
STATUTORY INSTRUMENTS

2013 No. 349

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

PART 7

**Areas that are controlled localities or reserved
locations, and new pharmacies within them**

Applications for new pharmacy premises in controlled localities: reserved locations

41.—(1) This paragraph applies to any routine application—

- (a) for inclusion in a pharmaceutical list as an NHS pharmacist; or
- (b) from an NHS pharmacist included in such a list—
 - (i) to relocate to different pharmacy premises in the area of the relevant HWB, or
 - (ii) to open, within the area of the relevant HWB, additional pharmacy premises from which to provide pharmaceutical services,

where the applicant is seeking the listing of pharmacy premises which are in a controlled locality and the NHSCB is required to notify the application under Part 3 of Schedule 2.

(2) If paragraph (1) applies to an application (referred to in this regulation and regulation 42 as “A1”), subject to paragraph (5), the NHSCB must determine whether or not the “relevant location”, that is—

- (a) the location of the premises for which the applicant is seeking the listing; or
- (b) if no particular premises are proposed for listing in A1, the location which is the best estimate that the NHSCB is able to make of where the proposed pharmacy premises would be, having regard to the best estimate given by the applicant under paragraph 1(7)(a)(ii) of Schedule 2,

is, on basis of the circumstances that pertained on the day on which A1 was received by the NHSCB, in a reserved location.

(3) Subject to regulation 43(2), the area within a 1.6 kilometre radius of a relevant location is a “reserved location” if—

- (a) the number of individuals residing in that area who are on a patient list (which may be an aggregate number of patients on more than one patient list) is less than 2,750; and
- (b) the NHSCB is not satisfied that if pharmaceutical services were provided at the relevant location, the use of those services would be similar to, or greater than, the use that might be expected if the number of individuals residing in that area who are on a patient list were 2,750 or more.

(4) Before making a determination under paragraph (2) (referred to in this regulation and regulation 42 as “D1”), the NHSCB must—

- (a) notify the persons notified under Part 3 of Schedule 2 about A1 that the NHSCB is required to make D1 (and it may make this notification at the same time as it notifies those persons about A1); and
- (b) invite them, within a specified period of not less than 30 days, to make representations to the NHSCB with regard to D1 (and the period specified must end no earlier than the date by which the person notified needs to make any representations that they have with regard to A1).

(5) The NHSCB must not make a determination under paragraph (2) in respect of A1 in circumstances where an earlier application which was in respect of the relevant premises and to which paragraph (1), regulation 44(1) of the 2012 Regulations (prejudice test in respect of routine applications for new pharmacy premises in a part of a controlled locality that is not a reserved location) or regulation 18ZA of the 2005 Regulations⁽¹⁾ (refusal: premises which are in a controlled locality but not a reserved location) applied was refused—

- (a) for the reasons relating to prejudice in—
 - (i) regulation 44(3),
 - (ii) regulation 44(3) of the 2012 Regulations, or
 - (iii) regulation 18ZA(2) of the 2005 Regulations; and
- (b) within the 5 year period starting on the date on which the proceedings relating to the refusal reached their final outcome and ending on the date on which A1 is made,

unless the NHSCB is satisfied that since the date on which the 5 year period started, there has been a substantial and relevant change of circumstances affecting the controlled locality.

- (6) For the purposes of paragraph (5), the “relevant premises” are—
- (a) the premises which are proposed for listing; or
 - (b) if no particular premises are proposed for listing in A1, premises at the location which is the best estimate that the NHSCB is able to make of where the proposed listed pharmacy premises would be, having regard to the best estimate given by the applicant under paragraph 1(7)(a)(ii) of Schedule 2.

(1) Prior to its revocation, regulation 18ZA was inserted by [S.I. 2005/1501](#).