
STATUTORY INSTRUMENTS

2023 No. 479

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

Amendment of paragraph 23 of Schedule 4

9.—(1) In Schedule 4 (terms of service of NHS pharmacists), in Part 3 (hours of opening), paragraph 23 (pharmacy opening hours: general)(1) is amended as follows.

(2) In sub-paragraph (1)—

- (a) before “An NHS pharmacist (P)” insert “Subject to paragraph 23A,”;
- (b) in paragraph (d), after “days so set” insert “, subject to any variation in respect of a rest break in accordance with sub-paragraph (7)(bd)”;
- (c) in paragraph (e)—
 - (i) after “the additional opening hours”, at the first place where it occurs, insert “, or the core opening hours where paragraph 26(4A) applied to the issuing of the direction”, and
 - (ii) in sub-paragraph (ii), after “set out in that direction” insert “, subject to any variation in respect of a rest break in accordance with sub-paragraph (7)(bd)”.

(3) In sub-paragraph (6), after “the change” insert “before the change takes place”.

(4) In sub-paragraph (7), omit “and” at the end of paragraph (a) and for paragraph (b) substitute—

- “(ba) P must not change the days on which or the times at which pharmaceutical services are to be provided at those premises during core opening hours, except for making a change that—
 - (i) amounts to the inclusion of a rest break which is no longer than one hour, or a change to such a rest break—
 - (aa) on a Monday to Saturday, which 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, or
 - (bb) on a Sunday, and
 - (ii) does not change the total number of P’s core opening hours on a particular day, otherwise than as provided for, and in accordance with the procedures set out in, paragraphs 25 and 26;
- (bb) P must not change P’s supplementary opening hours in a way that reduces the time for which P’s pharmacy is open before or after a rest break on a Monday to Saturday to less than 3 hours (if P wants to change the supplementary opening hours affected by this requirement, P must also change the time of the rest break);
- (bc) P must not change—

- (i) the total number of P’s supplementary opening hours in a way that either reduces or leaves the same the total number of P’s supplementary opening hours, or
 - (ii) unless the change relates to an increase of the total number of supplementary opening hours, the days on which or the times at which pharmaceutical services are to be provided at P’s premises during supplementary opening hours, for a period of at least 5 weeks after the day on which that notification was received by NHS England, unless NHS England agrees otherwise; and
- (bd) P must not change the days on which or the times at which pharmaceutical services are to be provided at those premises during core opening hours, in the case of making a change that—
 - (i) amounts to the inclusion of a rest break which is no longer than one hour, or a change to such a rest break—
 - (aa) on a Monday to Saturday, which 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, or
 - (bb) on a Sunday, and
 - (ii) does not change the total number of P’s core opening hours on a particular day, for a period of at least 5 weeks after the day on which that notification was received by NHS England, unless NHS England agrees otherwise.”.
- (5) After sub-paragraph (7) insert—

“(7A) Paragraphs (ba) and (bd) of sub-paragraph (7) do not apply to changes to core opening hours of 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, and accordingly the core opening hours of such premises may only be changed in accordance with paragraph 25 or 26.”.
- (6) Omit sub-paragraphs (8) and (9).
- (7) In sub-paragraph (10)—
 - (a) for “for a reason” substitute “because of illness or another reason”;
 - (b) after “(1) and (7),” insert “or of paragraph 23A(5)(a),”;
 - (c) in paragraph (a), for “as practical; and” substitute “as practicable, in the manner required by paragraph 29D(2)(a) and wherever possible before the start of the suspension;”;
 - (d) after paragraph (a) insert—
 - “(aa) P uses all reasonable endeavours to implement the business continuity plan that P is required to have by virtue of paragraph 29D; and”.
- (8) In sub-paragraph (11), for “neither a “reasonable cause” for the purposes of sub-paragraph (8) nor” substitute “not”.