

SCHEDULE 2

Applications in respect of pharmaceutical lists and the procedures to be followed

PART 1

Information to be included in routine and excepted applications

Information to be included in all routine and excepted applications

1.—(1) The information mentioned below in this paragraph must be included in all routine and excepted applications.

(2) The name of the relevant HWB.

(3) The type of application being made (for example, the application is for inclusion in a pharmaceutical list and a change of ownership application), including a statement of whether the application is a routine or an excepted application.

(4) The name and address of the applicant (A).

(5) If A is an individual or a partnership carrying on a retail pharmacy business, A or each partner's registration number in the GPhC register.

(6) If A is a body corporate carrying on a retail pharmacy business, the name and registration number in the GPhC register of A's superintendent.

(7) If A is seeking the listing of premises not already listed in relation to A (whether or not A is already listed)—

(a) either—

(i) the address of the premises, or

(ii) if the address is not known and it is a routine application, A's best estimate of where the proposed premises will be;

(b) whether the applicant is currently in possession of the premises;

(c) the proposed core opening hours in respect of the premises; and

(d) the total proposed opening hours for the premises (having regard to both the proposed core opening hours and any supplementary opening hours).

(8) If A is seeking to provide directed services—

(a) details of the directed services to be provided;

(b) confirmation that A is accredited to provide the services, where that accreditation is a prerequisite for the provision of those services;

(c) confirmation that the premises are accredited in respect of the provision of the services, where that accreditation is a prerequisite for the provision of those services; and

(d) a floor plan showing the consultation area where A proposes to offer directed services (where relevant, unless one cannot be provided for reasons that are good cause).

(9) A is not entitled to ask for a routine application to be considered, in the alternative, as an excepted application, or for an excepted application to be considered, in the alternative, as a routine application.

(10) An estimate of the location of premises is only a "best estimate" for the purposes of subparagraph (7)(a)(ii) if the NHSCB is satisfied that—

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- (a) it is the best estimate that A can reasonably make at the time of the application of the location of the premises; and
- (b) its reasons for granting or refusing the application would be essentially the same if the applicant located, if the application was granted, at any location within the range of possible locations covered by the estimate.

Information to be included in all routine and excepted applications for inclusion in a pharmaceutical list

2.—(1) The information mentioned below in this paragraph must be included in all routine and excepted applications for inclusion in a pharmaceutical list.

(2) If the applicant (A) is an individual or a partnership—

- (a) A's or each partner's full name;
- (b) A's or each partner's sex;
- (c) A's or each partner's date of birth;
- (d) A's or each partner's private address and telephone number;
- (e) a declaration that A or each partner is a registered pharmacist, if A is seeking entry in the list mentioned in regulation 10(2)(a);
- (f) if A is a partnership, a declaration that A is, or is entitled to be, lawfully conducting a retail pharmacy business in accordance with section 69 of the 1968 Act⁽¹⁾ (general provisions), if A is seeking entry in the list mentioned in regulation 10(2)(a); and
- (g) if A is already included in Part 3 of the GPhC register in respect of any premises, A's registration number in that Part of the GPhC register, if A is seeking entry in the list mentioned in regulation 10(2)(a).

(3) If A is a body corporate—

- (a) A's registered name and any other name under which A trades;
- (b) A's company registration number;
- (c) A's registered office and any fixed line telephone number relating to that office;
- (d) the private address and date of birth of A's superintendent (if A is seeking entry in the list mentioned in regulation 10(2)(a));
- (e) the name and date of birth of each director of A (who is not A's superintendent), and if any director of A (who is not A's superintendent) is a registered pharmacist, that director's registration number in the GPhC register;
- (f) a declaration that A is, or is entitled to be, lawfully conducting a retail pharmacy business in accordance with section 69 of the 1968 Act, if A is seeking entry in the list mentioned in regulation 10(2)(a); and
- (g) if A is already included in Part 3 of the GPhC register in respect of any premises, A's registration number in that Part of the GPhC register, if A is seeking entry in the list mentioned in regulation 10(2)(a).

(4) If the services that A undertakes to provide consists of or includes the supply of appliances, the appliances A undertakes to supply.

(1) Section 69 has been amended by the Statute Law (Repeals) Act 1993 (c. 50), Schedule 1, Part 12, and by S.I. 1976/1213, 2007/289 and 3101 and 2010/231.

Fitness information about individuals: routine and excepted applications for inclusion in a pharmaceutical list

3.—(1) Subject to paragraph 5, the information mentioned below in this paragraph must be included in all routine and excepted applications for inclusion in a pharmaceutical list, as regards any person (P) who is—

- (a) the individual who is making the application;
- (b) a partner in the partnership that is making the application; or
- (c) a director or (if A is seeking entry in the list mentioned in regulation 10(2)(a)) superintendent of the body corporate that is making the application.

(2) Details of whether P—

- (a) has been convicted of any criminal offence in the United Kingdom;
- (b) has been bound over following a criminal conviction in the United Kingdom;
- (c) has accepted a police caution in the United Kingdom;
- (d) has, in summary proceedings in Scotland in respect of an offence, been the subject of an order discharging P absolutely (without proceeding to conviction); or
- (e) has accepted and agreed to pay either a procurator fiscal fine under section 302 of the Criminal Procedure (Scotland) Act 1995(2) (fixed penalty: conditional offer by procurator fiscal) or a penalty under section 115A of the Social Security Administration Act 1992(3) (penalty as alternative to prosecution).

(3) Details of whether P has at any time been convicted of an offence elsewhere than in the United Kingdom where the originating events, if they took place in England (at the time of the application), could lead to a criminal conviction in England.

(4) Details of any criminal proceedings to which P is currently subject—

- (a) in the United Kingdom; or
- (b) elsewhere than the United Kingdom if the originating events, if they took place in England, could lead to a criminal conviction in England.

(5) If P is, to P's knowledge, or has been subject to any investigation into, or proceedings relating to, P's fitness to practise by a licensing body—

- (a) if the investigation or proceedings have not yet reached their final outcome, details of that investigation or proceedings; or
- (b) if the investigation or proceedings have reached a final outcome that was adverse, details of the final outcome of that investigation or proceedings.

(6) If P is, to P's knowledge, or has been subject to any investigation into, or proceedings relating to, P's professional conduct by an employer—

- (a) if the investigation or proceedings have not yet reached their final outcome, details of that investigation or proceedings; or
- (b) if the investigation or proceedings have reached a final outcome that was adverse, details of the final outcome of that investigation or proceedings.

(7) If P is a pharmacist, details of P's—

(2) 1995 c. 46. Section 302 has been amended by: the Communications Act 2003 (c. 21), Schedule 17, paragraph 133; the Wireless Telegraphy Act 2006 (c. 36), Schedule 7, paragraph 16; the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), section 50(1); and the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 70(3).

(3) 1992 c. 5. Section 115A was inserted by the Social Security Administration (Fraud) Act 1997 (c. 47), section 15, and amended by the Social Security Fraud Act 2001 (c. 11) ("the 2001 Act"), section 14. The amendments made by the 2001 Act are to be repealed by, and other amendments to section 115A are to be made by, the Welfare Reform Act 2012 (c. 5), sections 113 to 115, and Schedule 14, Part 1.

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- (a) pharmaceutical qualifications (including where obtained); and
- (b) professional experience (including starting and finishing dates of each appointment), with an explanation of any gaps between appointments and of why P was dismissed from any post (if not already covered by the details provided pursuant to sub-paragraph (6)(b)).

(8) If P is a pharmacist, names and addresses of 2 referees who are willing to provide references in respect of 2 recent posts (which may include any current post) as a pharmacist which lasted at least 3 months without a significant break, or where this is not possible, details of why and the names and addresses of alternative referees who are acceptable to the NHSCB.

(9) If P is, to P's knowledge, or has been subject to any investigation or proceedings that could lead or could have led to P's removal from a relevant list for a reason relating to unsuitability, fraud or efficiency of service provision, details of that investigation or those proceedings, and of any final outcome to that investigation or those proceedings.

(10) If P is, to P's knowledge, or has been where the outcome was adverse, the subject of any investigation by the NHS BSA (or any body that preceded it which had, or outside England which has, primary responsibility for investigating fraud in the health service) in relation to fraud.

(11) If P has been refused inclusion in, or conditionally included in, or contingently removed or suspended from, any relevant list for a reason relating to unsuitability, fraud or efficiency of service provision, details of same.

(12) If P is in the process of applying to be included in another relevant list and proceedings relating to the application have not yet reached their final outcome (including where an application has been deferred), details of that application and the reasons for—

- (a) any deferment of that application; or
- (b) refusal or conditional inclusion where the refusal or conditional inclusion has not yet reached its final outcome.

(13) If P—

- (a) is the person making the application; and
- (b) qualified as a pharmacist in Switzerland or an EEA State other than the United Kingdom, details that demonstrate that P has the level of knowledge of English which, in the interests of P and the persons making use of the services to which the application relates, is necessary for the provision of those services in the area of the relevant HWB.

Fitness information about corporate bodies: routine and excepted applications for inclusion in a pharmaceutical list

4.—(1) Subject to paragraph 5, the information mentioned below in this paragraph must be included in all routine and excepted applications for inclusion in a pharmaceutical list by a body corporate (C1)—

- (a) as regards C1; or
- (b) as regards any other body corporate (C2) of which a director or superintendent of C1—
 - (i) is a director or superintendent or has been a director or superintendent in the 6 months prior to the date of the application, or
 - (ii) has been a director or superintendent for more than 6 months prior to the date of the application, where they were a director or superintendent of C2 at the time of the originating events to which the information relates.

(2) Details of any convictions that C1 or C2 has for offences committed in the United Kingdom that are not spent convictions.

(3) Details of whether C1 or C2 (being corporate bodies registered within the United Kingdom) has at any time been convicted of an offence elsewhere than in the United Kingdom where the originating events, if they took place in England (at the time of the application), could lead to a criminal conviction in England.

(4) Details of any criminal proceedings to which C1 or C2 is currently subject—

(a) in the United Kingdom; or

(b) elsewhere than in the United Kingdom if the originating events, if they took place in England, could lead to a criminal conviction in England.

(5) Details of any investigation to which C1 or C2—

(a) is, to its knowledge, subject by the General Pharmaceutical Council in relation to an entry in Part 3 of the GPhC register; or

(b) has been subject by the General Pharmaceutical Council, the Royal Pharmaceutical Society of Great Britain or the Pharmaceutical Society of Northern Ireland in relation to an entry in the register required to be kept under section 75 of the 1968 Act⁽⁴⁾ (registration of premises), the outcome of which was adverse.

(6) If C1 or C2, to its knowledge, is or has been subject to any investigation or proceedings that could lead or could have led to its removal from a relevant list, details of that investigation or those proceedings, and of any final outcome to that investigation or those proceedings.

(7) If C1 or C2 is, to its knowledge, or has been where the outcome was adverse, the subject of any investigation by the NHS BSA (or any body that preceded it which had, or outside England which has, primary responsibility for investigating fraud in the health service) in relation to fraud.

(8) If C1 or C2 has been refused inclusion in, or conditionally included in (other than by reason of a condition imposed under Part 9), a relevant list, details of that refusal or conditional inclusion.

(9) If C1 or C2 is in the process of applying to be included in another relevant list and proceedings relating to the application have not yet reached their final outcome (including where an application has been deferred), details of that application and the reasons for—

(a) any deferment of that application; or

(b) any refusal or conditional inclusion, where the refusal or conditional inclusion has not yet reached its final outcome.

Fitness information that has already been provided under pharmaceutical or local pharmaceutical services

5.—(1) If information mentioned in paragraph 3 or 4 has already been provided to the NHSCB (or a home Primary Care Trust) on a previous occasion pursuant to regulations under Part 7 of the 2006 Act, an applicant need not provide that information again to the NHSCB in relation to the current application.

(2) An applicant relying on paragraph (1) must, when making its application—

(a) confirm to the NHSCB that the NHSCB already has all the information required under paragraphs 3 and 4; or

(b) if there is any missing information required under those paragraphs—

(i) confirm to the NHSCB what information the NHSCB already has, and

(ii) provide the missing information.

(4) Amended by S.I. 1968/1699 and 2010/231.

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Applications seeking the listing of premises that are already, or are in close proximity to, listed chemist premises

6. If, as regards a routine or excepted application—
- (a) for inclusion in a pharmaceutical list by a person not already included; or
 - (b) by a person already included in a pharmaceutical list for inclusion also in respect of premises other than those already listed in relation to that person,

the premises which the applicant (A) is seeking to be listed in relation to A are already listed chemist premises or are adjacent to or in close proximity to such premises, A must include with the application details that explain why A believes the application should not be refused pursuant to regulation 31.

Additional information to be included with routine applications

7.—(1) If an applicant (A) is making a routine application and is seeking to satisfy the NHSCB that granting that application would meet a need for pharmaceutical services, or secure improvements to or better access to pharmaceutical services, in circumstances where—

- (a) that need, those improvements or that better access has or have been identified in the pharmaceutical needs assessment of the relevant HWB (or Primary Care Trust), A must include in that application details that explain how A intends to meet that need, or secure those improvements or that better access (in whole or in part); or
- (b) that need, those improvements or that better access has or have not been identified in the pharmaceutical needs assessment of the relevant HWB (or Primary Care Trust), A must include in that application, details that explain A's belief that regulation 18(1)(b) is satisfied in relation to that application.

(2) Where an applicant includes information in an application pursuant to paragraph (a) but not paragraph (b) of sub-paragraph (1), the NHSCB must not consider whether regulation 18(1)(b) applies in relation to that application when it determines that application.

Additional information to be included with excepted applications

8. If the applicant (A) is making an excepted application, A must include in that application details that explain—

- (a) A's belief that the application satisfies the criteria included in one of the regulations in Part 4 which need to be satisfied if section 129(2A) of the 2006 Act⁽⁵⁾ (regulations as to pharmaceutical services) are not to apply in relation to that application; and
- (b) if the regulation includes reasons for which the application must be refused, why the application should not be refused for those reasons.

Undertakings

9. An applicant (A) must provide the following undertakings—
- (a) an undertaking to notify the NHSCB within 7 days of any material changes to the information provided in the application that occur before—
 - (i) the application is withdrawn,

⁽⁵⁾ 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).

- (ii) while the application remains the subject of proceedings, the proceedings relating to the application reach their final outcome and any appeal through the courts has been disposed of, or
 - (iii) if the application is granted, A commences the provision of the services to which the application relates,whichever is the latest of these events to take place;
- (b) an undertaking to notify the NHSCB if A is included, or applies to be included, in any other relevant list of another primary care organisation before—
 - (i) the application is withdrawn,
 - (ii) while the application remains the subject of proceedings, the proceedings relating to the application reach their final outcome and any appeal through the courts has been disposed of, or
 - (iii) if the application is granted, A commences the provision of the services to which the application relates,whichever is the latest of these events to take place;
- (c) if A is seeking inclusion in a pharmaceutical list or (if A is already listed in that list) the listing of premises in relation to A that are not already listed in relation to A, an undertaking—
 - (i) to comply with all the obligations that are to be their terms of service under regulation 11 if the application is granted, and
 - (ii) in particular, in relation to any proposed pharmacy premises, to provide all the services and perform all the activities at those premises that are required under the terms of service to be provided or performed as or in connection with essential services; and
- (d) if A is seeking to provide directed services an undertaking—
 - (i) that A will provide the directed services mentioned in the application, if the NHSCB does commission the services from A within 3 years of the date of either the grant of the application or, if later, the listing in relation to the applicant of the premises to which the application relates,
 - (ii) if the services are commissioned by the NHSCB, that A will provide the services in accordance with an agreed service specification, and
 - (iii) A's agreement to a service specification will not be unreasonably withheld.

Nature of details to be supplied

10. Where, pursuant to this Part, a person is required to provide details, that obligation is only discharged if the information or documentation provided is sufficient to satisfy the NHSCB, with good cause, that no relevant information or documentation is missing, having regard to the uses that the NHSCB may need to make of the information or documentation when carrying out its functions.