
STATUTORY INSTRUMENTS

2013 No. 349

**The National Health Service (Pharmaceutical and
Local Pharmaceutical Services) Regulations 2013**

PART 4

Excepted applications

Applications for temporary listings arising out of suspensions

27.—(1) Section 129(2A) of the 2006 Act (regulations as to pharmaceutical services) does not apply to an application—

- (a) for temporary inclusion in a pharmaceutical list by a person not already included; or
- (b) by a person already included in a pharmaceutical list for temporary inclusion in that list in respect of services, or services and premises, other than those already listed in relation to that person,

from a person (X) who proposes to provide pharmaceutical services which are not being provided because the person listed in relation to them (Y) is suspended from the pharmaceutical list.

(2) The NHSCB must refuse an application to which paragraph (1) applies—

- (a) unless it is satisfied that—
 - (i) Y has nominated X as the person to provide those services for the duration of Y's suspension and consents to X doing so,
 - (ii) X will provide the same pharmaceutical services as those that Y provided or had undertaken to provide before the suspension, and
 - (iii) there is no direct or indirect connection between X and Y (including such a connection through a third party) the nature of which makes it unlikely that X will be able to exercise an appropriate degree of autonomy;
- (b) if Y is a body corporate and X—
 - (i) is an employee of Y,
 - (ii) is, or was at the time of the suspension or of the originating events, a director or superintendent of Y,
 - (iii) is a body corporate in which Y or an employee of Y is a majority shareholder,
 - (iv) is a body corporate in which a majority shareholder of Y is, or was at the time of the suspension or of the originating events, a director or superintendent of X,
 - (v) is a body corporate which has a director or superintendent who is an employee of Y, or
 - (vi) is a body corporate which has as a director or superintendent someone who is, or was at the time of the suspension or of the originating events, a director or superintendent of Y;
- (c) if Y is an individual and X—

- (i) is an employee of Y,
 - (ii) is a body corporate of which Y or an employee of Y is a director or superintendent,
 - (iii) is a body corporate in which Y or an employee of Y is a majority shareholder, or
 - (iv) is a body corporate which has a director or superintendent who is an employee of Y; or
- (d) if Y is a partnership and X—
- (i) is or has been a member or employee of Y,
 - (ii) is a body corporate of which a member or employee of Y is or has been a director, superintendent or majority shareholder, or
 - (iii) is a partnership of which X, or a member or employee of X, is or has been a member.
- (3) If an application to which—
- (a) paragraph (1)(a) applies is granted, the applicant must only be included in the pharmaceutical list for a fixed period;
 - (b) paragraph (1)(b) applies is granted, the premises or services must only be listed in relation to the applicant for a fixed period.
- (4) The fixed periods referred to in paragraph (3) must be no longer than—
- (a) the period of Y's suspension; or
 - (b) until Y notifies the NHSCB, with effect from a specified date (which must be at least 2 working days after the date of the notification), that Y no longer consents to X providing the services that X is providing because of Y's suspension from the pharmaceutical list.