
WELSH STATUTORY INSTRUMENTS

2020 No. 1073

The National Health Service (Pharmaceutical Services) (Wales) Regulations 2020

PART 7

Fitness grounds and inclusion in and removal from pharmaceutical lists

Conditional inclusion on fitness grounds

38.—(1) A Local Health Board that receives an application from a person—

- (a) under regulation 15(1)(a) (applications to be included in or make amendment to a pharmaceutical list), except where the application is made by a person who has been granted preliminary consent under regulation 18 (applications for preliminary consent and effect of preliminary consent) and which is valid in accordance with regulation 18(5), or
- (b) under regulation 18 where the applicant is not already included in that Local Health Board's pharmaceutical list,

may determine that the person, whilst they are included in the pharmaceutical list or whilst their preliminary consent is valid, is to be subject to the imposition of conditions having regard to the requirements of section 104 (conditional inclusion in ophthalmic and pharmaceutical lists) of the 2006 Act.

(2) A Local Health Board may vary the terms of service on which a person is included in the pharmaceutical list for the purpose of paragraph (1).

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

- (a) preventing any prejudice to the efficiency of the pharmaceutical services, or any of the services, which the person has undertaken to provide, or
- (b) preventing any act or omission within section 107(3)(a) of the 2006 Act (disqualification of practitioners).

(4) If a Local Health Board decides to grant an application subject to a condition imposed under paragraph (1), it must notify the person of that decision and it must include with the notification an explanation of—

- (a) the reasons for the decision,
- (b) the person's right of appeal against its decision to the Tribunal,
- (c) the time limit within which, in accordance with the Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008, 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 the person, in accordance with regulation 23(2), provides a notice of commencement before the Tribunal has determined an appeal against a condition imposed under paragraph (1), that person is to be included in the pharmaceutical list subject to the condition, but only until 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 the Local Health Board to impose the condition, and
 - (b) if the person 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 that person for the purpose of or in connection with the imposition of the condition.

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

- (a) confirms the decision of the Local Health Board, or
- (b) imposes a different condition,

the person must, within 30 days of being notified of the Tribunal’s decision, notify the Local Health Board as to whether or not the person wishes to withdraw their application.

(8) If the person fails, in the circumstances described in paragraph (7), to notify the Local Health Board within that 30 days that they do not wish to withdraw their application, the grant of that person’s application lapses.

(9) Where a person wishes to withdraw from a pharmaceutical list, that person must notify the Local Health Board at least 30 days in advance of that date, if—

- (a) a condition is imposed under paragraph (1),
- (b) the person appeals that condition to the Tribunal,
- (c) on appeal, the Tribunal confirms the imposition of that condition or imposes another condition, and
- (d) within 30 days of being informed of the decision of the Tribunal the person notifies the Local Health Board that they wish to withdraw from its pharmaceutical list,

unless it is impracticable for the person to do so in which case the person must notify the Local Health Board as soon as it is practicable to do so.

Commencement Information

II [Reg. 38](#) in force at 1.10.2021, see [reg. 1\(3\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service (Pharmaceutical Services) (Wales) Regulations 2020, Section 38.