

SCHEDULE 4

Terms of service of NHS pharmacists

PART 3

Hours of opening

Determination of pharmacy premises core opening hours instigated by the NHS pharmacist

26.—(1) An NHS pharmacist (P) may apply to the NHSCB for it to change the days on which or times at which P is obliged to provide pharmaceutical services at P's pharmacy premises in a way that—

- (a) reduces the total number of hours for which P is obliged to provide pharmaceutical services at those premises each week (but not those required under any 100 hours condition); or
- (b) keeps that total number of hours the same.

(2) Where P makes an application under sub-paragraph (1), as part of that application P must provide the NHSCB with such information as the NHSCB may reasonably request in respect of any changes to the needs of the people in its area, or other likely users of the pharmacy, for pharmaceutical services that are material to the application.

(3) The NHSCB must determine the application within 60 days of receiving it (including any information required of P in accordance with sub-paragraph (2)).

(4) When it determines the application, the NHSCB must—

- (a) issue a direction (which replaces any existing direction) which meets the requirements of sub-paragraphs (5) and (6) and which has the effect of either granting the application under this paragraph or granting it only in part;
- (b) confirm any existing direction in respect of the times at which P must provide pharmaceutical services at the pharmacy premises, provided that the existing direction (whether issued under regulation 65, this Part, the 2012 Regulations, the 2005 Regulations or the 1992 Regulations) would meet the requirements of sub-paragraphs (5) and (6); or
- (c) either—

- (i) revoke, without replacing it, any existing direction in respect of the times at which P must provide pharmaceutical services at the pharmacy premises (whether issued under regulation 65, this Part, the 2012 Regulations, the 2005 Regulations or the 1992 Regulations), where this has the effect of granting the application under this paragraph or granting it only in part, or

- (ii) in a case where there is no existing direction, issue no direction,

in which case, by virtue of whichever of paragraph 23(1)(a) or (b) applies, the pharmacy will need to be open for 40 hours each week or for at least 100 hours each week.

(5) Where the NHSCB issues a direction under sub-paragraph (4) in respect of pharmacy premises that are to be required to be open—

(a) for more than 40 hours each week, it must set out in that direction—

- (i) the total number of hours each week for which P must provide pharmaceutical services at the pharmacy premises, and
 - (ii) as regards any additional opening hours, the days on which and the times at which P is required to provide those services during those hours,

Status: This is the original version (as it was originally made).

but it must not set out in that direction days on which or times at which P is to provide pharmaceutical services during hours which are not additional opening hours; or

- (b) for less than 40 hours each week, it shall set out in that direction the days on which and times at which pharmaceutical services are to be provided at the pharmacy premises.

(6) The NHSCB must not issue a direction under sub-paragraph (4) that has the effect simply of requiring pharmacy premises to be open for 40 hours each week on set days and at set times (that is, the direction must have the effect of requiring pharmacy premises to be open for either more or less than 40 hours each week).

(7) Where the NHSCB is considering taking action under sub-paragraph (4)(a) or (c)(i), it shall consult the Local Pharmaceutical Committee for the area in which the pharmacy premises are situated before determining the application.

(8) The NHSCB must notify P of any direction issued or any other action taken under sub-paragraph (4), and where this has the effect of refusing an application under this paragraph or granting it in part, it must send P a statement setting out—

- (a) the reasons for the refusal or, as the case may be, for granting the application only in part; and
- (b) P's right of appeal under sub-paragraph (9).

(9) P may, within 30 days of receiving a notification pursuant to sub-paragraph (8), appeal in writing to the Secretary of State against any action under sub-paragraph (4) which has the effect of refusing an application under this paragraph or granting it only in part.

(10) The Secretary of State may, when determining an appeal, either confirm the action taken by the NHSCB or take any action that the NHSCB could have taken under sub-paragraph (4).

(11) The Secretary of State must notify the pharmacist of the determination and must include with the notification a statement of the reasons for the determination.

(12) If the days on which or times at which P is to provide pharmaceutical services at pharmacy premises have been changed in accordance with this paragraph, P must introduce the changes—

- (a) if P has not appealed under sub-paragraph (9), not earlier than 30 days after the date on which P receives notification under sub-paragraph (4); or
- (b) if P has appealed under sub-paragraph (9), not earlier than 30 days after the date on which P receives notification under sub-paragraph (11).

(13) This paragraph does not apply where regulation 65(5) to (7) applies.