
STATUTORY INSTRUMENTS

2023 No. 479

**The National Health Service (Pharmaceutical and Local
Pharmaceutical Services) (Amendment) Regulations 2023**

Amendment of paragraph 26 of Schedule 4

12.—(1) In Schedule 4 (terms of service of NHS pharmacists), in Part 3 (hours of opening), paragraph 26 (determination of pharmacy premises core opening hours instigated by the NHS pharmacist) is amended as follows.

(2) In sub-paragraph (1)—

- (a) before “at P’s pharmacy premises” insert “during core opening hours”; and
- (b) in paragraph (a), omit “(but not those required under any 100 hours condition)”.

(3) In sub-paragraph (2)—

- (a) before “Where P makes” insert “Except where sub-paragraph (2A) applies,”; and
- (b) for from “any changes” to “material to the application” substitute “the matters that NHS England must seek to ensure pursuant to paragraph 24(1)”.

(4) After sub-paragraph (2) insert—

“(2A) In the case of an application for a direction under sub-paragraph (4) that has the effect of reducing, in the case of any premises in respect of which a 100 hours condition applies or has ever applied, or in respect of which a direction that replaced (at any distance in succession) a 100 hours condition applies, the total number of core opening hours to 72 or above, but without changing any or all of the following—

- (a) the core opening hours on a Monday to Saturday at times between 5pm and 9pm;
- (b) the core opening hours on a Sunday at times between 11am and 4pm, other than by way of the inclusion of, or a change to, a rest break which—
 - (i) is no longer than one hour, and
 - (ii) starts at least 3 hours after the start of the pharmacy’s opening hours and ends at least 3 hours before the end of the pharmacy’s opening hours; and
- (c) the total number of core opening hours on a Sunday,

NHS England must grant that application, and paragraph 24(1) does not apply to such an application.

(2B) In the case of a valid application for a direction under sub-paragraph (4) to which sub-paragraph (2A) applies, if—

- (a) the date included in the application as the date on which P wishes to change P’s core opening hours is five weeks or more after the day on which the application is received by NHS England; and
- (b) NHS England has not determined the application by that date,

pending the determination of the application, P’s core opening hours are the core opening hours that P requested in the application.”.

(5) In sub-paragraph (4)—

- (a) in paragraph (a), before “(5) and (6)” insert “(4A),”; and
 - (b) in paragraph (c), omit from “in which case” to the end of that paragraph.
- (6) After sub-paragraph (4) insert—
- “(4A) NHS England must not issue a direction under sub-paragraph (4), or revoke without replacing it an existing direction under that sub-paragraph, if doing so would have the effect of reducing, in the case of any premises in respect of which a 100 hours condition applies or has ever applied, or in respect of which a direction that replaced (at any distance in succession) a 100 hours condition applies, any or all of the following—
- (a) the total number of core opening hours to below 72;
 - (b) the core opening hours on a Monday to Saturday at times between 5pm and 9pm;
 - (c) the core opening hours on a Sunday at times between 11am and 4pm, other than by way of the inclusion of, or a change to, a rest break which—
 - (i) is no longer than one hour, and
 - (ii) starts at least 3 hours after the start of the pharmacy’s opening hours and ends at least 3 hours before the end of the pharmacy’s opening hours; and
 - (d) the total number of core opening hours on a Sunday,
- and an application seeking such a change is not a valid application for the purposes of sub-paragraph (2B).
- (4B) On and after 25th May 2023, NHS England must not issue a direction under sub-paragraph (4), or revoke without replacing it an existing direction under that sub-paragraph, pursuant to an application made before 25th May 2023 for a direction pursuant to this paragraph as it had effect before 25th May 2023, if doing so would have the effect of reducing, in the case of any premises in respect of which a 100 hours condition applies, any or all of the following—
- (a) the core opening hours on a Monday to Saturday at times between 5pm and 9pm;
 - (b) the core opening hours on a Sunday at times between 11am and 4pm, other than by way of the inclusion of, or a change to, a rest break which—
 - (i) is no longer than one hour, and
 - (ii) starts at least 3 hours after the start of the pharmacy’s opening hours and ends at least 3 hours before the end of the pharmacy’s opening hours; and
 - (c) the total number of core opening hours on a Sunday.”.
- (7) In sub-paragraph (5)(a), before “it must not set out” insert “except in a case to which sub-paragraph (4A) applies,”.