

---

STATUTORY INSTRUMENTS

---

**2013 No. 349**

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

**PART 13**

**Local Pharmaceutical Services**

**LPS proposals: fitness information to be supplied**

**106.**—(1) A person (P) proposing to become a party to an LPS scheme with the NHSCB must supply to the NHSCB, with their proposal, the information listed in paragraph (2) about the following relevant persons—

- (a) if P is an individual, about P;
  - (b) if P a partnership, about each partner;
  - (c) if P is a body corporate, about—
    - (i) the body corporate, and
    - (ii) any director, chief executive, superintendent or company secretary of the body corporate.
- (2) That information is whether a relevant person (R)—
- (a) has any criminal convictions in the United Kingdom;
  - (b) has accepted a police caution in the United Kingdom;
  - (c) has been convicted elsewhere than in the United Kingdom of an offence which would, if committed in England or Wales, constitute a criminal offence;
  - (d) has been subject to an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995(1) (admonition and absolute discharge) discharging R absolutely;
  - (e) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995(2) (fixed penalty: conditional offer by procurator fiscal);
  - (f) has agreed to pay a penalty under section 115A of the Social Security Administration Act 1992(3) (penalty as alternative to prosecution);
  - (g) is the subject of any proceedings which might lead to a conviction and which have not yet been notified to the NHSCB;

---

(1) 1995 c. 46; section 246(2) and (3) have been amended by the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), Schedule 2, paragraph 26.

(2) 1995 c. 46. Section 302 has been amended by: the Communications Act 2003 (c. 21), Schedule 17, paragraph 133; the Wireless Telegraphy Act 2006 (c. 36), Schedule 7, paragraph 16; the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), section 50(1); and the Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), section 70(3).

(3) 1992 c. 5. Section 115A was inserted by the Social Security Administration (Fraud) Act 1997 (c. 47), section 15, and amended by the Social Security Fraud Act 2001 (c. 11) (“the 2001 Act”), section 14. The amendments made by the 2001 Act are to be repealed by, and other amendments to section 115A are to be made by, the Welfare Reform Act 2012 (c. 5), sections 113 to 115, and Schedule 14, Part 1.

- (h) has been subject to any investigation into R's professional conduct by a licensing or regulatory body, the outcome of which was adverse;
- (i) is, to R's knowledge, the subject of an investigation into R's professional conduct by a licensing or regulatory body;
- (j) is, to R's knowledge, or where the outcome was adverse has been, the subject of an investigation into R's professional conduct in respect of any current or previous employment;
- (k) is, to R's knowledge, the subject of an investigation by another primary care organisation, which might lead to removal from a relevant list;
- (l) is, to R's knowledge, or where the outcome was adverse has been, the subject of an investigation by the NHS BSA in relation to fraud;
- (m) on fitness grounds—
  - (i) has had an application for inclusion in a relevant list refused,
  - (ii) has been conditionally included in a relevant list,
  - (iii) has been removed or contingently removed from a relevant list,
  - (iv) is suspended from a relevant list,and if so, the name of the relevant primary care organisation; or
- (n) is or ever has been the subject of a national disqualification,

and if so, P must give details of the relevant investigation or proceedings, including the nature of the investigation or proceedings, where and when (if known) they took place, and any outcome.

(3) If information mentioned in paragraph (2) has already been provided to the NHSCB on a previous occasion pursuant to regulations under Part 7 of the 2006 Act, P need not provide that information again to the NHSCB, but if P is relying on this paragraph, P must, when supplying their proposal—

- (a) confirm to the NHSCB that the NHSCB already has all the information required under paragraph (2); or
- (b) if there is any missing information required under that paragraph—
  - (i) confirm to the NHSCB what information the NHSCB already has, and
  - (ii) provide the missing information.

(4) If the NHSCB determines that P may not become a party to the LPS scheme by virtue of regulation 105, the NHSCB must notify P of its determination, the reasons for its determination, and of P's right of appeal under paragraph (5).

(5) P may appeal against a determination mentioned in paragraph (4) to the First-Tier Tribunal, provided P does so within 30 days of the date on which P was notified of the determination.