STATUTORY INSTRUMENTS

2013 No. 349

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

PART 8

Dispensing doctors

Outline consent and premises approval: applications by doctors

51.—(1) A person or partnership with a patient list, or a person who performs services on behalf of a provider of primary medical services, who wishes to be granted the right to provide pharmaceutical services to patients on their own list or the provider's list (if the patients apply under regulation 48(1) on the basis of Condition 2 or 3) may apply in writing to the NHSCB for—

(a) consent ("outline consent") to the provision of pharmaceutical services to patients who request those services and who reside in the area specified in the application;

(b) approval of any medical practice premises from which D wishes to dispense ("premises approval").

(2) Where D has outline consent that has taken effect and wishes to apply for premises approval in relation to—

(a) additional medical practice premises from which to provide pharmaceutical services to patients who reside in the area for which D has an outline consent; or

(b) medical practice premises from which D wishes to relocate to provide pharmaceutical services to patients who reside in the area for which D has an outline consent, but the move to new medical practice premises is not a relocation of the type provided for in regulation 55(2),

the premises approval application need not have a related outline consent application, but in all other cases a premises approval application under paragraph (1)(b) must have a related outline consent application.

(3) An application for premises approval must include details of the address of the premises and whether those premises are already listed in relation to a different area.

(4) Except in so far as these Regulations provide to the contrary, the NHSCB is to determine applications for outline consent and premises approval in such manner (including with regard to procedures) as it sees fit.

(5) The NHSCB must refuse an application under paragraph (1) (but not regulation 54, 55 or 58) for premises approval if the premises in respect of which approval is sought are within 1.6 kilometres of pharmacy premises that are not distance selling premises.

(6) The NHSCB must refuse an application for outline consent to the extent that any part of the area specified in the application—

(a) is not, or is not part of, a controlled locality; or

(b) is within 1.6 kilometres of pharmacy premises that are not distance selling premises.

(7) Where the NHSCB is minded to refuse an application for outline consent pursuant to paragraph (6)(a), it may defer that decision in order to make a determination under regulation 36(2).

(8) Subject to paragraph (9), the NHSCB must refuse an application under paragraph (1) (but not regulation 54, 55 or 58) if granting it would, in its opinion, prejudice the proper provision of relevant NHS services in the area of—

(a) the relevant HWB; or

(b) a neighbouring HWB of the relevant HWB.

(9) If the NHSCB determines that an application for outline consent would, if it had been made for a smaller area within the area specified in the application, not prejudice the proper provision of relevant NHS services in the area of—

(a) the relevant HWB; or

(b) a neighbouring HWB of the relevant HWB,

it may grant the application in respect of that smaller area.

(10) The NHSCB must refuse an application (A1) under paragraph (1)—

(a) for outline consent to the extent that any part of the area specified in A1 is the same as the area or any part of the area specified in an application for outline consent which 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; or

(b) for premises approval (but not under regulation 54, 55 or 58) if the premises specified in A1 were specified in an application for premises approval, or relate to an application for outline consent where any part of the area specified in that application is the same as the area or any part of the area specified in an earlier application for outline consent, which was refused—

(i) under this regulation,

(ii) under regulation 51 of the 2012 Regulations (outline consent and premises approval: applications by doctors), or

(iii) by virtue of regulation 18(2) of the 2005 Regulations(**1**) (refusal: outline consent and premises approval where patients are in a controlled locality),

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 there has been a substantial and relevant change of circumstances affecting the controlled locality to which the application relates since those proceedings reached their final outcome.

(**1**) Prior to its revocation, regulation 18(2) was amended by S.I. 2005/1501 and 2010/914.