
STATUTORY INSTRUMENTS

2005 No. 641

**The National Health Service
(Pharmaceutical Services) Regulations 2005**

PART 2

Pharmaceutical Lists and Applications for Admission to a Pharmaceutical List

Determination that an area is a controlled locality

31.—(1) Where, before the coming into force of these Regulations, an area was a controlled locality for the purposes of the 1992 Regulations, subject to the provisions of this regulation, that area shall continue to be a controlled locality.

(2) Subject to paragraph (10), a Primary Care Trust may at any time consider and determine whether or not an area is rural in character, and paragraphs (7) and (8)(b) and (c) shall apply as they apply to an application under paragraph (3).

(3) A Local Medical Committee or a Local Pharmaceutical Committee may at any time apply in writing to a Primary Care Trust to consider and determine whether or not an area specified in the application is rural in character.

(4) On receiving an application under paragraph (3), the Primary Care Trust shall, subject to paragraph (10), consider and determine whether or not the area specified in the application or any part of such area, is rural in character.

(5) The Primary Care Trust shall, before making a determination under this regulation, give notice in writing to the Local Medical Committee, the Local Pharmaceutical Committee and any provider of primary medical services or chemist, or LPS chemist who, in the opinion of the Primary Care Trust, may be affected by the determination, and shall inform them that they may make representations in writing within 30 days from the date on which the notice was sent.

(6) Where the Primary Care Trust determines that any area or part of an area is or is not rural in character, it shall consider whether the provision of primary medical services by any provider of primary medical services (except itself), or pharmaceutical services by any chemist (other than a distance selling chemist), or local pharmaceutical services by any LPS chemist, is likely to be adversely affected in consequence of that determination.

(7) The Primary Care Trust shall determine the boundaries of any area, or part of an area, referred to in the application which it determines to be rural in character, and—

- (a) any area determined to be rural in character by the Primary Care Trust or, on appeal under regulation 32, by the Secretary of State, shall be a controlled locality; and
- (b) the Primary Care Trust shall delineate precisely the boundaries of any controlled locality on a map, and shall publish the map.

(8) Any area forming part of an area referred to in an application under paragraph (3) which is determined not to be rural in character shall not be or, as the case may require, shall cease to be, a controlled locality.

(9) The Primary Care Trust shall not in consequence of a determination under paragraph (4)—

- (a) include any particulars in a pharmaceutical list;
- (b) give notice to a doctor pursuant to regulation 60(7);
- (c) give notice to a GMS contractor or PMS contractor pursuant to an equivalent provision to regulation 60(7) under the GMS Regulations or PMS Regulations; or
- (d) determine an application under regulation 36,

during the period for bringing an appeal or pending the determination of any such appeal.

(10) Subject to paragraph (11), where the question whether or not an area is rural in character has been determined—

- (a) by a Primary Care Trust under this regulation; or
- (b) on appeal under regulation 32,

that question shall not again be considered in relation to that area or any part of it during the period of five years immediately following the date of the determination.

(11) A question to which paragraph (10) applies may be considered by a Primary Care Trust during the period referred to in that paragraph only where it is satisfied, whether on an application under paragraph (3) or otherwise, that there has been a substantial change in circumstances in relation to the area in question, or the relevant part of it, since the question was last determined.

(12) The Primary Care Trust shall, upon any determination by it under this regulation, give to the persons mentioned in paragraph (5) notice in writing of its determination and of the reasons for it, and shall inform them that they may appeal to the Secretary of State in accordance with regulation 32.