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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 11

#### Enforcement, reviews and appeals relating to fitness matters

##### Wider notifications of fitness decisions

**88.**—(1) Where the NHSCB—

- (a) refuses an application from a person (P) by virtue of regulation 33;
- (b) grants an application subject to conditions imposed on P by virtue of regulation 35;
- (c) imposes or varies a condition imposed on P by virtue of regulation 79;
- (d) removes P from a pharmaceutical list by virtue of section 151 or 152(3)(b) of the 2006 Act <sup>M1</sup> (which relate to disqualification of practitioners and contingent removal);
- (e) contingently removes P from a pharmaceutical list by virtue of section 152 of the 2006 Act, or varies or imposes a different condition on P by virtue of that section; or
- (f) suspends P under section 154 or 155 of the 2006 Act <sup>M2</sup> (which relate to suspension and suspension pending appeal),

the NHSCB must notify the persons listed in paragraph (2) that it has done so.

(2) Those persons are—

- (a) the Secretary of State;
- (b) where known to the NHSCB, any other primary care organisation that—
  - (i) has included P, or a body corporate of which P is a director or superintendent, in a relevant list, or
  - (ii) is considering including P, or a body corporate of which P is a director or superintendent, in a relevant list;
- (c) the Scottish Ministers;
- (d) the Welsh Ministers;
- (e) the Northern Ireland Executive;
- (f) the General Pharmaceutical Council;
- (g) any Local Pharmaceutical Committee for the area of the relevant HWB (including any Local Pharmaceutical Committee for part of its area or for its area and that of all or part of the area of one or more other HWBs);
- (h) in a case that is or may be a fraud case, the NHS BSA; and
- (i) any person who may and does request to be notified of an adverse fitness decision as regards P.

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- (3) A person (Q) comes within paragraph (2)(i) if Q establishes to the satisfaction of the NHSCB (or before the appointed day the relevant Primary Care Trust) that Q—
- (a) has employed or engaged, is employing or engaging or is considering employing or engaging P, or a director or superintendent of P, in a professional capacity; or
  - (b) is a member of a partnership of which P has been or is a member, or which is considering inviting P to be a member.
- (4) A notification under paragraph (1) must include—
- (a) where P is an individual or a partnership—
    - (i) P's, or each member of the partnership's, name, address and date of birth, and
    - (ii) P's, or each member of the partnership's, registration number in the Register of Pharmacists; and
  - (b) where P is a body corporate—
    - (i) P's name, company registration number and the address of P's registered office, and
    - (ii) the registration number in the Register of Pharmacists of P's superintendent and of any director of P who is a registered pharmacist;
  - (c) a copy of the notification of the decision that was sent to P; and
  - (d) the name of and contact details for a person at the NHSCB who is in a position to respond to further enquiries.
- (5) The NHSCB must notify P of whom it has notified under paragraph (1) and include, when it does so, the content of that notification.
- (6) If, in response to an enquiry from a person notified under paragraph (1), the NHSCB notifies that person with further documentation (including documentation in an electronic form) that relates to P, the NHSCB must also notify P with—
- (a) that documentation; and
  - (b) details of the person to whom it has been sent.
- (7) If the NHSCB is notified by the First-tier Tribunal of a national disqualification, or the outcome of the review of a national disqualification, it must notify that information to the persons it notified about its own decision in relation to P under paragraph (2)(b) and (g) to (i).
- (8) If—
- (a) having notified a person under paragraph (1) of a suspension or a condition (including a condition imposed on contingent removal); or
  - (b) after a Primary Care Trust notified a person under regulation 88(1) of the 2012 Regulations (wider notifications of fitness decisions) of a suspension or a condition (including a condition imposed on contingent removal),
- the NHSCB terminates the suspension or removes the condition, the NHSCB must notify that person with the notification given to P of the decision to terminate the suspension or remove the condition.

#### Marginal Citations

- M1** Section 151 has been amended by the [Health and Social Care Act 2012 \(c. 7\)](#) (“the 2012 Act”), Schedule 4, paragraph 79. Section 152 has been amended by the 2012 Act, Schedule 4, paragraph 80.
- M2** Section 154 has been amended by the [Health and Social Care Act 2012 \(c. 7\)](#) (“the 2012 Act”), Schedule 4, paragraph 81, and by [S.I. 2010/22](#). Section 155 has been amended by the 2012 Act, Schedule 4, paragraph 82, and by [S.I. 2010/22](#).

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**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

- blanket amendment words substituted by [S.I. 2023/1071 Sch. para. 1](#)