
STATUTORY INSTRUMENTS

2013 No. 349

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

PART 3

General matters relating to pharmaceutical lists and applications in respect of them

**Improvements or better access to the current service: additional matters to which the
NHSCB must have regard**

17.—(1) If the NHSCB receives a routine application and is required to determine whether granting it, or granting it in respect of some only of the services specified in it, would secure improvements, or better access—

- (a) to pharmaceutical services, or pharmaceutical services of a specified type, in the area of the relevant HWB; and
- (b) that have or has been included in the relevant pharmaceutical needs assessment in accordance with paragraph 4(a) of Schedule 1,

in determining whether it is satisfied as mentioned in section 129(2A) of the 2006 Act⁽¹⁾ (regulations as to pharmaceutical services), the NHSCB must have regard to the matters set out in paragraph (2).

(2) Those matters are—

- (a) whether it is satisfied that it would be desirable to consider, at the same time as the applicant's application, applications from other persons offering to secure the improvements or better access mentioned in paragraph (1) that the applicant is offering to secure;
- (b) whether it is satisfied that another application offering to secure the improvements or better access mentioned in paragraph (1) has been submitted to it, and it would be desirable to consider, at the same time as the applicant's application, that other application;
- (c) whether it is satisfied that an appeal relating to another application offering to secure the improvements or better access mentioned in paragraph (1) is pending, and it would be desirable to await the outcome of that appeal before considering the applicant's application;
- (d) whether it is satisfied that, since the publication of the relevant pharmaceutical needs assessment, there have been changes to the profile of pharmaceutical services in the area of the relevant HWB that are such that refusing the application is essential in order to prevent significant detriment to the provision of pharmaceutical services in that area;
- (e) whether it is satisfied that—
 - (i) granting the application would only secure the improvements or better access mentioned in paragraph (1) in part, and

(1) Section 129(2A) was inserted by the Health Act 2009 (c. 21), section 26(3), and has been amended by the Health and Social Care Act 2012 (c. 7), section 207(4), and Schedule 4, paragraph 66(5).

- (ii) if the application were granted, it would be unlikely, in the reasonably foreseeable future, that the remainder of those improvements or that better access would be secured;
 - (f) whether it is satisfied that, since the publication of the relevant pharmaceutical needs assessment, the improvements or better access mentioned in paragraph (1) have or has been secured by another person who is providing, or is due to be secured by another person who has undertaken to provide, either in the area of the relevant HWB or in the area of another HWB, NHS services;
 - (g) whether it is satisfied that—
 - (i) the improvements or better access mentioned in paragraph (1) were or was in respect of services other than essential services, and
 - (ii) granting the application would result in an undesirable increase in the availability of essential services in the area of the relevant HWB;
 - (h) whether the application needs to be deferred or refused by virtue of any provision of Part 5 to 7.
- (3) For the purposes of paragraph (2)(f), the improvements or better access is to be treated as due to be secured by another person who has undertaken to provide services if—
- (a) the person (P) undertaking to secure the improvements or better access is entitled to give the NHSCB a notice of commencement, as a consequence of which P will be able to commence the provision of services to secure the improvements or better access, but P has not yet given that notice;
 - (b) P has entered into an LPS scheme with the NHSCB, as a consequence of which P will be able to commence the provision of services to secure the improvements or better access, but P has not yet commenced the provision of those services.