion in a pharmaceutical list,”.
- (8) After subsection (10) insert—
  - “(10A) Primary Care Trusts must give reasons for decisions made by virtue of this section.
  - (10B) In this section a “needs statement” means the statement required by section 128A(1)(b) as most recently published by the relevant Primary Care Trust.”

#### Commencement Information

**II** S. 26 in force at 1.9.2012 by S.I. 2012/1902, art. 2(a)

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

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 2(6)(ca) inserted by [2022 c. 31 Sch. 3 para. 57\(b\)](#)
- s. 2(6)(ea) inserted by [2022 c. 31 Sch. 3 para. 57\(c\)](#)

**Commencement Orders yet to be applied to the Health Act 2009**

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2011/1255 art. 2](#) amendment to earlier commencing SI 2010/1068 art. 2