
STATUTORY INSTRUMENTS

2013 No. 349

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

PART 3

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

Future needs: additional matters to which the NHSCB must have regard

15.—(1) If the NHSCB 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 meet a future need—

- (a) for pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB; and
- (b) that has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 2(b) of Schedule 1,

in determining whether it is satisfied as mentioned in section 129(2A) of the 2006 Act⁽¹⁾ (regulations as to pharmaceutical services), the NHSCB 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 meet the future need mentioned in paragraph (1) that the applicant is offering to meet;
- (b) whether it is satisfied that it would be desirable to defer consideration of the application until some or all of the future circumstances specified in accordance with paragraph 2(b) of Schedule 1 have arisen (should they arise);
- (c) whether it is satisfied that another application offering to meet the future need 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 meet the future need mentioned in paragraph (1) is pending, and it would be desirable to await the outcome of that appeal before determining the applicant's application;
- (e) whether it is satisfied that, since the publication of the relevant pharmaceutical needs assessment, there have been changes to the needs, or future needs, for pharmaceutical services in the area of the relevant HWB that are such that refusing the application is essential in order to prevent significant detriment to the provision of pharmaceutical services in that area;

(1) Section 129(2A) was inserted by the Health Act 2009 (c. 21), section 26(3), and has been amended by the Health and Social Care Act 2012 (c. 7), section 207(4), and Schedule 4, paragraph 66(5).

- (f) whether it is satisfied that, since the publication of the relevant pharmaceutical needs assessment, there have been changes to the needs, or future needs, for pharmaceutical services in the area of the relevant HWB that are such that—
 - (i) the future circumstances specified in accordance with paragraph 2(b) of Schedule 1 will not, or are now unlikely to, arise (in whole or in part), and
 - (ii) granting the application would not secure improvements, or better access, to pharmaceutical services in that area;
 - (g) whether it is satisfied that—
 - (i) granting the application would only meet the future need 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 that need would be met;
 - (h) whether —
 - (i) it is satisfied that granting the application would only meet the future need mentioned in paragraph (1) in part, but
 - (ii) it considers that, if the application were granted, it would not be unlikely, in the reasonably foreseeable future, that the remainder of that need would be met;
 - (i) whether it is satisfied that—
 - (i) the future need mentioned in paragraph (1) was for services other than essential services, and
 - (ii) granting the application would result in an increase in the availability of essential services in the area of the relevant HWB;
 - (j) whether it is satisfied that, since the publication of the relevant pharmaceutical needs assessment, the future need mentioned in paragraph (1) has been met by another person who is providing, or is due to be met by another person who has undertaken to provide, either in the area of the relevant HWB or in the area of another HWB, NHS services;
 - (k) whether the application needs to be deferred or refused by virtue of any provision of Parts 5 to 7.
- (3) For the purposes of paragraph (2)(j), a future need is to be treated as due to be met if—
- (a) the person (P) undertaking to meet that need is entitled to give the NHSCB 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 meet that need 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 NHSCB, as a consequence of which P will be able to commence the provision of services to meet that need, but P has not yet commenced the provision of those services.