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STATUTORY INSTRUMENTS

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**2013 No. 349**

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

**PART 10**

Performance related sanctions and market exit

**Payment withholdings: supplementary matters**

**72.**—(1) A remedial notice or breach notice may only provide for the withholding of all or any part of the remuneration of an NHS chemist (C) if—

- (a) [F1NHS England] is satisfied that the breach to which the withholding relates is, or was, without good cause;
- (b) the amount withheld is justifiable and proportionate, having regard to the nature and seriousness of the breach and the reasons for it;
- (c) [F1NHS England] includes in the notice its duly justified reasons for both the decision to withhold remuneration and the amounts that are, and (where applicable) are to be, withheld.

(2) [F1NHS England] need not take into account the reasons for the breach, pursuant to paragraph (1)(b), if it has made every reasonable effort to communicate with C to discover the reasons but it has been unable to discover them.

(3) Withholdings of payments provided for in remedial notices and breach notices are without prejudice to the arrangements in place for recovering overpayments under regulation 94 and the Drug Tariff.

(4) For the purposes of regulations 70(4) and 71(3), remuneration determined by the Secretary of State, or by [F1NHS England] acting as determining authority pursuant to regulation 91(1), is remuneration due to C under the Drug Tariff.

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**Textual Amendments**

- F1** Words in Regulations substituted (6.11.2023) by [The Health and Care Act 2022 \(Further Consequential Amendments\) \(No. 2\) Regulations 2023 \(S.I. 2023/1071\)](#), reg. 1(1), [Sch. para. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, Section 72.