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STATUTORY INSTRUMENTS

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**2012 No. 1909**

**The National Health Service  
(Pharmaceutical Services) Regulations 2012**

**PART 3**

General matters relating to pharmaceutical lists and applications in respect of them

**Future improvements or better access: additional matters to which the Primary Care Trust must have regard**

**20.**—(1) If a Primary Care Trust receives a routine application and is required to determine whether granting it, or granting it in respect of some only of the services specified in it, would secure improvements or better access in the future—

- (a) to pharmaceutical services, or pharmaceutical services of a specified type, in its area; and
- (b) that have or has been included in its pharmaceutical needs assessment in accordance with paragraph 4(b) of Schedule 1,

in determining whether it is satisfied as mentioned in section 129(2B) of the 2006 Act<sup>(1)</sup> (regulations as to pharmaceutical services), the Primary Care Trust must have regard to the matters set out in paragraph (2).

(2) Those matters are—

- (a) whether it is satisfied that it would be desirable to consider, at the same time as the applicant's application, applications from other persons offering to secure the future improvements or better access mentioned in paragraph (1) that the applicant is offering to secure;
- (b) whether it would be desirable to defer consideration of the application until some or all of the future circumstances specified in accordance with paragraph 4(b) of Schedule 1 have arisen (should they arise);
- (c) whether it is satisfied that another application offering to secure the future improvements or better access mentioned in paragraph (1) has been submitted to it, and it would be desirable to consider, at the same time as the applicant's application, that other application;
- (d) whether it is satisfied that an appeal relating to another application offering to secure the future improvements or better access mentioned in paragraph (1) is pending, and it would be desirable to await the outcome of that appeal before considering the applicant's application;
- (e) whether it is satisfied that, since the publication of the Primary Care Trust's pharmaceutical needs assessment, there have been changes to the profile of pharmaceutical services in the area of the Primary Care Trust that are such that refusing the application is essential in order to prevent significant detriment to the provision of pharmaceutical services in its area;

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(1) Section 129(2B) was inserted by the Health Act 2009 (c. 21), section 26(3).

- (f) whether it is satisfied that, since the publication of the Primary Care Trust's pharmaceutical needs assessment, there have been changes to the profile or future profile of pharmaceutical services in the area of the Primary Care Trust that are such that the future circumstances specified in accordance with paragraph 4(b) of Schedule 1 will not, or are now unlikely to, arise (in whole or in part);
  - (g) whether it is satisfied that—
    - (i) granting the application would only secure the future improvements or better access mentioned in paragraph (1) in part, and
    - (ii) if the application were granted, it would be unlikely, in the reasonably foreseeable future, that the remainder of those improvements or that better access would be secured;
  - (h) whether it is satisfied that, since the publication of the Primary Care Trust's pharmaceutical needs assessment, the future improvements or better access mentioned in paragraph (1) have or has been secured by another person who is providing, or is due to be secured by another person who has undertaken to provide, either in its area or in the area of another Primary Care Trust—
    - (i) pharmaceutical services from listed chemist premises, or
    - (ii) local pharmaceutical services from LPS premises;
  - (i) whether it is satisfied that—
    - (i) the future improvements or better access mentioned in paragraph (1) were or was in respect of services other than essential services, and
    - (ii) granting the application would result in an undesirable increase in the availability of essential services in the area of the Primary Care Trust;
  - (j) whether the application needs to be deferred or refused by virtue of any provision of Part 5 to 7.
- (3) For the purposes of paragraph (2)(h), the improvements or better access is to be treated as due to be secured by another person who has undertaken to provide services if—
- (a) the person (P) undertaking to secure the improvements or better access is entitled to give the Primary Care Trust a notice of commencement, as a consequence of which P will be able to commence the provision of services to meet that need, but P has not yet given that notice;
  - (b) the grant of P's application to secure the improvements or better access is subject to a condition imposed by virtue of paragraph 33(2) of Schedule 2; or
  - (c) P has entered into an LPS scheme with the Primary Care Trust, as a consequence of which P will be able to commence the provision of services to secure the improvements or better access, but P has not yet commenced the provision of those services.