
STATUTORY INSTRUMENTS

2023 No. 479

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

New regulation 65A

4. After regulation 65 (core opening hours conditions) insert—

“Continuity in respect of opening hours directions

65A.—(1) In this regulation, “opening hours directions” means directions that have been given under regulation 65(4) or (5), or issued in accordance with paragraph 25 or 26 of Schedule 4 or paragraph 15 or 16 of Schedule 5, or given under or issued in accordance with earlier provisions which that regulation and those paragraphs have (at any distance in succession) replaced.

(2) Opening hours directions given or issued in respect of premises included in a pharmaceutical list apply to any NHS chemist listed in relation to those premises, not just to the NHS chemist to whom they were given or issued.

(3) Where, by virtue of regulation 24 or 26(2), an excepted application may be granted in circumstances where the applicant is undertaking to provide the same pharmaceutical services as those that are already being provided, but at premises that are not already included in a pharmaceutical list, that application must be refused where opening hours directions apply in respect of the premises from which the applicant is relocating the relevant business, unless—

- (a) the applicant, as part of their undertaking, undertakes to provide pharmaceutical services for any total number of core opening hours, and on any set days and at any set times, specified in those opening hours directions, taking into account any variation in respect of a rest break in accordance with paragraph 23(7)(bd) of Schedule 4; and
- (b) NHS England is, accordingly, required to give directions under regulation 65(4) in the same terms as those given in those opening hours directions, but in respect of the premises to which the applicant is relocating the relevant business and taking into account any variation in respect of a rest break in accordance with paragraph 23(7)(bd) of Schedule 4.

(4) In circumstances where, in respect of any premises, there are opening hours directions that have replaced (at any distance in succession) a 100 hours condition, whether that condition applied in respect of those premises or other premises, any routine application to relocate from those premises must be refused unless—

- (a) the applicant undertakes to provide pharmaceutical services, at the premises to which the applicant is relocating the relevant business, for any total number of core opening hours, and on any set days and at any set times, specified in those opening hours directions; and

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- (b) NHS England is, accordingly, required to give directions under regulation 65(4) in the same terms as those given in those opening hours directions but in respect of the premises to which the applicant is relocating the relevant business.”.