



Health and Social Care Act 2012

2012 CHAPTER 7

PART 6

PRIMARY CARE SERVICES

208 Lists of performers of pharmaceutical services and assistants etc.

- (1) Omit the following provisions of the National Health Service Act 2006—
 - (a) section 146 (lists of persons performing local pharmaceutical services) and the preceding cross-heading,
 - (b) section 149 (supplementary lists), and
 - (c) section 150 (further provision about supplementary lists).
- (2) After section 147 of that Act insert—

“CHAPTER 4A

LISTS OF PERFORMERS OF PHARMACEUTICAL SERVICES AND ASSISTANTS

147A Performers of pharmaceutical services and assistants

- (1) Regulations may make provision for the preparation, maintenance and publication by the Board of one or more lists of—
 - (a) persons approved by the Board for the purpose of assisting in the provision of pharmaceutical services which the Board arranges;
 - (b) persons approved by the Board for the purpose of performing local pharmaceutical services.
- (2) The regulations may, in particular, provide that—
 - (a) a person of a prescribed description may not assist in the provision of pharmaceutical services which the Board arranges unless the person is included in a list prepared by virtue of subsection (1)(a),

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- (b) a person of a prescribed description may not perform local pharmaceutical services unless the person is included in a list prepared by virtue of subsection (1)(b).
- (3) The regulations may, in particular, also include provision as to—
- (a) the preparation, maintenance and publication of a list,
 - (b) eligibility for inclusion in a list,
 - (c) applications for inclusion (including provision for the procedure for applications and the documents to be supplied on application, whether by the applicant or by arrangement with the applicant),
 - (d) the grounds on which an application for inclusion may or must be granted or refused or on which a decision on such an application may be deferred,
 - (e) requirements with which a person included in a list must comply (including the declaration of financial interests and gifts and other benefits),
 - (f) the grounds on which the Board may or must suspend or remove a person from a list, the procedure for doing so, and the consequences of doing so,
 - (g) circumstances in which a person included in a list may not withdraw from it,
 - (h) payments to or in respect of a person suspended from a list (including provision for the amount of the payment, or the method of calculating it, to be determined by the Secretary of State or a person appointed by the Secretary of State),
 - (i) the supply to the Board by an applicant for inclusion in a list, or by a person included in a list, of a criminal conviction certificate under section 112 of the Police Act 1997, a criminal record certificate under section 113 of that Act or an enhanced criminal record certificate under section 115 of that Act,
 - (j) the criteria to be applied in making decisions under the regulations,
 - (k) appeals against decisions made by the Board under the regulations, and
 - (l) disclosure of information about applicants for inclusion, grants or refusals of applications or suspensions or removals,
- and may make any provision corresponding to anything in sections 151 to 159.
- (4) Regulations under this section may, in particular, also provide that approval for the purposes of either paragraph (a) or paragraph (b) of subsection (1) is to be treated for the purposes of this section as approval for the purposes of the other paragraph (and for lists prepared by virtue of that subsection to be read accordingly).
- (5) Regulations under this section may, in particular, also provide for—
- (a) a person's inclusion in a list to be subject to conditions determined by the Board,
 - (b) the Board to vary the conditions or impose different ones,
 - (c) the consequences of failing to comply with a condition (including suspension or removal from a list),
 - (d) the review by the Board of decisions made by it by virtue of the regulations.

- (6) The imposition of such conditions must be with a view to—
- (a) preventing any prejudice to the efficiency of the services to which a list relates, or
 - (b) preventing any acts or omissions of the type described in section 151(3)(a).
- (7) If the regulations provide under subsection (3)(f) or (5) that the Board may suspend or remove a person (P) from a list, they must include provision—
- (a) requiring P to be given notice of any allegation against P,
 - (b) giving P the opportunity of putting P's case at a hearing before the Board makes any decision as to P's suspension or removal, and
 - (c) requiring P to be given notice of the decision of the Board, the reasons for it and any right of appeal under subsection (8) or (9).
- (8) If the regulations provide under subsection (3)(d) or (f) that the Board may refuse a person's application for inclusion in a list, or remove a person from one, the regulations must provide for an appeal to the First-tier Tribunal against the decision of the Board.
- (9) If the regulations make provision under subsection (5), they must provide for an appeal by the person in question to the First-tier tribunal against the decision of the Board—
- (a) to impose conditions, or any particular condition,
 - (b) to vary a condition,
 - (c) to remove the person from the list for breach of condition,
 - (d) on any review of an earlier such decision of the Board.
- (10) Regulations making provision as to the matters referred to in subsection (3) (l) may, in particular, authorise the disclosure of information—
- (a) by the Board to the Secretary of State, and
 - (b) by the Secretary of State to the Board.

147B Further provision about regulations under section 147A

- (1) Regulations under section 147A may require a person (A) included in—
- (a) a pharmaceutical list, or
 - (b) a list under section 132(3) (provision of drugs, medicines or listed appliances),
- not to employ or engage a person (B) to assist A in the provision of the service to which the list relates unless B is included in a list mentioned in subsection (2).
- (2) The lists are—
- (a) a list referred to in subsection (1),
 - (b) a list under section 147A,
 - (c) a list under section 91, 106 or 123,
 - (d) a list corresponding to a list under section 91 prepared by the Board by virtue of regulations made under section 145,

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- (e) a list corresponding to a list mentioned in any of paragraphs (a) to (d) prepared by a Local Health Board under or by virtue of the National Health Service (Wales) Act 2006,
or, in any of the cases in paragraphs (a) to (e), such a list of a prescribed description.
- (3) If regulations do so require, they may, in particular, require that both A and B be included in lists prepared by the Board.”
- (3) For the heading of Chapter 5 of Part 7 of that Act substitute “Conditional inclusion in pharmaceutical lists”.
- (4) In section 159 of that Act (national disqualification), in subsection (1)—
 - (a) omit paragraph (b), and
 - (b) in paragraph (d), for “section 146” substitute “section 147A”.
- (5) In section 276 of that Act (index of defined expressions), omit the entry for “supplementary list”.
- (6) In Schedule 17 to that Act (exempt information relating to health services), in paragraph 13(1)(b), for “146” substitute “147A”.
- (7) Regulations under section 146 or 149 of that Act having effect immediately before the commencement of subsection (1) of this section are, despite the repeals made by that subsection, to continue to have effect as if they had been made under section 147A of that Act (as inserted by subsection (2) of this section).