

Pharmacy Premises Fees

Article 2 'Non-Diminution': Screening Tool

This screening tool is intended to help policy and legislation makers decide whether Article 2 might be engaged by the policy area or legislation they are working on. The document allows for the examination in detail of each of the criteria set out in the 'Non- Diminution' Checklist. Policy and legislation makers may find it helpful to record their consideration of each of the criteria in the boxes provided.

Policy Title and Aims

What are the aims of the policy and how did the need for it emerge?

The Department for Health is considering a range of options to increase Pharmacy Premises Fees.

The Pharmaceutical Society for Northern Ireland (the Society) is the regulatory and professional leadership body for pharmacists and pharmacy premises in Northern Ireland. The Society's primary source of income is derived from the fees charged to registrants and trainee pharmacists to join and remain on the register (Registrant Fees) and from fees charged to permit the registration and retention of pharmacy premises on the premises register (Premises Fees). Registrant Fees are being increases later this year.

The Society has faced financial challenges resulting in a large increase in running and operating costs due to several factors including inflationary price increases and increased employment costs. The increasing cost in protecting the public in an ever evolving and innovative healthcare environment has also added an additional financial burden on the Society. Whilst the Society has until recently, been able to sustain these increases, this has come at significant cost, with the Society having to draw down on investments and strategic reserves. An increase in Premises Fees is considered necessary to help return the Organisation to financial stability.

The Department has sought views through consultation with pharmacies and other interested parties on the options listed below, which have been developed in collaboration with the Society, and which are designed to ensure that the Society is sufficiently resourced to provide the high-quality service that pharmacists, patients, and the public expect of a Regulator.

- **Option 1 - do nothing, fees remain the same.**
- **Option 2 - apply a percentage increase equal to the annual rate of inflation since 2012.**
- **Option 3 - increase NI fees to align with GB fees.**
- **Option 4 – Increase NI Fees to align with GB Fees in year 1 followed by an increase equal to the rate of inflation (2%)* over each of the following 2 years**
- **Option 5 - increase NI fees to the mid-way point between GB and Rol fees.**
- **Option 6 - increase NI fees to align with Rol fees.**

Assessment

(i) Does the policy/law under consideration engage a right (or equality of opportunity protection) included in the relevant part of the Belfast/Good Friday 1998 Agreement?

The Rights, Safeguards and Equality of Opportunities in this Chapter of the Belfast/Good Friday Agreement can be found at Annex A.

At present, this can sometimes be a difficult question to answer, given the lack of clarity around the scope of Article 2. If you are in doubt, please obtain legal advice from DSO.

No. It is not envisaged that the policy will engage a right (or equality of opportunity protection) included in the relevant part of the Belfast/Good Friday 1998 Agreement.

(ii) Was the right given effect (in whole or in part) in Northern Ireland, on or before 31 December 2020?

This question relates to whether the Right, Safeguard or Equality of Opportunity (RSEO) in the BGFA has been given effect in NI law on or before 31 December 2020.

N/A..

(iii) Was the Northern Ireland law that protects the right underpinned by EU law on 31 December 2020?

For example, was the domestic law originally made to implement EU law?

Alternatively, domestic law may pre-date the relevant EU law although it is now considered a measure which implements EU law. For example, FETO predates the Equal Treatment Framework Directive but is relied upon as implementing this Directive.

For the purposes of Article 2 of The Windsor Framework, EU law includes¹:

- *The foundational treaties of the EU: TEU and TFEU;*
- *The EU Charter of Fundamental Rights;*

¹ Article 2(a), Agreement on the Withdrawal of the UK of Great Britain and NI from the EU and the European Atomic Energy Community 2020 (The Withdrawal Agreement)

- *The General Principles of EU law. These are principles that have been developed by the CJEU through its caselaw. For example, fundamental rights, proportionality, legal certainty, transparency and the precautionary principle;*
- *EU legislation, such as Directives, Regulations and Decisions; and*
- *International agreements to which the EU is party.*

N/A.

(iv) Has that underpinning been removed, in whole or in part, following withdrawal from the EU?

Has the requirement to comply with or give effect to the underpinning EU law been removed?

N/A

(v) Would any proposed new policy or legislation result in a diminution in enjoyment of this right?

Will there be a reduction to, rollback of, or regression in the protection of rights in place on 31 December 2020?

Where new policy or legislation repeals, revokes, suspends, disapplies or deletes protections, such changes might point to a diminution of the right.

Whether there could be a 'diminution in enjoyment of this right' is something that needs to be considered on a case-by-case basis.

Please see Annex B for further information on this topic.

N/A

(vi) Would the diminution not have occurred had the UK remained in the EU?

An EU Member State must follow and implement all EU law and must disapply domestic law where that law is in conflict with EU law.

N/A