
STATUTORY INSTRUMENTS

2013 No. 349

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

PART 7

**Areas that are controlled localities or reserved
locations, and new pharmacies within them**

Applications for new pharmacy premises in controlled localities: refusals because of preliminary matters

40.—(1) This paragraph applies to all routine applications—

- (a) for inclusion in a pharmaceutical list as an NHS pharmacist; or
- (b) from an NHS pharmacist included in such a list—
 - (i) to relocate to different pharmacy premises in the area of the relevant HWB, or
 - (ii) to open, within the area of the relevant HWB, additional pharmacy premises from which to provide pharmaceutical services,

where the applicant is seeking the listing of pharmacy premises which are in a controlled locality.

(2) If the NHSCB receives an application (A1) to which paragraph (1) applies, it must refuse A1 (without needing to make any notification of that application under Part 3 of Schedule 2), where the applicant is seeking the listing of premises at a location which is—

- (a) in an area in relation to which outline consent has been granted under these Regulations, the 2012 Regulations or under the 2005 Regulations within the 5 year period—
 - (i) starting on the date on which the proceedings relating to the grant of outline consent reached their final outcome, and
 - (ii) ending on the date on which A1 is made; or
- (b) within 1.6 kilometres of the location of proposed pharmacy premises (other than proposed distance selling premises), in respect of which—
 - (i) a routine application under these Regulations or the 2012 Regulations, or
 - (ii) an application to which regulation 22(1) or (3) of the 2005 Regulations (relevant procedures for applications) applied,

was refused within the 5 year period starting on the date on which the proceedings relating to the refusal reached their final outcome and ending on the date on which A1 is made,

unless the NHSCB is satisfied that since the date on which the 5 year period started, there has been a substantial and relevant change of circumstances affecting the controlled locality.

(3) For the purposes of paragraphs (1) and (2), if no particular premises are proposed for listing in A1, the applicant is to be treated as seeking the listing of pharmacy premises at the location which is the best estimate that the NHSCB is able to make of where the proposed listed pharmacy premises

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would be, having regard to the best estimate given by the applicant under paragraph 1(7)(a)(ii) of Schedule 2.

[^{F1}(4) Paragraph (2)(b) does not apply where the NHSCB is satisfied that there are reasonable grounds for believing the person making the refused application was motivated (wholly or partly) by a desire for that application to be refused.

(5) The refusal of an application pursuant to paragraph (2)(b), or regulation 40(2)(b) of the 2012 Regulations (applications for new pharmacy premises in controlled localities: refusals because of preliminary matters), is to be ignored for the purposes of the calculation of a 5 year period pursuant to paragraph (2)(b).]

F1 [Reg. 40\(4\)\(5\)](#) 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, **14**

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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](#)