

SCHEDULE

The General Pharmaceutical Council (Continuing Professional Development and Consequential Amendments) Rules 2011

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SCHEDULE — Consequential amendments

Explanatory Note

The General Pharmaceutical Council makes these Rules in exercise of the powers conferred by articles 27(1), 37(3)(c)(iii), 43(7) and (8), 52(1) and (2)(b), 61(1)(b), (2) and (3), 66(1)(a) and (c) of, and paragraph 5(3)(d) of Schedule 1 to, the Pharmacy Order 2010(1).

In accordance with article 66(3) of that Order, the General Pharmaceutical Council has, in relation to rules under Parts 4 to 7 of that Order, consulted such persons and organisations as it considered appropriate including the organisations listed in paragraphs (a) to (h) of article 66(3) of that Order.

General

Citation and commencement

1. These Rules may be cited as the General Pharmaceutical Council (Continuing Professional Development and Consequential Amendments) Rules 2011 and come into force on 2nd July 2011.

Interpretation

2. In these Rules—

“Appeals Committee” means the Appeals Committee established under article 4(6)(c) of the Order;

“CPD”—

(a) means the continuing professional development which registrants are required to undertake in order to have an entry in the Register renewed and to maintain competence; and

(b) includes—

(i) any continuing professional development that relates to an annotation in respect of a specialisation made to a registrant’s entry in the Register;

(ii) any continuing professional development that a registrant is required to undertake by virtue of rules made under article 27(1) or 37(3)(c)(iii) of the Order;

“CPD framework” means the framework relating to the CPD of registrants which is adopted by the Council under article 43(4)(a) of the Order;

“CPD record”, in relation to a registrant, means a written record in hard copy form or electronic form which is completed by the registrant and in which details are entered by the registrant about the CPD that the registrant has undertaken since—

(a) the date of completion of the immediately preceding review by the Registrar of the registrant’s CPD; or

(b) if no review has taken place since the date on which an entry in the Register relating to the registrant was made or restored, the date of that entry;

“Fitness to Practise Committee” means the Fitness to Practise Committee established under article 4(6)(b) of the Order;

“Fitness to Practise Rules” means the General Pharmaceutical Council (Fitness to Practise and Disqualification etc.) Rules 2010(2);

“Investigating Committee” means the Investigating Committee established under article 4(6)(a) of the Order;

“remedial measure” means any requirement specified in rule 6(1)(a) to (h);

“supplementary notice” means a notice under rule 8(5)(b) (and includes a notice under that provision as it applies by virtue of rule 8(6));

“the Order” means the Pharmacy Order 2010.

Service of documents

3.—(1) Subject to paragraph (2), any notice, demand or document required to be served by the Registrar under these Rules must be in writing and must be served by sending it by a postal service or another delivery service to (including, with the agreement of the person concerned, by electronic

(2) Scheduled to [S.I. 2010/1615](#).

mail to an electronic mail address notified to the Registrar as an address for communications), or by leaving it at—

- (a) in the case of a registrant, the registrant's home address in the Register; or
- (b) in the case of a person who is not a registrant, that person's last known home address.

(2) If a person on whom any notice, demand or document is to be served by the Registrar under these Rules so requests, such a notice, demand or document may be sent to or left at—

- (a) where that person is represented by a solicitor, the solicitor's practising or electronic mail address; or
- (b) where that person is represented by a defence organisation or trade union, the business or electronic mail address for that defence organisation or trade union.

(3) Where a notice, demand or document is sent by post, unless sent by a postal service which records the date of delivery, it must be sent by first class post and is to be treated as having been served on the day after the day on which it was posted.

(4) Where a notice, demand or document has been sent by electronic mail or left at an address, it is to be treated as having been served on the day on which it was sent by electronic mail or left at that address.

Enforcing the requirements of the CPD framework

Failure to comply with the CPD framework

4.—(1) Each of paragraphs (2) to (10) sets out circumstances in which a registrant is to be regarded as having failed to comply with the requirements or conditions of the CPD framework.

(2) The Registrar is of the opinion that the registrant has failed without reasonable excuse to make an annual declaration regarding the registrant's compliance with the requirements or conditions of the CPD framework.

(3) The Registrar is of the opinion that the registrant has failed without reasonable excuse—

- (a) to comply with a request by the Registrar to submit a CPD record to the Registrar for review;
- (b) to submit a CPD record to the Registrar by the date specified by the Registrar in accordance with the CPD framework; or
- (c) to submit a CPD record to the Registrar which is in the form and manner specified in the CPD framework.

(4) The Registrar is of the opinion that the registrant has failed without reasonable excuse to record adequately in respect of any relevant period—

- (a) the dates on which the registrant's CPD has been undertaken; or
- (b) any other information about the registrant's CPD which is required by the CPD framework.

(5) The Registrar is of the opinion that the registrant has made an insufficient number of entries in respect of any relevant period in the registrant's CPD record.

(6) The Registrar is of the opinion that the entries in respect of any relevant period in the registrant's CPD record do not demonstrate that the CPD undertaken is relevant to—

- (a) the safe and effective practice of pharmacy; or
- (b) a learning need for the registrant that is relevant to the current scope of the practice of pharmacy including any specialisation of the registrant and the environment in which the registrant practises.

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(7) The Registrar is of the opinion that the entries in respect of any relevant period in the registrant's CPD record do not—

- (a) include any CPD that relates to a specialisation of the registrant or the environment in which the registrant practises; or
- (b) reflect any conditions as to the practice of pharmacy by the registrant which were in force for the whole or part of the relevant period and were imposed—
 - (i) by virtue of a direction given by the Fitness to Practise Committee under article 54(2)(e) or (3)(a)(v) or (b)(i) or (ii) of the Order; or
 - (ii) in the case of a visiting practitioner to whom Schedule 2 of the Order applies, by the competent authority in the practitioner's home State.

(8) The Registrar is of the opinion that the entries in the registrant's CPD record do not reflect any requirement which—

- (a) by virtue of rules made under article 37(3)(c)(iii) of the Order, was imposed on the registrant by the Registrar to undertake by the date specified by the Registrar any additional CPD after the restoration of the registrant's entry in the Register; or
- (b) by virtue of rules made under article 27(1) of the Order, was imposed on the registrant by the Registrar to undertake by the date specified by the Registrar any additional CPD after the restoration to the Register of an annotation in respect of a specialisation made to the registrant's entry in the Register.

(9) The Registrar is of the opinion that the entries in the registrant's CPD record do not reflect any requirement imposed on the registrant by the Registrar to take by the date specified by the Registrar any remedial measure that was specified in a notice given to the registrant under rule 6(2).

(10) The Registrar is of the opinion that, for any other reason—

- (a) the amount or type of CPD undertaken by the registrant is inadequate; or
- (b) the registrant's CPD record is inadequate or is not in a fit and proper state to be reviewed.

(11) For the purposes of paragraphs (4) to (7), references to "relevant period" are to any of the following that fall within the period covered by the CPD record of the registrant which is subject to review by the Registrar—

- (a) the one year period that commences with the date on which the registrant's entry in the Register was made or restored;
- (b) each subsequent one year period that commences with the anniversary of that date; and
- (c) any part of the period referred to in sub-paragraph (a) or (b).

(12) In the application of paragraphs (4) to (7) to a period falling within paragraph (11)(c), any number or other quantity which, in accordance with the CPD framework, applies to a one year period is to be proportionately reduced.

Steps which the Registrar may take

5.—(1) Paragraph (2) applies where the Registrar is satisfied that a registrant—

- (a) has failed to comply with the requirements or conditions of the CPD framework (including any failure to comply with requirements imposed in accordance with the provisions referred to in rule 4(8) or (9)); or
- (b) has made a false declaration about compliance with the requirements or conditions of the CPD framework.

(2) Subject to paragraphs (3) to (5), the Registrar may decide to—

- (a) impose on the registrant a requirement to take one or more remedial measures in connection with the registrant's CPD; or
- (b) remove the registrant's entry from Part 1, 2, 4 or 5 of the Register (as the case may be); or
- (c) remove an annotation in respect of a specialisation made to the registrant's entry in the Register.

(3) In relation to a person ("P") who is a registrant only as a result of being entered in Part 4 or 5 of the Register, the Registrar may not take any of the steps referred to in paragraph (2)(a), (b) or (c) unless the Registrar is satisfied that it is appropriate and proportionate to take that step in view of P's continued lawful establishment in P's home State as a pharmacist or a pharmacy technician (as the case may be).

(4) The Registrar must follow the procedure set out in rule 6(2) when imposing a requirement to take a remedial measure.

(5) If the Registrar proposes to remove an entry or annotation, the Registrar must follow the procedure set out in rules 7 to 10 (but this is without prejudice to rule 9(5)(b) and (6)).

(6) The fact that a registrant's failure to comply with the requirements or conditions of the CPD framework arises by virtue of rule 4(9) does not prevent the Registrar from deciding to impose on the registrant a new requirement to take one or more remedial measures.

Remedial measures

Remedial measures

6.—(1) The remedial measures that the Registrar may impose under rule 5(2)(a) on a registrant in connection with the registrant's CPD are—

- (a) a requirement for the registrant to make entries in the registrant's CPD record in the form and manner specified in the CPD framework;
- (b) a requirement for the registrant to make entries in the registrant's CPD record that accurately reflect the CPD activities already undertaken by the registrant;
- (c) a requirement for the registrant to undertake additional CPD activities;
- (d) a requirement for the registrant to undertake CPD activities which relate to the safe and effective practice of pharmacy;
- (e) a requirement for the registrant to undertake CPD activities which relate to a learning need for the individual registrant that is relevant to—
 - (i) the current scope of the practice of pharmacy;
 - (ii) any specialisation of the registrant;
 - (iii) the environment in which the registrant practises;
 - (iv) the management or recording of a registrant's CPD;
- (f) a requirement for the registrant to undertake CPD activities which relate to any condition as to the practice of pharmacy by the registrant which was imposed—
 - (i) by virtue of a direction given by the Fitness to Practise Committee under article 54(2)(e) or (3)(a)(v) or (b)(i) or (ii) of the Order; or
 - (ii) in the case of a visiting practitioner to whom Schedule 2 of the Order applies, by the competent authority in the practitioner's home State;
- (g) a requirement for the registrant to undertake CPD activities which relate to any requirement as to CPD which—

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- (i) by virtue of rules made under article 37(3)(c)(iii) of the Order, was imposed on the registrant on the restoration of the registrant's entry in the Register; or
 - (ii) by virtue of rules made under article 27(1) of the Order, was imposed on the registrant on the restoration of an annotation in respect of a specialisation made to the registrant's entry in the Register;
 - (h) a requirement for the registrant to undertake CPD activities which relate to any requirement as to CPD which was previously imposed on the registrant by a remedial measure specified under paragraph (2).
- (2) If the Registrar decides to impose on the registrant a requirement to take one or more remedial measures, the Registrar must notify the registrant of—
- (a) the measure or measures to be taken;
 - (b) the reasons for imposing the requirement; and
 - (c) the date (if any) by which the registrant must comply with each measure.

Removing an entry or annotation in the Register

Notice of Intention to Remove: stage 1

- 7.—(1) Where the Registrar proposes to remove the entry or annotation of a registrant (“R”) from the Register under rule 5(2)(b) or (c), the Registrar—
- (a) must consider whether the matter calls into question R's fitness to practise; and
 - (b) if no such question arises, may serve on R a Notice of Intention to Remove which notifies R in writing that the Registrar is considering whether to remove R's entry or annotation (as the case may be) from the Register.
- (2) If it appears to the Registrar on reasonable grounds that R's fitness to practise is called into question, the Registrar must determine whether to refer the matter—
- (a) to the Investigating Committee in accordance with article 52(1) of the Order; or
 - (b) to the Fitness to Practise Committee in accordance with whichever of rule 6(5) or (7A) of the Fitness to Practise Rules⁽³⁾ the Registrar considers to be appropriate in all the circumstances of R's case.
- (3) Paragraph (2) applies irrespective of whether a Notice of Intention to Remove has already been served.
- (4) Before serving on R a Notice of Intention to Remove, the Registrar may make such inquiries, including the instruction of external agents or investigators, and the commissioning of medical experts, as the Registrar considers necessary or expedient.
- (5) A Notice of Intention to Remove must—
- (a) set out the grounds for believing that R—
 - (i) has failed to comply with the requirements or conditions of the CPD framework; or
 - (ii) has made a false declaration about compliance with the requirements or conditions of the CPD framework;
 - (b) be accompanied by copies of evidence (in a form that can be copied) on which the Registrar would seek to rely in any proceedings under these Rules to remove the relevant entry or annotation;

(3) Rule 6(7A) of the General Pharmaceutical Council (Fitness to Practise and Disqualification etc.) Rules 2010 (scheduled to S.I 2010/1615) is inserted by paragraph 3(a) of the Schedule to these Rules.

- (c) invite R to submit written representations, and any relevant evidence, to the Registrar as to why the entry or annotation should not be removed from the Register;
- (d) inform R that any such representations or evidence must be submitted no later than 28 days after service of the notice;
- (e) invite R to indicate whether or not R wishes the matter to be considered at a hearing;
- (f) inform R that the matter will be considered without a hearing unless written representations have been submitted; and
- (g) inform R that, if R fails to submit written representations to the Registrar within the 28 day period referred to in sub-paragraph (d), the relevant entry or annotation may be removed from the Register.

Subsequent action by the Registrar: stage 2

8.—(1) Where—

- (a) the Registrar has served a Notice of Intention to Remove on a registrant; and
- (b) has not received any representations from the registrant within the 28 day period referred to in that notice (see rule 7(5)(d), (f) and (g)),

the Registrar may remove the registrant's entry, or annotation in respect of a specialisation, from Part 1, 2, 4 or 5 of the Register (as the case may be).

(2) The following paragraphs apply where the Registrar has received representations from the registrant within the 28 day period referred to in the Notice of Intention to Remove.

(3) The Registrar—

- (a) must consider the representations and any evidence received; and
- (b) may make such further inquiries (including obtaining legal advice) as the Registrar considers necessary or expedient.

(4) The Registrar must close the matter and notify the registrant accordingly where the Registrar is satisfied that the registrant did not—

- (a) fail to comply with the requirements or conditions of the CPD framework; or
- (b) make a false declaration about compliance with the requirements or conditions of the CPD framework.

(5) Where the Registrar is not so satisfied and, in making a determination, proposes to rely on evidence that was obtained as a result of the Registrar's further inquiries under paragraph (3)(b), the Registrar must send to the registrant—

- (a) copies of that evidence (in a form that can be copied); and
- (b) if the registrant has not already requested a hearing, a notice (referred to in these Rules as a "supplementary notice") which—
 - (i) invites the registrant to submit written representations, and any relevant additional evidence, to the Registrar as to why the entry or annotation should not be removed from the Register;
 - (ii) informs the registrant that any such representations or evidence must be submitted no later than 28 days after service of the supplementary notice;
 - (iii) invites the registrant to indicate whether or not the registrant wishes the matter to be considered at a hearing; and
 - (iv) informs the registrant that the matter will be considered without a hearing unless written representations have been submitted.

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(6) Paragraphs (3) to (5) also have effect in relation to any further representations from the registrant which the Registrar receives within the 28 day period referred to in a supplementary notice.

(7) Unless the Registrar determines the matter in accordance with paragraph (4), the Registrar must proceed to determine it under rule 9—

- (a) in any case where paragraph (5) does not apply; or
- (b) if that paragraph does apply, once the requirements of paragraphs (5) and (6) have been fully complied with.

Decisions in contested cases: stage 3

9.—(1) Where the registrant does not request a hearing or is not entitled to one, the Registrar must determine the matter—

- (a) if the Registrar was required to serve one or more supplementary notices on the registrant, after the expiry of the 28 day period referred to in the supplementary notice or, if more than one supplementary notice was served, the most recent supplementary notice; or
- (b) if no supplementary notice was required to be served, after the expiry of the 28 day period referred to in the Notice of Intention to Remove served on the registrant under rule 7.

(2) Where the registrant has requested a hearing (in response to the invitation in the Notice of Intention to Remove or a supplementary notice)—

- (a) the Registrar may determine the matter without a hearing if (and only if)—
 - (i) the Registrar no longer proposes to remove the registrant’s entry or annotation; and
 - (ii) a referral under sub-paragraph (b)(i) has not already been made;
- (b) otherwise—
 - (i) the Registrar must refer the matter to the Fitness to Practise Committee;
 - (ii) the Fitness to Practise Committee must hold a hearing in accordance with rule 33 of the Fitness to Practise Rules (procedure in relation to hearings of certain registration and CPD cases before the Committee)(4), for the purposes of making findings of fact in relation to the matter and advising the Registrar accordingly; and
 - (iii) once the Registrar has received the advice of the Fitness to Practise Committee, the Registrar must determine the matter.

(3) Where the Registrar determines that the registrant did not—

- (a) fail to comply with the requirements or conditions of the CPD framework; or
- (b) make a false declaration about compliance with the requirements or conditions of the CPD framework,

the Registrar must close the matter and notify the registrant accordingly.

(4) Paragraph (5) applies where the Registrar determines that the registrant did—

- (a) fail to comply with the requirements or conditions of the CPD framework; or
- (b) make a false declaration about compliance with the requirements or conditions of the CPD framework.

(5) The Registrar may—

- (a) remove the registrant’s entry, or annotation in respect of a specialisation, from Part 1, 2, 4 or 5 of the Register (as the case may be); or

(4) The heading for rule 33 of the General Pharmaceutical Council (Fitness to Practise and Disqualification etc.) Rules 2010 (scheduled to [S.I 2010/1615](#)) is substituted by paragraph 5(a) of the Schedule to these Rules. Rule 33(1) is amended by paragraph 5(b) and (c) of that Schedule.

- (b) if the Registrar considers it is appropriate to do so having regard to all the circumstances of the case, impose on the registrant a requirement to take one or more remedial measures in connection with the registrant's CPD.

(6) In imposing a requirement to take a remedial measure, the Registrar must follow the procedure set out in rule 6(2).

Notification of removal of entry or annotation under rule 8 or 9

10.—(1) Paragraph (2) applies in any case where a registrant's entry or annotation is removed from the Register under rule 8 or 9.

(2) The Registrar must send a written statement to the registrant's last known home address giving notice of—

- (a) the removal of the entry or annotation;
- (b) the reasons for it; and
- (c) the registrant's right of appeal to the Appeals Committee under article 40 of the Order.

Miscellaneous

Suspension from the Register pending appeal

11.—(1) Where—

- (a) the Registrar has decided to remove a registrant's entry from Part 1, 2, 4 or 5 of the Register (as the case may be); and
- (b) a Notice of Appeal is served under the General Pharmaceutical Council (Appeals Committee) Rules 2010(5) in relation to that decision,

the Registrar may suspend the registrant's entry in the relevant part of the Register pending the final outcome of the appeal.

(2) The provisions of article 56(2) to (10) of the Order are to have effect in relation to the Registrar's decision to suspend an entry under paragraph (1) as if that decision were an interim suspension order made by the Fitness to Practise Committee under article 56(1)(a) of the Order.

(3) For the purposes of paragraph (1)(b), "Notice of Appeal" has the same meaning as in the General Pharmaceutical Council (Appeals Committee) Rules 2010.

Consequential amendments

12. The Schedule (which contains consequential amendments) has effect.

(5) Scheduled to [S.I. 2010/1614](#).