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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 12**

**Remuneration, charges and refunds**

**The Drug Tariff and section 164: general provisions**

**89.**—(1) The Drug Tariff referred to in section 127(4) of the 2006 Act (arrangements for additional pharmaceutical services) is the aggregate of—

- (a) the determinations of remuneration made by the Secretary of State, acting as a determining authority, under section 164 of the 2006 Act<sup>(1)</sup> (remuneration for persons providing pharmaceutical services), but not of the remuneration of dispensing doctors;
- (b) the determinations of remuneration made by the NHSCB, acting as a determining authority, pursuant to regulation 91(1); and
- (c) any other instruments that the Secretary of State is required by virtue of these Regulations or the 2006 Act to publish, or does publish, together with those determinations,

in the publication known as the Drug Tariff, which the Secretary of State shall publish in such format as the Secretary of State thinks fit.

(2) Determinations under section 164 of the 2006 Act by the Secretary of State or the NHSCB may be made by reference to—

- (a) the drugs and appliances dispensed or expected to be dispensed in accordance with NHS prescriptions during a reference period determined by the Secretary of State;
- (b) lists of published prices produced by suppliers of the drugs or appliances that are available from them on NHS prescription;
- (c) scales, indices or other data that relate to volume and price that are produced by suppliers of the drugs or appliances that are available from them on NHS prescription; and
- (d) any other scales, indices or other data (including formulae) by reference to which the Secretary of State considers it appropriate to make such a determination, and in these circumstances, the Secretary of State may provide that remuneration is to be determined by reference to data which is—
  - (i) in the form current at the time of the determination; and
  - (ii) in any subsequent form taking effect after that time.

(3) Amendments may be made to the Drug Tariff at such intervals as the Secretary of State thinks fit, but must be published in a consolidated version of the Drug Tariff that has the amendments included in it.

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(1) Section 164 has been amended by the Health and Social Care Act 2008 (c. 14), section 141(1), and Schedule 15, Part 4, and by the Health and Social Care Act 2012 (c. 7), Schedule 4, paragraph 89.

(4) The consultation that the Secretary of State must undertake under section 165(1) of the 2006 Act (section 164: supplementary) prior to the inclusion of, or change to, a price of a drug or appliance which is to form part of a calculation of remuneration shall be by way of consultation on the process for determining the price to be included or changed, not on the proposed price itself (unless it is impossible to carry out an effective consultation in any other way).

(5) The Drug Tariff is to include the arrangements for the claiming of payments by NHS chemists and the making of payments to NHS chemists under it (whether the amounts are determined by the Secretary of State or the NHSCB), and—

- (a) claims by NHS chemists for payments under the Drug Tariff must be made in accordance with those arrangements;
- (b) payments under the Drug Tariff must be made—
  - (i) by the NHSCB (or a person exercising its functions), and
  - (ii) in accordance with those arrangements, subject as appropriate to any deduction that may or must be made in accordance either with those arrangements or with any provision of, or made under, the 2006 Act (including the Drug Tariff); and
- (c) the arrangements may include arrangements for auditing, monitoring or analysing the making of payments.