
STATUTORY INSTRUMENTS

2013 No. 349

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

PART 6

**Refusal, deferral and conditional inclusion in
pharmaceutical lists of chemists on fitness grounds**

Refusal of applications for inclusion in a pharmaceutical list on fitness grounds

33.—^{F1}(A1) In this regulation, “A” means, where an application for inclusion in a pharmaceutical list is made by a person who is—

- (a) an individual, the individual making the application;
- (b) a partnership, any partner in the partnership making the application; or
- (c) a body corporate—
 - (i) except for the purposes of paragraphs (1)(a) and (b) and (3)(h)(i), the body corporate making the application, and
 - (ii) except for the purposes of paragraph (2)(b) and (e), any director or superintendent of the body corporate making the application.]

(1) An application for inclusion in a pharmaceutical list by a person ^{F2}... who is not already included in it must be refused if the NHSCB is satisfied that—

- (a) A ^{F3}...has been convicted in the United Kingdom of murder;
- (b) A ^{F3}...—
 - (i) has been convicted in the United Kingdom of a criminal offence, other than murder, which was committed after 1st April 2005, and
 - (ii) has been sentenced to a term of imprisonment of over 6 months;
- (c) A is the subject of a national disqualification; or
- (d) where, on appeal, the First-tier Tribunal determines A may be included in the pharmaceutical list subject to conditions, A has not within 30 days of that decision notified the NHSCB that A agrees to the imposition of the conditions.

(2) An application for inclusion in a pharmaceutical list by a person who is not already included may be refused if the NHSCB—

- (a) having contacted the referees mentioned in paragraph 3(8) of Schedule 2, is not satisfied with the references given;
- (b) considers that A is unsuitable to be included in the list;
- (c) having—

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- (i) checked with the NHS BSA for any facts that it considers relevant relating to past or current fraud investigations involving or related to A ^{F4} ..., and
 - (ii) considered these and any other facts in its possession relating to fraud involving or relating to A ^{F4} ...,considers the outcome of these enquiries justify such refusal;
 - (d) having—
 - (i) checked with the Secretary of State for any facts considered by the Secretary of State to be relevant relating to past or current investigations or proceedings involving or relating to A ^{F5} ..., and
 - (ii) considered these and any other facts in its possession involving or relating to A ^{F5} ...,considers the outcome of these enquiries justify such refusal; or
 - (e) considers that granting the application would be prejudicial to the efficiency of the service which A has undertaken to provide.
- (3) Where the NHSCB is considering refusal of an application under paragraph (2), it must consider all facts which appear to it to be relevant and must in particular take into consideration in relation to paragraph (2)(b) to (e)—
- (a) the nature of any offence, investigation or incident;
 - (b) the length of time since any offence, incident, conviction or investigation;
 - (c) whether there are other offences, incidents or investigations to be considered;
 - (d) any action taken or penalty imposed by any licensing or regulatory body, the police or the courts as a result of any such offence, incident or investigation;
 - (e) the relevance of any offence, investigation or incident to the provision by A of pharmaceutical services and any likely risk to users of pharmaceutical services or to public finances;
 - (f) whether any offence was a sexual offence to which Part 1 of the Sexual Offences Act 2003 ^{M1} (sexual offences) [^{F6}or section 2 of the Modern Slavery Act 2015 in respect of sexual exploitation (human trafficking)] applies, or if it had been committed in England and Wales, would have applied;
 - (g) whether A ^{F7}... has been refused inclusion in, conditionally included in, removed, contingently removed or is currently suspended from a relevant list for a reason relating to unsuitability, fraud or efficiency of service provision, and if so, the facts relating to the matter which led to such action and the reasons given by the NHSCB or another primary care organisation for such action; or
 - (h) whether A ^{F7}...was, at the time of the originating events, or has in the preceding 6 months been—
 - (i) a director or superintendent of a body corporate which has been refused inclusion in, conditionally included in, removed or contingently removed from a relevant list, or
 - (ii) is currently suspended from a relevant list,for a reason relating to unsuitability, fraud or efficiency of service provision, and if so, what the facts were in each such case and the reasons given by the NHSCB or another primary care organisation in each case.
- (4) When the NHSCB takes into consideration the matters set out in paragraph (3), it must consider the overall effect of all the matters being considered.

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(5) If an application for inclusion in a pharmaceutical list by a person who is not already included in it is refused under paragraph (1) or (2), the NHSCB must notify the applicant of that decision and it must include with the notification an explanation of—

- (a) the reasons for the decision;
- (b) the applicant's right of appeal against the decision to the First-tier Tribunal, which must be exercised within 30 days of the date on which the applicant was notified of the decision.

- F1** Reg. 33(A1) inserted (1.4.2014) by [The National Health Service \(Pharmaceutical and Local Pharmaceutical Services\) \(Amendment and Transitional Provision\) Regulations 2014 \(S.I. 2014/417\)](#), regs. 1, **12(a)**
- F2** Word in reg. 33(1) omitted (1.4.2014) by virtue of [The National Health Service \(Pharmaceutical and Local Pharmaceutical Services\) \(Amendment and Transitional Provision\) Regulations 2014 \(S.I. 2014/417\)](#), regs. 1, **12(b)(i)**
- F3** Words in reg. 33(1)(a)(b) omitted (1.4.2014) by virtue of [The National Health Service \(Pharmaceutical and Local Pharmaceutical Services\) \(Amendment and Transitional Provision\) Regulations 2014 \(S.I. 2014/417\)](#), regs. 1, **12(b)(ii)**
- F4** Words in reg. 33(2)(c)(i)(ii) omitted (1.4.2014) by virtue of [The National Health Service \(Pharmaceutical and Local Pharmaceutical Services\) \(Amendment and Transitional Provision\) Regulations 2014 \(S.I. 2014/417\)](#), regs. 1, **12(c)**
- F5** Words in reg. 33(2)(d)(i)(ii) omitted (1.4.2014) by virtue of [The National Health Service \(Pharmaceutical and Local Pharmaceutical Services\) \(Amendment and Transitional Provision\) Regulations 2014 \(S.I. 2014/417\)](#), regs. 1, **12(c)**
- F6** Words in reg. 33(3)(f) inserted (31.7.2015) by [The Modern Slavery Act 2015 \(Consequential Amendments\) Regulations 2015 \(S.I. 2015/1472\)](#), regs. 1, **12**
- F7** Words in reg. 33(3)(g)(h) omitted (1.4.2014) by virtue of [The National Health Service \(Pharmaceutical and Local Pharmaceutical Services\) \(Amendment and Transitional Provision\) Regulations 2014 \(S.I. 2014/417\)](#), regs. 1, **12(c)(d)**

Marginal Citations

- M1** 2003 c. 42.

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

- blanket amendment words substituted by [S.I. 2023/1071 Sch. para. 1](#)