



# National Health Service (Wales) Act 2006

## 2006 CHAPTER 42

### PART 7

#### PHARMACEUTICAL SERVICES AND LOCAL PHARMACEUTICAL SERVICES

#### CHAPTER 1

#### PHARMACEUTICAL SERVICES

#### *Provision of pharmaceutical services*

### **83 Regulations as to pharmaceutical services**

- (1) Regulations must provide for securing that arrangements made by a Local Health Board under section 80 will—
  - (a) enable persons for whom drugs, medicines or appliances mentioned in that section are ordered as there mentioned to receive them from persons with whom such arrangements have been made, and
  - (b) ensure the provision of services prescribed under subsection (3)(e) of that section by persons with whom such arrangements have been made.
- (2) The regulations must include provision—
  - (a) for the preparation and publication by a Local Health Board of one or more lists of persons, other than medical practitioners and dental practitioners, who undertake to provide pharmaceutical services from premises in the area of the Local Health Board,
  - (b) that an application to a Local Health Board for inclusion in a pharmaceutical list must be made in the prescribed manner and must state—
    - (i) the services which the applicant will undertake to provide and, if they consist of or include the supply of appliances, which appliances he will undertake to supply, and
    - (ii) the premises from which he will undertake to provide those services,

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- (c) that, except in prescribed cases (which may, in particular, include cases of applications for the provision only of services falling within subsection (7)—
  - (i) an application for inclusion in a pharmaceutical list by a person not already included, and
  - (ii) an application by a person already included in a pharmaceutical list for inclusion also in respect of services or premises other than those already listed in relation to him,
 may be granted only if the Local Health Board is <sup>[F1]</sup>satisfied as mentioned in subsection (2B), and]
- (d) for the removal of an entry in respect of premises from a pharmaceutical list if it has been determined in the prescribed manner that the person to whom the entry relates—
  - (i) has never provided from those premises, or
  - (ii) has ceased to provide from them,
 the services, or any of the services, which he is listed as undertaking to provide from them.

<sup>[F2]</sup>(2A) The regulations may specify persons or descriptions of persons who are not to be included in a list prepared by virtue of subsection (2)(a).

(2B) The Local Health Board is satisfied as mentioned in this subsection if, having regard to the assessment most recently published by it under section 82A and to any matters specified in the regulations, it is satisfied that granting the application would meet a need in its area for the services, or some of the services, specified in the application.

(2C) In relation to cases where the Local Health Board is satisfied as mentioned in subsection (2B), the regulations may make provision as to—

- (a) the procedure for determining whether to grant the application;
- (b) matters to be taken into account for the purpose of determining whether to grant the application.]

(3) The regulations may prescribe the extent to which the provision of LP services (within the meaning given by paragraph 1 of Schedule 7) must be taken into account in determining whether to grant an application for inclusion in a pharmaceutical list.

<sup>[F3]</sup>(3A) The regulations may prescribe circumstances in which two or more applications referred to in subsection (2)(c)(i) or (ii) may or must be considered together by the Local Health Board.]

(4) The regulations may <sup>[F4]</sup>make provision for the Local Health Board to take into account prescribed matters] where—

- <sup>F5</sup>(a) .....
- (b) <sup>[F6]</sup>two or more applications referred to in subsection (2)(c)(i) or (ii)] are considered together by the Local Health Board, and
- (c) the Local Health Board would be satisfied as mentioned in <sup>[F7]</sup>subsection (2B)] in relation to each application taken on its own, but is not so satisfied in relation to all of them taken together.

<sup>[F8]</sup>(4A) The regulations may in particular make the provision mentioned in subsection (5), with or without modifications.]

(5) The provision mentioned in this subsection is provision for the Local Health Board, in determining which application (or applications) to grant, to take into account any

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proposals specified in the applications in relation to the sale or supply at the premises in question, otherwise than by way of pharmaceutical services or in accordance with a private prescription, of—

- (a) drugs and medicines, and
- (b) other products for, or advice in relation to, the prevention, diagnosis, monitoring or treatment of illness or handicap, or the promotion or protection of health.

(6) The regulations may include provision—

[<sup>F9</sup>(za) as to circumstances in which the Local Health Board may invite applications for inclusion in a pharmaceutical list,]

- (a) that an application to a Local Health Board may be granted in respect of some only of the services specified in it,
- (b) that an application to a Local Health Board relating to services of a prescribed description may be granted only if it appears to the Local Health Board that the applicant has satisfied such conditions with regard to the provision of those services as may be prescribed,
- (c) that an application to a Local Health Board by a person who qualified to have his name registered [<sup>F10</sup>as a pharmacist in the Register maintained under article 19 of the Pharmacy Order 2010 by virtue of a qualification in pharmacy awarded in an EEA State other than the United Kingdom, or in Switzerland,] may not be granted unless the applicant satisfies the Local Health Board that he has the knowledge of English which, in the interest of himself and persons making use of the services to which the application relates, is necessary for the provision of pharmaceutical services in the area of the Local Health Board,
- (d) that the inclusion of a person in a pharmaceutical list in pursuance of such an application may be for a fixed period,
- (e) that, where the premises from which an application states that the applicant will undertake to provide services are in an area of a prescribed description, the applicant may not be included in the pharmaceutical list unless his inclusion is approved by reference to prescribed criteria by the Local Health Board in whose area those premises are situated,

(f) that that Local Health Board may give its approval subject to conditions,

[<sup>F11</sup>(fa) about the timescale for dealing with an application,]

- (g) as to other grounds on which [<sup>F12</sup>or circumstances in which] a Local Health Board may, or must, refuse to grant an application (including grounds corresponding to the conditions referred to in section 107(2), (3) or (4) as read with section 109),
- (h) as to information which must be supplied to a Local Health Board by a person included, or seeking inclusion, in a pharmaceutical list (or by arrangement with him),
- (i) for the supply to a Local Health Board by an individual—
  - (i) who is included, or seeking inclusion, in a pharmaceutical list, or
  - (ii) who is a member of the body of persons controlling a body corporate included, or seeking inclusion, in a pharmaceutical list,

of a criminal conviction certificate under section 112 of the Police Act 1997 (c. 50), a criminal record certificate under [<sup>F13</sup>section 113A of that Act, an enhanced criminal record certificate under section 113B of that Act or up-date information within the meaning given by section 116A of that Act,]

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- (j) for grounds on which a Local Health Board may defer a decision whether or not to grant an application,
- (k) for the disclosure by a Local Health Board, to prescribed persons or persons of prescribed descriptions, of information of a prescribed description about applicants for inclusion in a pharmaceutical list, and refusals by the Local Health Board to grant such applications,
- (l) as to criteria to be applied in making decisions under the regulations (other than decisions required by virtue of paragraph (e)),
- (m) as to the making of declarations about—
  - (i) financial interests,
  - (ii) gifts above a prescribed value, and
  - (iii) other benefits received.
- [<sup>F14</sup>(n) as to circumstances in which a Local Health Board may, or must, remove a person or an entry in respect of premises from the pharmaceutical list for breach of a term or condition of arrangements made with the Local Health Board for the provision of pharmaceutical services.]
- [<sup>F15</sup>(6A) The regulations, if they make provision within subsection (6)(n), must specify that a person or entry is not to be removed by a Local Health Board unless—
  - (a) the Local Health Board has given notice under section 106A (notice in relation to breach of arrangements) in respect of the breach, and
  - (b) the person in respect of whom the notice was given has failed to comply with a requirement of that notice.]
- (7) A service falls within this subsection if the means of providing it is such that the person receiving it does so otherwise than at the premises from which it is provided.
- (8) The regulations may, in respect of services falling within subsection (7), include provision—
  - (a) requiring persons to be approved for the purposes of providing such services, or
  - (b) requiring the Local Health Board to make the grant of an application subject to prescribed conditions.
- (9) The approval mentioned in subsection (8)(a) is approval by the Welsh Ministers or such other person as may be specified in the regulations, in accordance with criteria to be specified in or determined under the regulations (whether by the Welsh Ministers or by another person so specified).
- (10) Before making regulations by virtue of subsection (6)(m), the Welsh Ministers must consult such organisations as they consider appropriate appearing to them to represent persons providing pharmaceutical services.
- [<sup>F16</sup>(10A) The regulations may make provision for a Local Health Board to give reasons for decisions made by virtue of this section.]
- (11) In this Act a “pharmaceutical list” means a list published in accordance with regulations made under subsection (2)(a).

#### Textual Amendments

- F1** Words in s. 83(2)(c) substituted (1.4.2019) by [Public Health \(Wales\) Act 2017 \(anaw 2\)](#), **ss. 112(2), 126(2)**; [S.I. 2019/829](#), art. 2

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- F2** S. 83(2A)-(2C) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(3)**, 126(2); S.I. 2019/829, art. 2
- F3** S. 83(3A) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(4)**, 126(2); S.I. 2019/829, art. 2
- F4** Words in s. 83(4) substituted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(5)(a)**, 126(2); S.I. 2019/829, art. 2
- F5** S. 83(4)(a) omitted (1.4.2019) by virtue of Public Health (Wales) Act 2017 (anaw 2), **ss. 112(5)(b)**, 126(2); S.I. 2019/829, art. 2
- F6** Words in s. 83(4)(b) substituted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(5)(c)**, 126(2); S.I. 2019/829, art. 2
- F7** Words in s. 83(4)(c) substituted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(5)(d)**, 126(2); S.I. 2019/829, art. 2
- F8** S. 83(4A) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(6)**, 126(2); S.I. 2019/829, art. 2
- F9** S. 83(6)(za) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(7)(a)**, 126(2); S.I. 2019/829, art. 2
- F10** Words in s. 83(6)(c) substituted (27.9.2010) by The Pharmacy Order 2010 (S.I. 2010/231), arts. 1, 68, **Sch. 4 para. 14(2)**; S.I. 2010/1621, **art. 2(1)**, Sch.
- F11** S. 83(6)(fa) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(7)(b)**, 126(2); S.I. 2019/829, art. 2
- F12** Words in s. 83(6)(g) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(7)(c)**, 126(2); S.I. 2019/829, art. 2
- F13** Words in s. 83(6)(i) substituted (17.6.2013) by Protection of Freedoms Act 2012 (c. 9), s. 120, **Sch. 9 para. 126** (with s. 97); S.I. 2013/1180, art. 2(e)(v)
- F14** S. 83(6)(n) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(7)(d)**, 126(2); S.I. 2019/829, art. 2
- F15** S. 83(6A) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(8)**, 126(2); S.I. 2019/829, art. 2
- F16** S. 83(10A) inserted (1.4.2019) by Public Health (Wales) Act 2017 (anaw 2), **ss. 112(9)**, 126(2); S.I. 2019/829, art. 2

**Modifications etc. (not altering text)**

- C1** S. 83 modified (temp.) (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), **ss. 5, 8(2)**, **Sch. 3 para. 6** (with Sch. 3 Pt. 1)

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