
STATUTORY INSTRUMENTS

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) the NHSCB 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) the NHSCB 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) The NHSCB 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 the NHSCB acting as determining authority pursuant to regulation 91(1), is remuneration due to C under the Drug Tariff.