

---

STATUTORY INSTRUMENTS

---

**2013 No. 349**

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

**PART 6**

Refusal, deferral and conditional inclusion in  
pharmaceutical lists of chemists on fitness grounds

**Granting applications for inclusion in a pharmaceutical list subject to efficiency conditions  
and conditions to combat fraud**

**35.**—(1) An application for inclusion in a pharmaceutical list by a person (P) who is not already included may be granted subject to a condition of a type mentioned in paragraph (3), which is determined by [F1NHS England] and which [F1NHS England] decides to impose with regard to P.

(2) [F1NHS England] may vary the terms of service of an NHS chemist for the purpose of or in connection with the imposition of the condition.

(3) A condition imposed under paragraph (1) must be a condition with a view to—

- (a) preventing any prejudice to the efficiency of the services, or any of the services, which P has undertaken to provide; or
- (b) preventing any act or omission within section 151(3)(a) of the 2006 Act (disqualification of practitioners).

(4) If [F1NHS England] decides to grant an application subject to a condition imposed under paragraph (1), it must notify P of that decision and it must include with the notification an explanation of—

- (a) the reasons for the decision;
- (b) P's right of appeal against its decision to the First-tier Tribunal;
- (c) the time limit within which, in accordance with the Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008<sup>M1</sup>, the application notice must be sent to the Tribunal if an appeal is to be brought; and
- (d) the effect of paragraph (5).

(5) If P issues a notice of commencement before the First-tier Tribunal has determined an appeal against a condition imposed under paragraph (1), P is to be included in the pharmaceutical list subject to the condition, but only pending the outcome of the appeal if the appeal is successful.

(6) The appeal is to be by way of redetermination of—

- (a) the decision of [F1NHS England] to impose the condition; and
- (b) if P has, at the time the appeal is determined, been included in the pharmaceutical list, any decision under paragraph (2) to vary the terms of service of P for the purpose of or in connection with the imposition of the condition.

(7) If at the time the appeal is determined, P has not been included in the pharmaceutical list, and—

- (a) the First-tier Tribunal confirms the decision of [F1NHS England]; or
- (b) imposes a different condition,

P must, within 30 days of P being notified of the First-tier Tribunal's decision, notify [F1NHS England] as to whether or not P wishes to withdraw P's application

(8) If P fails, in the circumstances described in paragraph (7), to notify [F1NHS England] within that 30 days that P does not wish to withdraw P's application, the grant of P's application lapses.

---

**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**

---

**Marginal Citations**

**M1** [S.I. 2008/2699 \(L 16\)](#); *see* rule 19 of those Rules.

**Changes to legislation:**

There are currently no known outstanding effects for the The National Health Service (Pharmaceutical and Local Pharmaceutical Services) Regulations 2013, Section 35.