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SCOTTISH STATUTORY INSTRUMENTS

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**2014 No. 148**

**The National Health Service (Pharmaceutical Services)  
(Scotland) (Miscellaneous Amendments) Regulations 2014**

**Amendment to regulation 5**

4. In regulation 5 (pharmaceutical list)(1)—
- (a) in paragraph (2), for “a consultation in accordance with paragraph (2A)” substitute “a pre-application and joint consultation in accordance with regulation 5A”;
  - (b) omit paragraph (2A);
  - (c) omit sub-paragraph (h) of paragraph (2C);
  - (d) after sub-paragraph (i) of paragraph (2C) insert—
    - “(j) (where the provisions of paragraph (10B) apply) evidence of the significant change that has occurred (which evidence will be of sufficient detail so as to assist the Board to make a determination) that means in the applicant’s view that the granting of the application will now not prejudice the provision of NHS funded services in the controlled locality.”;
  - (e) for paragraph (10) substitute—
    - “(10) An application made in any case other than one to which paragraph (3) or (4) applies shall be assessed in accordance with the procedures set out in Schedule 3, and shall be granted by the Board—
      - (a) only if it is satisfied that the provision of pharmaceutical services at the premises named in the application is necessary or desirable in order to secure adequate provision of pharmaceutical services in the neighbourhood in which the premises are located by persons whose names are included in the pharmaceutical list; and
      - (b) if the boundaries of the neighbourhood within which the applicant intends to provide pharmaceutical services falls within any part of a controlled locality, only if it is satisfied that the granting of such an application, in its opinion, would not prejudice the provision of NHS funded services in the controlled locality.”; and
  - (f) after paragraph (10A) insert—
    - “(10B) The provisions of this paragraph apply where—
      - (a) an application for the provision of pharmaceutical services to which regulation 5(10)(b) applies was refused by—
        - (i) the Board (and not overturned by the National Appeal Panel); or
        - (ii) the National Appeal Panel,
- in the previous 3 years;

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- (b) that application was in relation to a neighbourhood that encompassed the same, or substantially the same, area encompassed by the neighbourhood to which the application that is now being submitted relates; and
- (c) in the case of a refusal by the Board, the refusal of the application was not under paragraph (2B).”.