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DRAFT STATUTORY INSTRUMENTS

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**2007 No.**

**The Pharmacists and Pharmacy Technicians Order 2007**

**PART 1**

Preliminary

**Citation and commencement**

- 1.—(1) This Order may be cited as the Pharmacists and Pharmacy Technicians Order 2007.
- (2) As regards commencement—
- (a) this article, article 2 and article 68 shall come into force on the making of this Order;
  - (b) the provisions of this Order, other than article 68, which confer powers enabling—
    - (i) rules to be made by the Council, or
    - (ii) orders to be made by the Privy Council,shall come into force on the making of this Order, but for the purpose only of the exercise of those powers; and
  - (c) otherwise, the provisions of this Order shall come into force on such days as the Secretary of State may specify.
- (3) Different days may be specified under paragraph (2)(c) above for different purposes, and any day so specified shall be caused to be notified in the London, Edinburgh and Belfast Gazettes published not later than one week before that day.

**Extent**

- 2.—(1) Subject to paragraphs (2) and (3), this Order extends to Great Britain.
- (2) The following provisions—
- (a) Part 3;
  - (b) Parts 4 to 6 in so far as they relate to registered pharmacy technicians or applicants for restoration to the Register of Pharmacy Technicians; and
  - (c) Part 2 of Schedule 2,
- extend only to England and Wales.
- (3) The extent of any amendment, revocation or repeal of any enactment or instrument set out in Schedule 1 is the same as that of the enactment or instrument amended, revoked or repealed.

**Interpretation**

- 3.—(1) In this Order—

“the 1954 Act” means the Pharmacy Act 1954(1), as in force immediately before article 1 comes into force;

“annotation” means an annotation in one of the Society’s registers;

“Appointments Commission” means the Appointments Commission established under section 57 of the Health Act 2006(2) (the Appointments Commission);

“assessment team” means a team of persons that has the functions of an assessment team by virtue of rules under article 53;

“the Charter” means the Charter granted to the Society on 7th December 2004, as amended from time to time;

“the Council” means the Council of the Society;

“enactment” includes an enactment comprised in, or an instrument made under, an Act of the Scottish Parliament;

“European mutual recognition area” means the territory of the EEA States and Switzerland;

“exempt person” means—

- (a) a national of a relevant European State other than the United Kingdom;
- (b) a national of the United Kingdom who is seeking access to the profession of pharmacists or pharmacy technicians by virtue of an enforceable Community right; or
- (c) a person who is not a national of a relevant European State but who is, by virtue of an enforceable Community right, entitled to be treated, for the purposes of access to the profession of pharmacists or pharmacy technicians, no less favourably than a national of a relevant European State;

“fitness to practise committee” means the Investigating Committee, the Disciplinary Committee or the Health Committee;

“individual assessor” means a person who has the functions of an individual professional performance assessor by virtue of rules under article 53;

“the Pharmacy Acts” means the Pharmacy Act 1852(3), the Pharmacy Act 1868(4), the Poisons and Pharmacy Act 1908(5), the Pharmacy and Poisons Act 1933(6) and the 1954 Act;

“the Pharmacy Qualifications Directive” means Council Directive 85/433/EEC concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy(7), as amended(8);

“prescribed” means prescribed by the Council in rules under this Order, and “prescribes” shall be construed accordingly;

“the register” means, unless the context otherwise requires, as respects any registrant—

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(1) 1954 c.61.

(2) 2006 c.28.

(3) 1852 c.56; repealed by the Pharmacy Act 1954.

(4) 1868 c.121; repealed by the Pharmacy Act 1954.

(5) 1908 c.55; repealed by the Pharmacy Act 1954.

(6) 1933 c.25; repealed by the Pharmacy Act 1954.

(7) OJNo. L 253, 24.9.1985, p.37.

(8) Council Directive 85/433/EEC has been amended by: Council Directive 85/584/EEC (OJ No. L 372, 31.12.1985, p.42); Council Directive 90/658/EEC (OJ No. L 353, 17.12.1990, p.73); the Act of Accession of Austria, Sweden and Finland (OJ No. L 1, 1.1.1995, p.1); Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1); the Agreement between the European Community and its Member States, of the one part, and the Swiss confederation, of the other, on the free movement of persons, signed at Luxembourg on 21st June 1999 (OJ No. L 114, 30.04.2002, p.36); and the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No. L 236, 23.9.2003, p.33). This Directive is repealed, prospectively, by Directive 2005/36/EC of the Parliament and of the Council on the recognition of professional qualifications (OJ No. L 255, 30.9.2005, p.22).

- (a) the one of the Society’s registers in which he is registered; or
- (b) if he is registered in both of the Society’s registers, both registers;
- “the register of pharmaceutical chemists for Northern Ireland” means the register of pharmaceutical chemists maintained under Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976(9);
- “registered pharmacist” means a person who is registered in the Register of Pharmacists;
- “registered pharmacy technician” means a person who is registered in the Register of Pharmacy Technicians;
- “registrant” means a registered pharmacist or a registered pharmacy technician;
- “Registrar” shall, except where used in the expression “Registrar General”, be construed in accordance with article 9(1) and (5);
- “Registrar General” means—
- (a) the Registrar General for England and Wales appointed under section 1 of the Registration Service Act 1953(10) (Registrar General); or
- (b) the Registrar General for Scotland appointed under section 1(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(11) (the Registrar General);
- “regulatory body” means a regulatory body which has the function of authorising persons to practise as a member of a health or social care profession;
- “relevant European State” means an EEA State or Switzerland;
- “the Second General System Directive” means Council Directive 92/51/EEC on a second general system for the recognition of professional education and training(12), as amended(13);
- “the Second General System Regulations” means the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002(14);
- “the Society” means the Royal Pharmaceutical Society of Great Britain;
- “the Society’s registers” means the Register of Pharmacists and the Register of Pharmacy Technicians; and
- “statutory committees” means the committees listed in article 7(1)(a) to (f).

(2) For the purposes of this Order, a person practises as a pharmacist or a pharmacy technician if, whilst acting in the capacity of or holding himself out as a pharmacist or a pharmacy technician, he undertakes any work or gives any advice in relation to the dispensing or use of medicines, the science of medicines, the practice of pharmacy or the provision of health care.

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(9) S.I. 1976/1213 (N.I. 22).

(10) 1953 c.37.

(11) 1965 c.49; section 1(1) has been amended by the Scotland Act 1998 (c.46), section 125.

(12) OJ No. L 209, 24.7.1992, p.25.

(13) Council Directive 92/51/EEC has been amended by: Commission Directive 94/38/EC (OJ No. L 217, 23.8.1994, p.8); the Act of Accession of Austria, Sweden and Finland (OJ No. L 1, 1.1.1995, p.1); Commission Directive 95/43/EC (OJ No. L 184, 3.8.1995); Commission Directive 97/38/EC (OJ No. L 184, 12.7.1997, p.31); Commission Directive 2000/5/EC (OJ No. L 54, 26.2.2000, p.42); Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1); the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No. L 236, 23.9.2003, p.33); Regulation (EC) No. 1882/2003 (OJ No. L 284, 31.10.2003, p.1); and Commission Decision 2004/108/EC (OJ No. L 32, 5.2.2004, p.15). This Directive is repealed, prospectively, by Directive 2005/36/EC of the Parliament and of the Council on the recognition of professional qualifications (OJ No. L 255, 30.9.2005, p.22).

(14) S.I. 2002/2934; relevant amendments are made by paragraph 29 of Schedule 1 to this Order.

### **The Society's general duties**

4.—(1) The main objective of the Society (including its Council, its staff and its committees) in exercising such of the Society's functions as affect the health and safety of members of the public is to protect, promote and maintain their health and safety.

(2) In exercising its functions, the Society (including its Council, its staff and its committees) shall—

- (a) have proper regard to the interests of—
  - (i) persons using or needing the services of registered pharmacists in Great Britain,
  - (ii) persons using or needing the services of registered pharmacy technicians in England and Wales, and
  - (iii) all registrants and prospective registrants, and to any differing interests of registered pharmacists and registered pharmacy technicians or groups within those professions; and
- (b) co-operate, in so far as is appropriate and reasonably practicable, with public authorities or other bodies or persons concerned with—
  - (i) the employment (whether or not under a contract of service) of registrants,
  - (ii) the education or training of registrants, prospective registrants or other health care professionals,
  - (iii) the regulation of, or the co-ordination of the regulation of, other health or social care professions, and
  - (iv) the regulation of, or carrying out activities in connection with the regulation of, health services.

(3) In carrying out its duty to co-operate under paragraph (2)(b), the Society shall have regard to any differing considerations in relation to practising as—

- (a) a pharmacist which apply in England, Scotland or Wales; or
- (b) a pharmacy technician which apply in England or Wales.

### **The Council**

5.—(1) The Privy Council may by order vary the size and composition of the Council (in addition to its powers to do so under the Charter(15)), provided that—

- (a) the number of members of the Council who are registered pharmacists constitutes a majority of the total number of members of the Council; and
- (b) the total number of members of the Council does not exceed 35.

(2) In exercising its function of appointing persons to the Council(16), the Privy Council shall ensure that, at any time, at least one of the persons on the Council appointed by it lives or works wholly or mainly in each of England, Scotland and Wales.

(3) The Council shall make regulations under the Charter(17) in respect of the suspension or removal from office of its members, and those regulations shall in particular provide for—

- (a) a member of the Council who is a registered pharmacist to be removed from office forthwith if he ceases to be registered in Part 1 of the Register of Pharmacists; and

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(15) See paragraph 8 of the Charter.

(16) See paragraph 8(4) of the Charter.

(17) See paragraph 8 of the Charter.

- (b) a member of the Council who is a registered pharmacy technician to be removed from office forthwith if he ceases to be registered in Part 1 of the Register of Pharmacy Technicians.
- (4) The Council shall—
  - (a) establish and maintain a system for the declaration and registration of private interests of its members; and
  - (b) publish in such manner as it sees fit entries recorded in the register of members' interests.

### **The Council's duties in respect of publications**

6.—(1) The Council shall publish in such manner as it sees fit, at least once in each calendar year, by such date in each calendar year as the Privy Council shall determine—

- (a) a statistical report in respect of, and which includes a description of, the procedures which the Society has in place to protect members of the public from registrants whose fitness to practise is impaired, together with the Council's observations on the report; and
  - (b) a report, submitted to the Privy Council, on the Society's exercise of its functions, and the Privy Council shall lay before each House of Parliament a copy of the report submitted by the Council under this sub-paragraph.
- (2) The Council shall be responsible for ensuring that the Society—
- (a) keeps accounts, which shall be in such form as the Privy Council may determine; and
  - (b) prepares annual accounts in respect of each calendar year, which shall be in such form and shall be prepared by such date as the Privy Council may determine.

(3) Those annual accounts shall be audited by auditors appointed by the Council, but no person may be appointed as an auditor under this paragraph unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989<sup>(18)</sup> (eligibility for appointment).

(4) As soon as is reasonably practicable after those annual accounts have been prepared, the Council shall—

- (a) cause them to be published together with any report on them made by the auditors appointed under paragraph (3); and
- (b) send a copy of those annual accounts and of any such report to the Privy Council,

and the Privy Council shall lay before each House of Parliament a copy of those annual accounts and any report on the accounts made by the auditors appointed under paragraph (3).

(5) The Society shall from time to time publish or provide in such a manner as it sees fit information about the regulation of pharmacists and pharmacy technicians.

(6) The Society may from time to time publish or provide in such manner as it sees fit guidance to registrants, employers and such other persons it considers appropriate in respect of the standards for the education, training, supervision and performance of persons who are not registrants but who provide services in connection with those provided by registrants.

### **The statutory committees**

7.—(1) The Society shall have the following committees (in addition to any other committees established under the Charter<sup>(19)</sup>)—

- (a) the Continuing Professional Development Committee;
- (b) the Disciplinary Committee;

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<sup>(18)</sup> 1989 c.40.

<sup>(19)</sup> See paragraphs 3 and 9 of the Charter.

- (c) the Education Committee;
- (d) the Health Committee;
- (e) the Investigating Committee; and
- (f) the Registration Appeals Committee,

each having the functions assigned to them by or under this Order, any other enactment or the Charter.

(2) Subject to paragraph (6), as regards each of the statutory committees, the Council shall by rules make provision with regard to—

- (a) its size and composition (which may vary according to the functions the committee is performing), but the number of members of a fitness to practise committee or the Registration Appeals Committee who are registrants shall not exceed the number of other members on the committee by more than one;
- (b) the appointment, performance, suspension and removal from office of its members;
- (c) the quorum at its meetings; and
- (d) its procedures, including deputising arrangements with regard to its chair.

(3) The provisions with regard to the size, composition and procedures of the Health and Disciplinary Committees may provide for the chair of the Committee to have the power to determine a particular size and composition for the Committee for a particular hearing or inquiry before the Committee, and in particular to determine—

- (a) that only specified members of the full Committee are entitled to sit at the hearing or inquiry and decide the matter to which the hearing or inquiry relates (but he or a deputy chair must be one of the specified members); and
- (b) a different quorum for the hearing or inquiry and the related meetings of the Committee than would otherwise be the case (which must not be less than three),

but where the chair does determine a particular size and composition of the Committee for a particular hearing or inquiry, he must nevertheless ensure that the number of registrants who are members of that formation of the Committee does not exceed the number of other members by more than one.

(4) Rules under this article may in addition include provision with regard to—

- (a) the education and training of members of statutory committees, and the rules may provide that members are to meet competencies that the Council may determine from time to time;
- (b) the attendance of members of statutory committees;
- (c) requiring statutory committees to—
  - (i) establish and maintain a system for the declaration and registration of private interests of their members, and
  - (ii) publish in such manner as they see fit entries recorded in their register of members' interests; and
- (d) what functions a statutory committee is to perform (including functions of the Society under this Order) and how it is to perform those functions.

(5) Rules under this article shall provide that—

- (a) no person shall be a member of more than one fitness to practise committee;
- (b) no person shall be both a member of the Council and of the Continuing Professional Development Committee, the Disciplinary Committee, the Health Committee or the Registration Appeals Committee;

- (c) no person who is a member of a Disciplinary Committee or Health Committee that has made an interim order under article 54 in proceedings in any case shall sit as a member of the Committee in subsequent proceedings in that case, unless the subsequent proceedings relate solely to interim measures under article 54; and
  - (d) the appointment, suspension or removal of the members, chairs and deputy chairs of the statutory committees, apart from the chairs and deputy chairs of the Disciplinary and Health Committees, shall be by the Council, except that the rules may provide for the Council to enter into arrangements with another person, body or group (including a committee established under the Charter) for that person, body or group to carry out all or any of these functions on the Council's behalf.
- (6) The appointment, suspension or removal of the chairs and deputy chairs of the Disciplinary and Health Committees shall be by the Privy Council, but the first chair of the Disciplinary Committee shall be the person who, immediately before the coming into force of this article, is the chairman of the Statutory Committee of the Society.
- (7) The Privy Council may enter into arrangements with the Appointments Commission (and the Appointments Commission may enter into arrangements with the Privy Council) providing for the Appointments Commission to assist the Privy Council in connection with the exercise of the Privy Council's functions under paragraph (6).
- (8) Rules under this article may provide for a statutory committee to—
- (a) have more than one deputy chair;
  - (b) co-opt members onto the committee in such circumstances as may be specified in the rules; and
  - (c) discharge, in such circumstances and subject to such conditions as may be specified in the rules, functions of the Society.
- (9) The powers of a statutory committee may be exercised even though there is a vacancy on it.

#### **Remuneration and allowances of Council members, committee members and specialist advisers**

8. The Council may pay to—
- (a) its members;
  - (b) members of the statutory committees (including co-opted members); and
  - (c) advisers advising the Council or one of the Society's committees on issues falling within an adviser's speciality which are under consideration by it, including legal advisers appointed under article 61 and clinical and other specialist advisers appointed under article 62,
- such remuneration and allowances as the Council may reasonably determine.

#### **Appointment etc. of the Registrar and any Deputy Registrar**

- 9.—(1) The Council shall appoint a fit and proper person to be Registrar who shall perform the functions of the Registrar conferred on him by this Order, by rules under this Order, by any other enactment or by, or by virtue of, the Charter.
- (2) The Council may also appoint a Deputy Registrar.
- (3) The Council may pay, or make provision for the payment of, such remuneration, allowances, pension or gratuities as it determines to the Registrar or any Deputy Registrar.
- (4) The Council may terminate the appointment of the Registrar or any Deputy Registrar.
- (5) The Registrar may authorise a Deputy Registrar or any employee of the Society to act for him in any matter, and where he does so, a reference in this Order, in rules under this Order, in any

other enactment or in the Charter or any instrument under the Charter to the Registrar, if it relates to that matter, shall include reference to the person so authorised.

## PART 2

### Registration of pharmacists

#### The Register of Pharmacists

**10.**—(1) The Registrar shall maintain in accordance with the provisions of and rules under this Order the register established in pursuance of the Pharmacy Act 1852<sup>(20)</sup> and maintained in accordance with section 2 of the 1954 Act (the registers and registration).

(2) The register maintained under paragraph (1)—

- (a) formerly known as the Register of Pharmaceutical Chemists, shall be known as the Register of Pharmacists; and
- (b) shall be divided into two parts, and—
  - (i) the first part shall be known as “Part 1 – Practising Pharmacists”, and
  - (ii) the second part shall be known as “Part 2 – Non-practising Pharmacists”.

#### Entitlement to registration in the Register of Pharmacists

**11.**—(1) Subject to the provisions of and rules under this Order, a person shall be entitled to be registered in the Register of Pharmacists if—

- (a) he satisfies the Registrar that—
  - (i) he is appropriately qualified within the meaning given in article 12(1),
  - (ii) his fitness to practise is not impaired,
  - (iii) before registration, where necessary, he has met such requirements as to additional education, training or experience as are appropriate to his case, and
  - (iv) after registration, he meets such requirements as to continuing professional development as are appropriate to his case; and
- (b) he has paid any fee prescribed under article 40(1)(a) or (b) that relates to his registration in that register.

(2) A person who is entitled to be registered in the Register of Pharmacists is to be registered in Part 1 of that register unless he has given to the Society, in the form determined by the Registrar (which may be varied from time to time), an undertaking not to practise in Great Britain, the Channel Islands or the Isle of Man, in which case he is to be registered in Part 2 of that register.

(3) The Registrar shall treat a person who—

- (a) is an exempt person who has qualified as a pharmacist in a relevant European State other than the United Kingdom;
- (b) applies to be registered in the Register of Pharmacists; and
- (c) is registered in the register of pharmaceutical chemists for Northern Ireland,

as meeting the requirements of paragraph (1)(a)(i).



## **Preregistration requirements for pharmacists in respect of qualifications and additional education, training or experience**

12.—(1) For the purposes of article 11(1)(a)(i), a person is “appropriately qualified” if—

- (a) he has a qualification awarded in Great Britain which has been approved by the Society as attesting to a standard of proficiency which, in the Society’s opinion, indicates that he has reached an adequate level of understanding for practising as a pharmacist (and so is also a recognised pharmacy qualification within other relevant European States);
- (b) he is an exempt person and he has a qualification which the Privy Council has by order designated as being an approved qualification for the purpose of registration in the Register of Pharmacists; or
- (c) he has, elsewhere than in Great Britain, undergone training as a pharmacist, and—
  - (i) he holds a qualification which has been approved by the Society as attesting to a standard of proficiency which, in the Society’s opinion, indicates that the person has reached an adequate level of understanding for practising as a pharmacist, or
  - (ii) he holds a qualification which—
    - (aa) in the case of an exempt person who does not have a qualification referred to in sub-paragraph (b), taken together with his additional education, training or experience acquired elsewhere than in Great Britain (but at least in part within the European mutual recognition area) indicates, in the Society’s opinion, that he has reached an adequate level of understanding for practising as a pharmacist, or
    - (bb) whether or not he is an exempt person, taken together with the additional education, training or experience that the Society requires him to undertake pursuant to article 11(1)(a)(iii), indicates, in the Society’s opinion, that he has reached an adequate level of understanding for practising as a pharmacist.

(2) An order under paragraph (1)(b) may provide that a qualification is only to be considered an approved qualification in such circumstances, or subject to such conditions, as are specified in the order.

(3) For the purposes of an application for entry in the Register of Pharmacists, the Registrar shall not require any exempt person to whom paragraph (1)(b) or (c)(ii)(aa) applies to meet any requirements as to additional education, training or experience, unless—

- (a) the application is for restoration to that register; and
- (b) in so doing the Registrar is acting in a manner that is consistent with the requirements of the Treaties and the Pharmacy Qualifications Directive.

(4) In formulating its opinion under paragraph (1)(c)(ii) in relation to an exempt person, the Society shall take into account—

- (a) if the person holds a qualification granted outside the European mutual recognition area which has been accepted by another relevant European State as qualifying him to practise as a pharmacist in that State, the acceptance of that qualification; and
- (b) all of the person’s relevant qualifications, knowledge and experience, wherever acquired.

(5) As regards any person to whom paragraph (1)(a) or (c)(i) or (ii)(bb) applies, for the purposes of meeting the requirements of article 11(1)(a)(iii), the Registrar may require him to meet requirements as to additional education which comprise or include reaching an adequate standard of proficiency in the knowledge and use of English, unless he is an exempt person.

**General functions of the Society in respect of pharmacists' and prospective pharmacists' education, training and the acquisition of experience**

13. The Society shall have the general functions of—
- (a) promoting high standards of education and training, and in respect of the acquisition of experience, for pharmacists and prospective pharmacists; and
  - (b) overseeing all stages of the education, training and acquisition of experience of pharmacists and prospective pharmacists in Great Britain, including—
    - (i) preregistration education, training and acquisition of experience, including both undergraduate and postgraduate education and training of prospective pharmacists,
    - (ii) post-registration education, training and acquisition of experience required for continuing professional development or required for education, training and acquisition of experience in respect of specialisations, and
    - (iii) education, training and acquisition of experience for persons seeking restoration to the Register of Pharmacists.

**Specific obligations of the Society in respect of pharmacists' and prospective pharmacists' education, training and the acquisition of experience**

14. In connection with discharging the functions mentioned in article 13, the Society shall—
- (a) determine—
    - (i) the nature of the knowledge and skills, and
    - (ii) the nature, extent and content of, and method of assessment for, the education, training and experience,  
required for a person qualifying in Great Britain to be considered appropriately qualified for the purposes of article 11(1)(a)(i);
  - (b) approve qualifications under article 12(1)(a);
  - (c) accredit degree courses for prospective pharmacists (including degree courses in Northern Ireland) and approve providers of such courses;
  - (d) approve providers, including tutors, of postgraduate education and training for prospective pharmacists which leads to an approved qualification, and approval under this paragraph may be limited to the provision of education and training at specified premises;
  - (e) determine, as regards the tutors mentioned in paragraph (d)—
    - (i) the nature of the education, training or experience required of them,
    - (ii) any assessment arrangements in respect of them, and
    - (iii) their role and function;
  - (f) determine the arrangements for determining, in accordance with article 12(1)(c)(ii), that a person has reached an adequate level of understanding for practising as a pharmacist;
  - (g) determine assessment arrangements for—
    - (i) postgraduate education and training for prospective pharmacists which leads to an approved qualification, or
    - (ii) any additional education, training or experience required for the purposes of article 11(1)(a)(iii); and
  - (h) determine the nature, extent and content of the education, training, experience and continuing professional development required for the purposes of article 11(1)(a)(iii) and (iv), or for the purposes of obtaining annotations in respect of specialisations, including—

- (i) preregistration programmes or courses in respect of, or any combination of, education, training or acquiring experience,
- (ii) the amount and type of continuing professional development that registrants are required to undertake,
- (iii) the amount and type of education, training and experience required in order to obtain annotations in respect of specialisations,
- (iv) education and training to address fitness to practise matters, and
- (v) education, training and acquisition of experience in respect of persons seeking restoration to the Register of Pharmacists or to move from Part 2 to Part 1 of that register.

**Specific powers of the Society in respect of pharmacists' and prospective pharmacists' education, training and the acquisition of experience**

15. In connection with discharging the functions mentioned in article 13, the Society may—
- (a) approve premises as being suitable for postgraduate education and training of prospective pharmacists;
  - (b) approve qualifications for the purposes of article 12(1)(c)(i);
  - (c) approve providers of particular types of education, training, experience or continuing professional development required for the purposes of article 11(1)(a)(iii) or (iv), or in respect of specialisations, and approval under this paragraph may be limited to activities at specified premises;
  - (d) approve programmes or courses in respect of particular types of education, training or continuing professional development required for the purposes of article 11(1)(a)(iii) or (iv), or in respect of specialisations;
  - (e) determine the arrangements (including, where appropriate, the minimum qualifications of candidates) under which a person may participate in assessment programmes or courses for prospective pharmacists;
  - (f) hold or cause to be held assessments in respect of—
    - (i) approved qualifications, or any education, training or experience leading to an approved qualification,
    - (ii) additional education, training or experience required for the purposes of article 11(1)(a)(iii), and
    - (iii) becoming and acting as the tutors referred to in article 14(d),and determine the arrangements under which those assessments are to be held (including arrangements for dealing with disciplinary matters with regard to candidates and prospective candidates);
  - (g) appoint or arrange for the appointment of persons (“examiners”) to carry out or oversee assessments of the types mentioned in article 14(g), or paragraph (f) of this article, and pay them or arrange for payment to them of appropriate remuneration and allowances (equally, the Society may determine arrangements under which assessments are to be held which do not involve examiners);
  - (h) charge fees in respect of—
    - (i) commencing preregistration education or training, other than undergraduate education or training, which is co-ordinated by the Society, and
    - (ii) assessments of the types mentioned in paragraph (f) that the Society holds or causes to be held; and

- (i) determine—
  - (i) subject to any exceptional arrangements under sub-paragraph (iii), the maximum number of times that a candidate may attempt any assessment arrangements in respect of any education, training or experience leading to an approved qualification,
  - (ii) subject to any exceptional arrangements under sub-paragraph (iii), the shortest and longest periods for successful completion of approved qualifications or particular types of additional education, training or experience (including accredited courses or programmes), and
  - (iii) in individual cases, exceptional arrangements for the successful completion of approved qualifications or particular types of additional education, training or experience by a candidate or prospective candidate for whom the Society considers it appropriate to make adjustments to the standard arrangements.

### **Supplemental matters in connection with articles 14 and 15**

**16.**—(1) The Society may enter into arrangements with another body for that body to assist the Society in carrying out its functions under articles 14 and 15.

(2) Approval or accreditation may be granted under articles 14 and 15 in respect of a programme or course of education or training that only provides part of the education or training needed for an approved or accredited course or programme, or for an approved qualification, where the Society is satisfied that there are appropriate arrangements in place for persons participating in the education or training to receive the remainder of the education or training necessary for the approved or accredited course or programme, or for the approved qualification, elsewhere.

(3) The Council may make such provision in rules in connection with—

- (a) authorising the Registrar to perform any of the Society’s functions under articles 14 and 15;
- (b) the making, varying, suspending or revoking of any determination under articles 14 and 15;
- (c) as regards approvals or accreditations under articles 14 and 15—
  - (i) granting (including provisionally granting) or refusing any approval or accreditation,
  - (ii) probationary arrangements (including action plans for providers of new courses) or the imposition of remedial measures, and
  - (iii) appeals related to paragraphs (i) and (ii); and
- (d) appeals by candidates and prospective candidates in relation to the assessment arrangements determined under articles 14 and 15,

as it considers appropriate.

(4) The Council shall provide in rules for the procedure to be followed (including, where appropriate, the appeals procedure) for withdrawing or suspending any approval or accreditation that the Society has granted under articles 14 and 15.

(5) In making, varying, suspending or revoking any determination mentioned in this article, or granting, refusing, suspending or withdrawing any accreditation or approval mentioned in this article, the Society shall ensure that the relevant requirements of—

- (a) the Treaties;
- (b) the Pharmacy Qualifications Directive; and
- (c) the Council Directive [85/432/EEC](#) concerning the co-ordination of provisions laid down by law, regulation or administrative action in respect of certain activities in the field of pharmacy<sup>(21)</sup>, as amended<sup>(22)</sup>,

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(21) OJ No. L 253, 24.9.1985, p.34.

are met, and shall act in a manner which is consistent with those requirements.

(6) Determinations, approvals and accreditations mentioned in this article shall be published by the Society in such manner as it sees fit.

### **Form, manner and content of applications for registration in the Register of Pharmacists or retention in that register**

17.—(1) The Council may make such provision in rules in connection with applications for registration in the Register of Pharmacists, or for retention in that register, as it considers appropriate, and may in particular make provision with regard to—

- (a) the form and manner in which applications are to be made (and the rules may provide that applicants shall apply using application forms and presenting certificates that are in such form as the Council may determine from time to time);
- (b) the information to be provided by or in respect of the applicant, including—
  - (i) the name under which he practises or intends to practise, or in the case of a person who does not intend to practise, the name by which he is generally known,
  - (ii) his home address, and
  - (iii) the information to be provided for the purposes of determining whether the applicant's fitness to practise is impaired; and
- (c) consultation, as regards the application, with a fitness to practise committee.

(2) The Registrar may—

- (a) refuse to register an applicant for entry in the Register of Pharmacists; or
- (b) refuse to retain in that register a person who wishes to be retained in that register, and so remove him from it,

if he fails to comply with, or if in respect of him there is a failure to comply with, rules made under paragraph (1).

(3) If a person who is registered in the Register of Pharmacists fails to comply with rules made under paragraph (1) in respect of applications for retention in that register, or there is a failure to comply with such rules in respect of him, the failure may be treated as misconduct for the purposes of article 48(1)(a) and the Registrar shall consider, in accordance with article 49(1), whether or not to refer the matter to the relevant fitness to practise committee.

(4) As regards an exempt person (“E”) who is making an application for entry in the Register of Pharmacists, the Registrar shall accept as sufficient evidence that his fitness to practise is not impaired a document—

- (a) to which paragraph (5) applies, as regards his physical or mental health; and
- (b) to which paragraph (6) applies, as regards his good character or repute,

if it is presented to the Registrar within the period of three months beginning with its date of issue.

(5) This paragraph applies to a document that attests to E's good physical and mental health, and—

- (a) which is required in E's relevant European State of origin or the relevant European State from which he comes (“E's attesting State”), if he wishes to start practising as a pharmacist there; or
- (b) if—

- (i) no such document as mentioned in sub-paragraph (a) is required in E's attesting State, and
  - (ii) rules under paragraph (1) require the presentation of a certificate attesting to an applicant's good physical and mental health in a particular form, which is issued by a competent authority in E's attesting State and which is in a form that corresponds to that particular form.
- (6) This paragraph applies to a document that attests to E's good character or repute—
- (a) which is required in E's attesting State, if he wishes to start practising as a pharmacist there; or
  - (b) if no such document as mentioned in sub-paragraph (a) is required in E's attesting State—
    - (i) containing an extract from the judicial record issued by a competent authority in E's attesting State, or
    - (ii) which is a certificate issued by a competent authority in E's attesting State and which is equivalent to an extract from that State's judicial record,

unless that document may be or has been revised or rescinded as a consequence of an approach made by the Society to the competent authority which issued it, in accordance with article 8(3) of the Pharmacy Qualifications Directive.

#### **Notification of decisions on applications for entry in the Register of Pharmacists**

**18.**—(1) Where a person applies to have his name registered in the Register of Pharmacists, the Registrar shall, within the specified period, give the applicant notice—

- (a) of his decision on the application; and
  - (b) if he refuses the application, of any right of appeal the applicant has to the Registration Appeals Committee.
- (2) In this article, “the specified period” means—
- (a) the period of three months beginning with the date on which the Registrar receives the application with full supporting documentation and the relevant fee; or
  - (b) in the case of an exempt person, such longer period as is permitted by article 12 of the Pharmacy Qualifications Directive.

#### **Relationship between registration in the Register of Pharmacists and membership of the Society**

**19.** If a person is registered in the Register of Pharmacists, he is a member of the Society, but if he ceases (whether permanently or because his registration is suspended) to be so registered, he also ceases to be a member of the Society.

#### **Offences relating to the Register of Pharmacists**

**20.**—(1) A person commits an offence if—

- (a) he falsely represents that—
  - (i) he is registered in the Register of Pharmacists,
  - (ii) he is registered in a particular part of the Register of Pharmacists, or
  - (iii) his registration in the Register of Pharmacists has a particular annotation; or
- (b) he uses—

- (i) the title “registered pharmacist” without being registered in the Register of Pharmacists, or
- (ii) a title in respect of a particular annotation, which is a prescribed specialist title, where he does not have an entry in the Register of Pharmacists with that particular annotation.

(2) For the purposes of paragraph (1)(b)(ii), “prescribed specialist title” means a title for a pharmacist which the Council prescribes as being a title that is only to be used by a registrant with a particular annotation.

(3) A person commits an offence if he practises as a pharmacist whilst being registered in Part 2 of the Register of Pharmacists.

(4) A person who exhibits any certificate purporting to be a certificate of registration issued under—

- (a) article 32 in respect of a registered pharmacist but which is not a certificate of registration issued under that article in respect of a registered pharmacist; or
- (b) one of the Pharmacy Acts in respect of a pharmaceutical chemist but which is not a certificate of registration issued under one of those Acts in respect of a pharmaceutical chemist,

commits an offence.

(5) If a person—

- (a) uses, or lends to or allows to be used by any other person, a certificate of registration in respect of a pharmacist or pharmaceutical chemist (whether issued under article 32 or one of the Pharmacy Acts); or
- (b) makes or has in his possession any document closely resembling such a certificate,

for fraudulent purposes, he commits an offence.

(6) Any person who commits an offence under—

- (a) paragraph (1) or (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale; or
- (b) paragraph (4) or (5) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## PART 3

### Registration of pharmacy technicians

#### **The Register of Pharmacy Technicians**

**21.**—(1) The Registrar shall establish and maintain in accordance with the provisions of and rules under this Order a register of pharmacy technicians.

(2) The register established and maintained under paragraph (1)—

- (a) shall be known as the Register of Pharmacy Technicians; and
- (b) shall be divided into two parts, and—
  - (i) the first part shall be known as “Part 1 – Practising Pharmacy Technicians”, and
  - (ii) the second part shall be known as “Part 2 – Non-practising Pharmacy Technicians”.

### **Entitlement to registration in the Register of Pharmacy Technicians**

**22.**—(1) Subject to the provisions of and rules under this Order, a person shall be entitled to be registered in the Register of Pharmacy Technicians if—

- (a) he satisfies the Registrar that—
  - (i) he is appropriately qualified within the meaning given in article 23(1),
  - (ii) his fitness to practise is not impaired,
  - (iii) before registration, where necessary, he has met such requirements as to additional education, training or experience as are appropriate to his case, and
  - (iv) after registration, he meets such requirements as to continuing professional development as are appropriate to his case; and
- (b) he has paid any fee prescribed under article 40(1)(a) or (b) that relates to his registration in that register.

(2) A person who is entitled to be registered in the Register of Pharmacy Technicians is to be registered in Part 1 of that register unless he has given to the Society, in the form determined by the Registrar (which may be varied from time to time), an undertaking not to practise in England, Wales, the Channel Islands or the Isle of Man, in which case he is to be registered in Part 2 of that register.

### **Preregistration requirements for pharmacy technicians in respect of qualifications and additional education, training or experience**

**23.**—(1) For the purposes of article 22(1)(a)(i), a person is “appropriately qualified” if—

- (a) he has a qualification awarded in England or Wales which has been approved by the Society as attesting to a standard of proficiency which, in the Society’s opinion, indicates that he has reached an adequate level of understanding for practising as a pharmacy technician;
- (b) he is an exempt person and he has a right to practise as a pharmacy technician by virtue of the Second General System Regulations (having successfully completed any adaptation period or aptitude test that he may be required to complete pursuant to those Regulations); or
- (c) he has, elsewhere than in England or Wales, undergone training as a pharmacy technician, and—
  - (i) he holds a qualification which has been approved by the Society as attesting to a standard of proficiency which, in the Society’s opinion, indicates that the person has reached an adequate level of understanding for practising as a pharmacy technician, or
  - (ii) he holds a qualification which—
    - (aa) in the case of an exempt person who does not have the right to practise referred to in sub-paragraph (b), taken together with his additional education, training or experience acquired elsewhere than in England or Wales (but at least in part within the European mutual recognition area) indicates, in the Society’s opinion, that he has reached an adequate level of understanding for practising as a pharmacy technician, or
    - (bb) whether or not he is an exempt person, taken together with his additional education, training or experience that the Society requires him to undertake pursuant to article 22(1)(a)(iii), indicates, in the Society’s opinion, that he has reached an adequate level of understanding for practising as a pharmacy technician,



having successfully completed any adaptation period or aptitude test that he may be required to complete pursuant to the Second General System Regulations.

(2) For the purposes of an application for entry in the Register of Pharmacy Technicians, the Registrar shall not require any exempt person to whom paragraph (1)(b) applies to meet any requirements as to additional education, training or experience, unless—

- (a) the application is for restoration to the Register of Pharmacy Technicians; and
- (b) in so doing the Registrar is acting in a manner that is consistent with the requirements of the Treaties and the Second General Systems Directive.

(3) In formulating its opinion under paragraph (1)(c) in relation to an exempt person, the Society shall take into account—

- (a) if the person holds a qualification granted outside the European mutual recognition area which has been accepted by another relevant European State as qualifying him to practise as a pharmacy technician in that State, the acceptance of that qualification; and
- (b) all other qualifications, knowledge and experience, wherever acquired, which are relevant to the determination of the application.

(4) As regards any person to whom paragraph (1)(a) or (c)(i) or (ii)(bb) applies, for the purposes of meeting the requirements of article 22(1)(a)(iii), the Registrar may require him to meet requirements as to additional education which comprise or include reaching an adequate standard of proficiency in the knowledge and use of English, unless he is an exempt person.

#### **General functions of the Society in respect of pharmacy technicians' and prospective pharmacy technicians' education, training and the acquisition of experience**

24. The Society shall have the general functions of—

- (a) promoting high standards of education and training, and in respect of the acquisition of experience, for pharmacy technicians and prospective pharmacy technicians; and
- (b) overseeing all stages of the education, training and acquisition of experience of pharmacy technicians and prospective pharmacy technicians in England and Wales, including—
  - (i) preregistration education, training and acquisition of experience,
  - (ii) post-registration education, training and acquisition of experience required for continuing professional development or required for education, training and acquisition of experience in respect of specialisations, and
  - (iii) education, training and acquisition of experience for persons seeking restoration to the Register of Pharmacy Technicians.

#### **Specific obligations of the Society in respect of pharmacy technicians' and prospective pharmacy technicians' education, training and the acquisition of experience**

25. In connection with discharging the functions mentioned in article 24, the Society shall—

- (a) determine—
  - (i) the nature of the knowledge and skills, and
  - (ii) the nature, extent and content of, and method of assessment for, the education, training and experience,  
required for a person qualifying in England and Wales to be considered appropriately qualified for the purposes of article 22(1)(a)(i);
- (b) approve qualifications under article 23(1)(a);

- (c) approve or accredit programmes or courses of education and training for prospective pharmacy technicians;
- (d) determine the arrangements for determining, in accordance with article 23(1)(c)(ii), that a person has reached an adequate level of understanding for practising as a pharmacy technician;
- (e) determine assessment arrangements for any additional education, training or experience required for the purposes of article 22(1)(a)(iii); and
- (f) determine the nature, extent and content of the education, training, experience and continuing professional development required for the purposes of article 22(1)(a)(iii) and (iv), or for the purposes of obtaining annotations in respect of specialisations, including—
  - (i) preregistration programmes or courses in respect of, or any combination of, education, training or acquiring experience,
  - (ii) the amount and type of continuing professional development that registrants are required to undertake,
  - (iii) the amount and type of education, training and experience required in order to obtain annotations in respect of specialisations,
  - (iv) education and training to address fitness to practise matters, and
  - (v) education, training and acquisition of experience in respect of persons seeking restoration to the Register of Pharmacy Technicians or to move from Part 2 to Part 1 of that register.

**Specific powers of the Society in respect of pharmacy technicians’ and prospective pharmacy technicians’ education, training and the acquisition of experience**

- 26.** In connection with discharging the functions mentioned in article 24, the Society may—
- (a) approve providers of the programmes or courses mentioned in article 25(c), and approval under this paragraph may be limited to the provision of programmes or courses at specified premises;
  - (b) approve premises as being suitable for education and training of prospective pharmacy technicians;
  - (c) approve qualifications for the purposes of article 23(1)(c)(i);
  - (d) approve providers of particular types of education, training, experience or continuing professional development required for the purposes of article 22(1)(a)(iii) or (iv), or in respect of specialisations, and approval under this paragraph may be limited to activities at specified premises;
  - (e) approve programmes or courses in respect of particular types of education, training or continuing professional development required for the purposes of article 22(1)(a)(iii) or (iv), or in respect of specialisations;
  - (f) determine the arrangements (including, where appropriate, the minimum qualifications of candidates) under which a person may participate in assessment programmes or courses for prospective pharmacy technicians;
  - (g) hold or cause to be held assessments in respect of—
    - (i) approved qualifications, or any education, training or experience leading to an approved qualification, and
    - (ii) additional education, training or experience required for the purposes of article 22(1)(a)(iii),

- and determine the arrangements under which those assessments are to be held (including arrangements for dealing with disciplinary matters with regard to candidates and prospective candidates);
- (h) appoint or arrange for the appointment of persons (“examiners”) to carry out or oversee assessments of the types mentioned in article 25(e), or paragraph (g) of this article, and pay them or arrange for payment to them of appropriate remuneration and allowances (equally, the Society may determine arrangements under which assessments are to be held which do not involve examiners);
  - (i) charge fees in respect of —
    - (i) commencing preregistration education or training which is co-ordinated by the Society, and
    - (ii) assessments of the types mentioned in paragraph (g) that the Society holds or causes to be held; and
  - (j) determine—
    - (i) subject to any exceptional arrangements under sub-paragraph (iii), the maximum number of times that a candidate may attempt any assessment arrangements in respect of any education, training or experience leading to an approved qualification,
    - (ii) subject to any exceptional arrangements under sub-paragraph (iii), the shortest and longest periods for successful completion of approved qualifications or particular types of additional education, training or experience (including accredited courses or programmes), and
    - (iii) in individual cases, exceptional arrangements for the successful completion of approved qualifications or particular types of additional education, training or experience by a candidate or prospective candidate for whom the Society considers it appropriate to make adjustments to the standard arrangements.

### **Supplemental matters in connection with articles 25 and 26**

27.—(1) The Society may enter into arrangements with another body for that body to assist the Society in carrying out its functions under articles 25 and 26.

(2) Approval or accreditation may be granted under articles 25 and 26 in respect of a programme or course of education or training that only provides part of the education or training needed for an approved or accredited course or programme, or for an approved qualification, where the Society is satisfied that there are appropriate arrangements in place for persons participating in the education or training to receive the remainder of the education or training necessary for the approved or accredited course or programme, or for the approved qualification, elsewhere.

- (3) The Council may make such provision in rules in connection with—
- (a) authorising the Registrar to perform any of the Society’s functions under articles 25 and 26;
  - (b) the making, varying, suspending or revoking of any determination under articles 25 and 26;
  - (c) as regards approvals or accreditations under articles 25 and 26—
    - (i) granting (including provisionally granting) or refusing any approval or accreditation,
    - (ii) probationary arrangements (including action plans for new courses) or the imposition of remedial measures, and
    - (iii) appeals related to paragraphs (i) and (ii); and
  - (d) appeals by candidates and prospective candidates in relation to the assessment arrangements determined under articles 25 and 26,

as it considers appropriate.

(4) The Council shall provide in rules for the procedure to be followed (including, where appropriate, the appeals procedure) for suspending or withdrawing any approval or accreditation that the Society has granted under articles 25 and 26.

(5) In making, varying, suspending or revoking any determination mentioned in this article, or granting, refusing, suspending or withdrawing any accreditation or approval mentioned in this article, the Society shall ensure that the relevant requirements of—

- (a) the Treaties and;
- (b) the Second General System Directive,

are met, and shall act in a manner which is consistent with those requirements.

(6) The determinations, approvals and accreditations mentioned in this article shall be published by the Society in such manner as it sees fit.

### **Form, manner and content of applications for registration in the Register of Pharmacy Technicians or retention in that register**

**28.**—(1) The Council may make such provision in rules in connection with applications for registration in the Register of Pharmacy Technicians, or for retention in that register, as it considers appropriate, and may in particular make provision with regard to—

- (a) the form and manner in which applications are to be made (and the rules may provide that applicants shall apply using application forms and presenting certificates that are in such form as the Council may determine from time to time);
- (b) the information to be provided by or in respect of the applicant, including—
  - (i) the name under which he practises or intends to practise, or in the case of a person who does not intend to practise, the name by which he is generally known,
  - (ii) his home address, and
  - (iii) the information to be provided for the purposes of determining whether the applicant's fitness to practise is impaired; and
- (c) consultation, as regards the application, with a fitness to practise committee.

(2) The Registrar may—

- (a) refuse to register an applicant for entry in the Register of Pharmacy Technicians; or
- (b) refuse to retain in that register a person who wishes to be retained in that register, and so remove him from it,

if he fails to comply with, or if in respect of him there is a failure to comply with, rules made under paragraph (1).

(3) If a person who is registered in the Register of Pharmacy Technicians fails to comply with rules made under paragraph (1) in respect of applications for retention in that register, or there is a failure to comply with such rules in respect of him, the failure may be treated as misconduct for the purposes of article 48(1)(a) and the Registrar shall consider, in accordance with article 49(1), whether or not to refer the matter to the relevant fitness to practise committee.

### **Offences relating to the Register of Pharmacy Technicians**

**29.**—(1) A person commits an offence if—

- (a) he falsely represents that—
  - (i) he is registered in the Register of Pharmacy Technicians,

- (ii) he is registered in a particular part of the Register of Pharmacy Technicians, or
- (iii) his registration in the Register of Pharmacy Technicians has a particular annotation;  
or
- (b) he uses—
  - (i) subject to paragraph (3), the title “pharmacy technician” or “registered pharmacy technician” without being registered in the Register of Pharmacy Technicians, or
  - (ii) a title in respect of a particular annotation, which is a prescribed specialist title, where he does not have an entry in the Register of Pharmacy Technicians with that particular annotation.
- (2) For the purposes of paragraph (1)(b)(ii), “prescribed specialist title” means a title for a pharmacy technician which the Council prescribes as being a title that is only to be used by a registrant with a particular annotation.
- (3) A person may use the title “pharmacy technician” without committing an offence under paragraph (1)(b)(i) until—
  - (a) the end of a period of two years beginning on the day this article comes into force; or
  - (b) if—
    - (i) he has applied to be registered in the Register of Pharmacy Technicians during that two year period, and
    - (ii) his application (including any appeal) has not been disposed of during that two year period,  
his application (including any appeal) has been disposed of.
- (4) A person commits an offence if he practises as a pharmacy technician whilst being registered in Part 2 of the Register of Pharmacy Technicians.
- (5) A person who exhibits any certificate purporting to be a certificate of registration issued under article 32 in respect of a registered pharmacy technician but which is not a certificate of registration issued under that article in respect of a registered pharmacy technician commits an offence.
- (6) If a person—
  - (a) uses, or lends to or allows to be used by any other person, a certificate of registration in respect of a pharmacy technician issued under article 32; or
  - (b) makes or has in his possession any document closely resembling such a certificate,for fraudulent purposes, he commits an offence.
- (7) Any person who commits an offence under—
  - (a) paragraph (1) or (4) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale; or
  - (b) paragraph (5) or (6) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## PART 4

### Matters common to both of the Society’s registers

#### The Society’s registers

**30.**—(1) The Council may make such provision in rules in connection with the Society’s registers as it considers appropriate, and may in particular make provision with regard to—

- (a) the form and keeping of the Society's registers and the making of entries, alterations and corrections to them;
- (b) the entry or entries for persons using more than one name;
- (c) the recording of the date of a person's registration;
- (d) the recording of addresses (including home addresses);
- (e) the recording of titles, qualifications and specialisations (including the recording of those titles, qualifications or specialisations in Welsh, where appropriate);
- (f) the recording of continuing professional development matters; and
- (g) the recording of fitness to practise matters, including warnings issued by a fitness to practise committee.

(2) The Registrar shall cause to be published from time to time in such manner as he sees fit lists comprising information in or derived from entries in the Society's registers, but the lists published in accordance with this paragraph shall not include information in or derived from entries in respect of a person whose registration, at the time of publication, is suspended.

(3) The Council shall determine the form of the publication of the lists mentioned in paragraph (2) and the information that the lists are to contain, which may include—

- (a) a note specifying in which part of the Society's registers a person is registered;
- (b) a person's registration number;
- (c) the area (by reference to a city, town or district) in which a person lives and contact details, but a person's home address shall not be published without his consent;
- (d) a note in respect of fitness to practise matters, including in respect of—
  - (i) any conditions to which a person's registration is subject, and
  - (ii) any warnings regarding his future conduct or performance; and
- (e) a note in respect of a person's specialisations which are the subject of annotations.

(4) Except—

- (a) for the purposes of articles 33 to 35, 37 and 39 and Part 5 (and rules under or that relate to those provisions); and
- (b) in such circumstances or for such other purposes as the Council may prescribe,

if a person's registration in one of the Society's registers is suspended, he shall be treated as not being registered in it, notwithstanding that his name still appears in it.

(5) Accordingly, a pharmacist whose registration in the Register of Pharmacists is suspended is not a registered pharmacist for the purposes of other legislation or the Charter.

## **Specialisations**

**31.**—(1) The Council may make such provision in rules in connection with annotations to entries in the Society's registers to denote specialisations as it considers appropriate, and may in particular make provision with regard to—

- (a) the types of specialisations that are to be subject to annotations;
- (b) the form and manner in which applications for entering or restoring annotations in respect of specialisations are to be made (and the rules may provide that applicants shall apply using application forms that are in such form as the Council may determine from time to time); and
- (c) the circumstances in which annotations in respect of specialisations are to be entered, retained, removed or restored by the Registrar.

(2) Where the Registrar refuses to enter or removes an annotation in respect of a specialisation, he shall send the person making the application for entering an annotation, or in respect of whom an annotation was removed, at his last known home address a statement in writing notifying him of—

- (a) the reasons for the decision; and
- (b) any right of appeal he has to the Registration Appeals Committee under article 43.

### **Certificates of registration**

**32.**—(1) Subject to paragraph (3), the Registrar shall, where requested to do so by a registrant or when an application for registration is granted, issue to the registrant free of charge a certificate of registration.

(2) Certificates of registration issued under this article shall be in such form as the Council shall determine from time to time.

(3) The Registrar is not under a duty to issue a further certificate of registration to a person to whom a certificate has already been issued, whether under this article or one of the Pharmacy Acts (even if, in the case of a registrant registered in Part 1 of one of the Society’s registers, the certificate which he has does not state the part of the register in which he is registered), unless the person—

- (a) satisfies the Registrar that the original certificate, and any further certificate already issued by him, has been lost or destroyed;
- (b) changes the name under which he practises, or if he does not practise, the name by which he is generally known; or
- (c) has moved to a different part of a register,

and pays to the Society such fee (if any) in respect of the further certificate as is prescribed under article 40(1)(g).

(4) The Council may make such provision in rules as it considers appropriate in connection with the return of certificates of registration which—

- (a) incorrectly state the part of the register in which the registrant is registered; or
- (b) incorrectly state the name under which a person practises, or if he does not practise, the name by which he is generally known.

### **Registrants’ duties with regard to their registration entries**

**33.**—(1) The Council may make such provision in rules in connection with the information to be provided by registrants with regard to their entries in the register as it considers appropriate (provided the rules are consistent with paragraph (2)), and may in particular make provision with regard to a registrant’s obligations to inform the Registrar of—

- (a) the name under which he practises, or if he does not practise, the name by which he is generally known, and of any changes to that name; and
- (b) his home address and of any changes to it.

(2) If the Registrar—

- (a) sends by post to any registrant a notice addressed to him at his home address on the register enquiring whether he has—
  - (i) ceased to practise as a pharmacist or, as the case may be, a pharmacy technician, or
  - (ii) has changed his address,

and receives no reply within a period of one month beginning on the day of posting the notice; and

(b) upon the expiration of that period sends to the registrant a second similar notice and receives no reply within one month beginning on the day of posting the notice,  
the Registrar may remove the registrant from the register.

(3) If a registrant fails to comply with rules made under paragraph (1), the Registrar may remove him from the register.

(4) Where the Registrar removes a person from the register pursuant to paragraph (2) or (3), he shall send to the person at his last known home address a statement in writing notifying him of—

- (a) the reasons for removing him from the register; and
- (b) his right of appeal to the Registration Appeals Committee under article 43.

### **Corrections of the register**

**34.**—(1) The Registrar shall keep the Society's registers correct and up-to-date, and in so doing—

- (a) shall remove from the Society's registers any registrant who has died; and
- (b) from time to time, shall make any necessary alterations to any of the particulars in a registrant's entry.

(2) The Registrar General shall, on registering the death of a pharmacist or a pharmacy technician, forthwith notify the Registrar of the death.

(3) If the Registrar determines that a person's entry in the register has been fraudulently procured or incorrectly made, he may remove that person from the register.

(4) The Council may make such provision in rules in connection with determinations by the Registrar under paragraph (3) as it considers appropriate.

(5) Where the Registrar removes a person from the register pursuant to paragraph (3), he shall send to the person at his last known home address a statement in writing notifying him of—

- (a) the reasons for removing him from the register; and
- (b) his right of appeal to the Registration Appeals Committee under article 43.

### **Fitness to practise matters before registration**

**35.**—(1) If it is shown to the satisfaction of the Registrar that—

- (a) the fitness to practise of a registrant was impaired at the time of his registration because of his involvement in a serious matter or a problem with his physical or mental health; and
- (b) he had not informed the Registrar of that matter or problem before his registration,

the Registrar may remove him from the register.

(2) The Council may make such provision in rules as it considers appropriate in connection with the information to be provided to the Registrar by or in respect of a registrant for the purposes of determining whether his fitness to practise was impaired at the time of his registration because of his involvement in a serious matter or a problem with his physical or mental health.

(3) If a registrant fails to comply, or if in respect of him there is a failure to comply, with rules made under paragraph (2), the Registrar may remove him from the register.

(4) The Council may make such provision in rules as it considers appropriate in connection with the procedure to be followed by the Registrar prior to removal of a person from the register pursuant to paragraph (1) or (3).

(5) Where the Registrar removes a person from a register pursuant to paragraph (1) or (3), he shall send to the person at his last known home address a statement in writing notifying him of



the reasons for removing him from the register and his right of appeal to the Registration Appeals Committee under article 43.

### **Moving between different parts of a register**

**36.**—(1) The Council may make such provision in rules in connection with applications for moving to a different part of one of the Society’s registers as it considers appropriate, and may in particular make provision with regard to—

- (a) the form and manner in which applications are to be made (and the rules may provide that applicants shall apply using application forms that are in such form as the Council may determine from time to time);
- (b) the information to be provided by the applicant;
- (c) whether any, and if so what, additional education or training is required before a person may move from Part 2 to Part 1 of one of the Society’s registers (and the rules may make provision for these issues to be determined by the Continuing Professional Development Committee);
- (d) fitness to practise matters; and
- (e) refusal of applications, in such cases and circumstances as may be prescribed in the rules (including where the applicant has not paid the fee prescribed under article 40(1)(e)).

(2) Where the Registrar refuses an application for moving to a different part of one of the Society’s registers, he shall send to the applicant at his last known home address a statement in writing notifying him of—

- (a) the reasons for the decision; and
- (b) any right of appeal he has to the Registration Appeals Committee under article 43.

### **Voluntary removal from the registers**

**37.**—(1) The Council may make such provision in rules in connection with applications for voluntary removal from one of the Society’s registers as it considers appropriate, and may in particular make provision with regard to—

- (a) the form and manner in which applications are to be made (and the rules may provide that applicants shall apply using application forms that are in such form as the Council may determine from time to time);
- (b) the information to be provided by the applicant;
- (c) fitness to practise matters; and
- (d) refusal of applications, in such cases and circumstances as may be prescribed in the rules (including where the applicant has not paid any fee prescribed under article 40(1)(f) or where there is in respect of him an outstanding fitness to practise matter).

(2) Where the Registrar refuses an application for voluntary removal from one of the Society’s registers, he shall send to the applicant at his last known home address a statement in writing notifying him of the reasons for the decision.

### **Indemnity arrangements**

**38.**—(1) A registrant who is registered in Part 1 of one of the Society’s registers must have in force in relation to him an adequate and appropriate indemnity arrangement which provides cover in respect of liabilities which may be incurred in carrying out work as a pharmacist or pharmacy technician.

- (2) For the purposes of this article, an “indemnity arrangement” may comprise—

- (a) a policy of insurance;
  - (b) an arrangement made for the purposes of indemnifying a person; or
  - (c) a combination of a policy of insurance and an arrangement made for the purposes of indemnifying a person.
- (3) The Council may make rules about what is an adequate and appropriate indemnity arrangement for the purposes of this article.
- (4) The Council may make such provision in rules as it considers appropriate in connection with the information to be provided to the Registrar—
- (a) by or in respect of any person seeking to be registered in Part 1 of one of the Society's registers (including applications for restoration) for the purposes of determining whether, if he is so registered, there will be in force in relation to him an adequate and appropriate indemnity arrangement which commences, at the latest, on the date on which he is registered;
  - (b) by or in respect of a person who is registered in Part 1 of one of the Society's registers for the purposes of determining whether there is in force in relation to him an adequate and appropriate indemnity arrangement.
- (5) Rules under paragraph (4)(b) may require the information mentioned there to be provided—
- (a) at the request of the Registrar; or
  - (b) on such dates or at such intervals as the Registrar may determine, either generally or in relation to individual registrants or registrants of a particular description.
- (6) The Council may also make rules requiring a person who is registered in Part 1 of one of the Society's registers to inform the Registrar if there ceases to be in force in relation to him an adequate and appropriate indemnity arrangement.
- (7) The Registrar may refuse to register any person who fails to comply, or in respect of whom there is a failure to comply, with rules made under paragraph (4)(a) above.
- (8) If a person who is registered in Part 1 of one of the Society's registers is in breach of paragraph (1), or fails to comply with rules made under paragraph (4)(b) or (6), or there is a failure to comply with rules made under paragraph (4)(b) in respect of him—
- (a) the Registrar may remove him from the register; or
  - (b) the breach or failure may be treated as misconduct for the purposes of article 48(1)(a) and the Registrar shall consider, in accordance with article 49(1), whether or not to refer the matter to the relevant fitness to practise committee.
- (9) Where the Registrar—
- (a) refuses to register a person pursuant to paragraph (7); or
  - (b) removes a person from a register pursuant to paragraph (8)(a),
- he shall send to the person at his last known home address a statement in writing notifying him of the reasons for the decision and his right of appeal to the Registration Appeals Committee under article 43.

### **Continuing professional development**

**39.**—(1) The Council shall make such provision in rules in connection with requiring registrants who are registered in Part 1 of one of the Society's registers to undertake such continuing professional development as it considers appropriate.

- (2) Rules under paragraph (1) may make provision with regard to—

- (a) the amount and type of continuing professional development that a registrant is required to undertake (as determined in accordance with article 14(h)(ii) or 25(f)(ii));
  - (b) the information to be provided by a registrant in respect of the continuing professional development that he has undertaken, and the form and manner in which that information is provided (and the rules may provide that a registrant or class of registrant shall provide the information using forms that are in such form as the Continuing Professional Development Committee may determine from time to time);
  - (c) the removal of a registrant from the register where the registrant has breached rules under paragraph (1) or such other remedial measures as may be prescribed (and the rules may provide for those measures to be determined, and for decisions on removal to be made, by the Continuing Professional Development Committee); and
  - (d) suspending a person's registration pending the outcome of any appeal against a decision to remove the person from one of the Society's registers (and the rules may provide that decisions to suspend are to be made by the Continuing Professional Development Committee).
- (3) Where the Registrar removes a person from one of the Society's registers pursuant to rules made under paragraph (1), he shall send to the person at his last known home address a statement in writing notifying him of—

- (a) the reasons for the decision; and
  - (b) any right of appeal he has to the relevant court under paragraph (4).
- (4) Where—
- (a) the Continuing Professional Development Committee has decided to remove a person from one of the Society's registers pursuant to rules under this article; and
  - (b) prior to that decision being taken, the person had provided a return in respect of his continuing professional development that, in its form and manner and as regards the information to be provided with it, complied with the requirements of rules under this article,

that person may appeal against that decision to the relevant court, provided that he does so (subject to any rules of the relevant court in respect of the admissibility of applications to it) within 28 days beginning with the date on which the written notice of the reasons for the decision was sent to him under paragraph (3).

- (5) In this article, "the relevant court" means—
- (a) the High Court; or
  - (b) as regards an application relating to registration in the Register of Pharmacists, if the person making the appeal is domiciled in Scotland, the Court of Session.
- (6) Having considered the appeal, the relevant court may—
- (a) dismiss the appeal;
  - (b) allow the appeal and quash the decision appealed against;
  - (c) substitute for the decision appealed against any other decision that the Continuing Professional Committee could have taken; or
  - (d) remit the case to the Continuing Professional Development Committee for it to dispose of the matter in accordance with directions from the relevant court,

and may make such order as to costs or, in Scotland, expenses as the relevant court thinks fit.

(7) Where the Continuing Professional Development Committee has decided to remove a person from one of the Society's registers pursuant to rules under this article, and that decision is appealable to the relevant court by virtue of paragraph (4), that decision shall not take effect—

- (a) until the period for bringing an appeal against the decision has expired; or
- (b) where an appeal is brought within the period for bringing an appeal, until the date on which the appeal is finally disposed of, or is abandoned or fails by reasons of its non- prosecution.

### **Fees in connection with registration**

**40.**—(1) The Council may make rules with respect to the charging of fees in connection with registration, and in particular in connection with—

- (a) applications for registration in one of the Society’s registers, including applications for restoration to the register pursuant to article 41 or 55;
- (b) retention in one of the Society’s registers;
- (c) applications for entering annotations in, or restoring annotations to, one of the Society’s registers;
- (d) retention of annotations in one of the Society’s registers;
- (e) applications in respect of moving to a different part of the one of the Society’s registers;
- (f) applications in respect of voluntary removal from one of the Society’s registers; and
- (g) issuing further certificates of registration pursuant to article 32(3),

and shall publish any such rules in such manner as it sees fit.

(2) Rules under paragraph (1) may—

- (a) provide for a fee not to be charged, or to be waived in whole or in part, in prescribed cases or circumstances (including at the discretion of the Registrar);
- (b) provide for the removal of registrants from the Society’s registers where a prescribed fee in respect of their retention in one of the Society’s registers has not been paid, after such warnings as may be prescribed; and
- (c) provide for removing annotations where a prescribed fee in respect of retaining an annotation has not been paid, after such warnings as may be prescribed.

(3) Where the Registrar removes a person from a register pursuant to rules under paragraph (1), he shall send to the person at his last known home address a statement in writing notifying him of the reasons for the decision.

(4) Before making rules under paragraph (1), the Council shall consult such registrants or classes of registrants as it considers appropriate.

### **Restoration to the Society’s registers of persons removed under Parts 2 to 4**

**41.**—(1) Where a person has been removed from a register pursuant to—

- (a) article 17(2)(b) (refusal to retain in the Register of Pharmacists);
- (b) article 28(2)(b) (refusal to retain in the Register of Pharmacy Technicians);
- (c) article 33(2) or (3) (failures to provide information with regard to registration entries);
- (d) article 34(3) (entries fraudulently procured or incorrectly made);
- (e) article 35(1) or (3) (fitness to practise matters before registration);
- (f) rules made under article 37(1) (voluntary removal from the registers);
- (g) article 38(8)(a) (failures to comply with requirements relating to indemnity arrangements);
- (h) rules made under article 39(1) (failures to comply with requirements relating to continuing professional development); or
- (i) rules made under article 40(1) (non-payment of fees),

the Registrar may restore him to the register in such circumstances as may be prescribed.

(2) The Council may make such provision in rules in connection with applications for restoration by the Registrar pursuant to paragraph (1) as it considers appropriate, and may in particular make provision with regard to—

- (a) the form and manner in which applications for restoration are to be made (and the rules may provide that applicants shall apply using application forms that are in such form as the Council may determine from time to time);
- (b) the information to be provided by the applicant;
- (c) whether any, and if so what, additional education, training or experience is required before restoration, and the rules may make provision for these issues to be determined in individual cases by the Continuing Professional Development Committee;
- (d) whether, and if so what, continuing professional development is required after restoration, and the rules may make provision—
  - (i) for these issues to be determined in individual cases by the Continuing Professional Development Committee, and
  - (ii) enabling the Continuing Professional Development Committee to determine that the application for restoration is to be granted subject to the applicant agreeing to comply with such undertakings with regard to continuing professional development as the Committee considers appropriate;
- (e) fitness to practise matters; and
- (f) refusal of applications (including where the applicant has not paid the fee prescribed under article 40(1)(a)).

(3) Where a person who has agreed to comply with an undertaking pursuant to rules under paragraph (2)(d)(ii) breaches that undertaking, that breach may be treated as misconduct for the purposes of article 48(1)(a) and the Registrar shall consider, in accordance with article 49(1), whether or not to refer the matter to the relevant fitness to practise committee.

(4) Where the Registrar refuses an application for restoration to one of the Society's registers, he shall send to the applicant at his last known home address a statement in writing notifying him of—

- (a) the reasons for the decision; and
- (b) any right of appeal he has to the Registration Appeals Committee under article 43 or to a relevant court under article 56.

### **Appealable registration decisions**

**42.**—(1) Subject to paragraph (2), the following are appealable registration decisions for the purposes of article 43—

- (a) a decision to refuse to register a person in the Register of Pharmacists (excluding restoration cases), but only if the person's application for registration, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 17(1);
- (b) a decision to refuse to retain a person in the Register of Pharmacists, and so to remove him from it, pursuant to article 17(2)(b), but only if the person's application for retention in the register, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 17(1);
- (c) a failure to give any notice required by article 18(1) within the specified period;

- (d) a decision to require an exempt person to undergo an aptitude test or a period of adaptation before deciding whether he is “appropriately qualified” for the purposes of article 22(1)(a)(i);
  - (e) a decision to refuse to register a person in the Register of Pharmacy Technicians (excluding restoration cases), but only if the person’s application for registration, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 28(1);
  - (f) a decision to refuse to retain a person in the Register of Pharmacy Technicians, and so to remove him from it, pursuant to article 28(2)(b), but only if the person’s application for retention in the register, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 28(1);
  - (g) a decision to refuse to enter or restore an annotation in respect of a specialisation, but only if the registrant’s application for the annotation, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 31(1);
  - (h) a decision to remove an annotation in respect of a specialisation pursuant to rules under article 31(1);
  - (i) a decision to remove a registrant from one of the Society’s registers pursuant to article 33(2) or (3) (failures to provide information with regard to registration entries);
  - (j) a decision to remove a registrant from one of the Society’s registers pursuant to article 34(3) (entries fraudulently procured or incorrectly made);
  - (k) a decision to remove a person from one of the Society’s registers pursuant to article 35(1) or (3) (fitness to practise matters before registration);
  - (l) a decision to refuse an application for moving to a different part of one of the Society’s registers, but only if the application, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 36(1);
  - (m) a decision to refuse to register a person pursuant to article 38(7) or to remove a person from one of the Society’s registers pursuant to article 38(8)(a) (failures to comply with requirements relating to indemnity arrangements);
  - (n) a decision to refuse an application for restoration of a person to one of the Society’s registers, but only if—
    - (i) the application, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 41, and
    - (ii) the decision is for a reason that does not relate to the person’s fitness to practise;
  - (o) a decision of the Registrar to refuse to register a person under paragraph 6(2) of Schedule 2 on the grounds that the person does not have the requisite experience for practising as a registered pharmacy technician in England and Wales; and
  - (p) a decision which, by virtue of rules under this Order or regulations under the Charter, may be appealed to the Registration Appeals Committee.
- (2) A decision is not an appealable registration decision if it was taken because—
- (a) of a failure to pay any fee prescribed under article 40(1); or
  - (b) the applicant is not appropriately qualified, in circumstances where the applicant contends, in effect, that the qualifications he has should be approved by the Society pursuant to article 12(1)(c)(i) or 23(1)(c)(i).

### **Appeals to the Registration Appeals Committee**

**43.**—(1) A person in respect of whom an appealable registration decision has been made may appeal against it to the Registration Appeals Committee, provided that he gives notice of the appeal to the Registrar within 28 days—

- (a) beginning with the date on which he is sent the written statement of the reasons for the decision; or
- (b) in the case of an appeal relating to a failure to give notice under article 18(1), beginning with the date on which the specified period expires.

(2) Where the Registrar is satisfied, on an application from a person in respect of whom an appealable registration decision to which paragraph (1)(a) relates has been made, that the person did not receive the written statement of the reasons for the decision within 14 days of the statement being sent, the Registrar may by authorisation in writing extend the time for giving notice of appeal under paragraph (1)(a).

(3) Where an appealable registration decision to remove a person from one of the Society's registers, or to remove an annotation, has been taken, the decision shall not take effect—

- (a) until the period for bringing an appeal in respect of the decision has expired, but if the period for bringing an appeal has been extended under paragraph (2), that extended period shall for the purposes of this paragraph be treated as the period for bringing an appeal (notwithstanding that this may require reversal of action taken); and
- (b) where an appeal is brought within the period for bringing an appeal, until the date on which the appeal is finally disposed of, or is abandoned or fails by reason of its non- prosecution.

(4) Having considered the appeal, the Registration Appeals Committee may—

- (a) dismiss the appeal;
- (b) allow the appeal and quash the decision appealed against;
- (c) substitute for the decision appealed against any other decision that the person taking the decision could have taken; or
- (d) remit or refer the case to the Registrar for him to dispose of the matter in accordance with the Registration Appeals Committee's directions.

(5) The Registration Appeals Committee shall, as soon as is reasonably practicable, give the person bringing the appeal a written notice of—

- (a) the Committee's decision and its reasons for its decision; and
- (b) any right of appeal that the person has under article 44(1).

(6) Subject to paragraph (7), the Registration Appeals Committee shall, as soon as reasonably practicable, publish in such manner as it sees fit its decision and the reasons for it.

(7) If the Registration Appeals Committee has allowed the appeal, or taken a decision or issued a direction that has the effect of allowing the appeal, it is not required to publish its decision and the reasons for it unless the person making the appeal so requests.

### **Appeals from the Registration Appeals Committee**

**44.**—(1) Except where the Registration Appeals Committee has allowed an appeal or has taken a decision or issued a direction that has the effect of allowing the appeal, a person in respect of whom a decision of the Registration Appeals Committee has been taken may appeal against that decision to the relevant court, provided that he does so (subject to any rules of the relevant court in respect of the admissibility of applications to it) within 28 days beginning with the date on which the written notice of the reasons for the decision was sent to him.

(2) In this article, "the relevant court" means—

- (a) the county court (the central London county court if the person making the appeal is not domiciled in England or Wales); or
- (b) if—
  - (i) the person making the appeal is domiciled in Scotland, and
  - (ii) the appeal relates to registration in the Register of Pharmacists, the sheriff in whose sheriffdom the person making the appeal is domiciled.
- (3) Having considered an appeal under this article, the relevant court may—
  - (a) dismiss the appeal;
  - (b) allow the appeal and quash the decision appealed against;
  - (c) substitute for the decision appealed against any other decision that the Registration Appeals Committee could have taken; or
  - (d) remit or refer the case to the Registrar for him to dispose of the matter in accordance with directions from the relevant court,
 and may make such order as to costs or, in Scotland, expenses as the relevant court thinks fit.

## PART 5

### Fitness to practise

#### **Guidance in respect of standards of conduct, practice and performance**

**45.**—(1) The Council shall prepare and from time to time publish in such manner as it sees fit guidance as to the standards of conduct, practice and performance expected of registrants.

(2) The Council shall keep guidance published under this article under review and may vary or withdraw its provisions whenever it considers it appropriate to do so.

(3) Before issuing, varying or withdrawing guidance published under this article, the Council shall consult such registrants or classes of registrants as it considers appropriate.

(4) The Society may charge reasonable fees for copies of guidance published under this article.

#### **Disclosure of information: general**

**46.**—(1) For the purpose of assisting the Society (including its Council, its staff and its committees) in carrying out functions in respect of the fitness to practise of—

- (a) a registered pharmacist, a person authorised by the Society may require—
  - (i) any registered pharmacist (except the registered pharmacist against whom the information or document is sought), or
  - (ii) any other person,
 in Great Britain who in his opinion is able to supply information or produce any document which appears relevant to the discharge of any such function, to supply the information or produce the document; or
- (b) a registered pharmacy technician, a person authorised by the Society may require—
  - (i) any registered pharmacy technician (except the registered pharmacy technician against whom the information or document is sought), or
  - (ii) any other person,



in England or Wales who in his opinion is able to supply information or produce any document which appears relevant to the discharge of any such function, to supply the information or produce the document.

(2) Nothing in paragraph (1) shall require or permit—

- (a) any disclosure of information which is prohibited by or under any enactment, but where that prohibition arises because the information is in a form which allows for the identification of an individual, the person authorised by the Society may require that information to be put in a form which does not allow for the identification of that individual; or
- (b) the supplying of information or production of a document which a person could not be compelled to produce in civil proceedings in the High Court or the Court of Session under article 56.

(3) In determining for the purposes of paragraph (2)(a) whether a disclosure of personal data is prohibited, it shall be assumed, for the purposes of section 35(1) of the Data Protection Act 1998<sup>(23)</sup> (disclosures required by law or made in connection with legal proceedings etc.), that disclosure of the personal data is required by paragraph (1).

(4) If a person fails to supply any information or produce any document within 14 days of his being required to do so under paragraph (1), the Society may seek an order of the relevant court requiring the information to be supplied or the document to be produced.

(5) For the purposes of this article, the “relevant court” means—

- (a) the county court; or
- (b) if—
  - (i) the information or document relates to the fitness to practise of a registered pharmacist, and
  - (ii) the person against whom the order is sought is domiciled in Scotland, the sheriff in whose sheriffdom that person is domiciled.

### **Disclosure of fitness to practise matters in the public interest**

47.—(1) The Society may, if it considers it to be in the public interest to do so, publish, or disclose to any person, information—

- (a) which relates to a particular pharmacist’s or pharmacy technician’s fitness to practise, whether the matter to which the information relates arose before or after his registration, or arose in the United Kingdom or elsewhere; or
- (b) of a particular description related to fitness to practise in relation to every pharmacist or pharmacy technician, or to every pharmacist or pharmacy technician of a particular description.

(2) For the purposes of paragraph (1)(b) above, the Society need not consider whether it is in the public interest to publish or disclose the information in question in relation to each individual pharmacist or pharmacy technician to whom it relates.

### **Impairment of fitness to practise**

48.—(1) A person’s fitness to practise shall be regarded as “impaired” for the purposes of this Order only by reason of—

- (a) misconduct;

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(23) 1998 c.29.

- (b) deficient professional performance (which includes competence);
- (c) adverse physical or mental health;
- (d) failure to comply with a reasonable requirement imposed by an individual assessor or an assessment team in connection with carrying out a professional performance assessment;
- (e) a conviction in the British Islands for a criminal offence;
- (f) a conviction elsewhere than in the British Islands for an offence which, if committed in England and Wales, would constitute a criminal offence;
- (g) an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995<sup>(24)</sup> (admonition and absolute discharge) discharging him absolutely;
- (h) having accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal);
- (i) having agreed to pay a penalty under section 115A of the Social Security Administration Act 1992<sup>(25)</sup> (penalty as alternative to prosecution);
- (j) a police caution in the British Islands; or
- (k) a determination made by a regulatory body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that his fitness to practise as a member of a profession regulated by that body is impaired, or a determination by a regulatory body elsewhere to the same effect.

(2) The demonstration towards a patient or customer, or a prospective patient or customer, of a pharmacist or pharmacy technician of attitudes or behaviour from which that person can reasonably expect to be protected may be treated as misconduct for the purposes of paragraph (1)(a).

(3) References in this article to a conviction include a conviction by court martial.

(4) A person's fitness to practise may be regarded as impaired because of matters arising—

- (a) outside the United Kingdom; and
- (b) at any time.

(5) The Council may make such provision in rules as it considers appropriate in connection with the information to be provided to the Registrar by a registrant about fitness to practise matters that arise while he is registered.

(6) If a registrant fails to comply with rules under paragraph (5), the failure may be treated as misconduct for the purposes of paragraph (1)(a) and the Registrar shall consider, in accordance with article 49(1), whether to refer the matter to the relevant fitness to practise committee.

### **Initial action in respect of allegations**

**49.—(1)** Where—

- (a) an allegation is made to the Society against a registrant that his fitness to practise is impaired; or
- (b) the Society has information that calls into question a registrant's fitness to practise, but no allegation to that effect has been made against him to the Society,

the Registrar shall, except in such cases and subject to such considerations as the Council may prescribe, refer the matter (referred to in this article as “the allegation”) to the Investigating Committee.

(2) Rules under paragraph (1) may in addition provide—

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<sup>(24)</sup> 1995 c.46; section 246 has been amended by the Crime and Punishment (Scotland) Act 1997 (c.48), Schedule 1, paragraph 21(31).

<sup>(25)</sup> 1992 c.5; section 115A was inserted by the Social Security Administration (Fraud) Act 1997 (c.47), section 15.

- (a) for the allegation to be referred instead, in prescribed cases, to the Disciplinary Committee or the Health Committee; and
- (b) that where the Registrar—
  - (i) refers a case to the Disciplinary or Health Committee; and
  - (ii) is of the opinion that the Committee to which he has referred the case should consider making an interim order under article 54,he shall notify the Committee accordingly,

and where the Registrar does decide to refer an allegation to the Disciplinary or Health Committee under such rules, the Registrar shall inform the registrant who is the subject of the allegation and the person (if any) who made the allegation of that decision.

(3) Once a decision has been taken to refer the allegation to the Investigating Committee, or where rules so provide to the Disciplinary or Health Committee, the Registrar shall, as soon as is reasonably practicable—

- (a) require from the registrant who is the subject of the allegation details of any person—
    - (i) by whom the registrant is employed or engaged to provide services in, or in relation to, any area of pharmacy, or
    - (ii) with whom he has arrangements to do so;
  - (b) notify the Secretary of State, the Scottish Ministers, the Department of Health, Social Services and Public Safety in Northern Ireland and the National Assembly for Wales of the investigation of the registrant's fitness to practise;
  - (c) if the registrant is a registered pharmacist, notify any person in Great Britain of whom the Registrar is aware—
    - (i) by whom the registrant concerned is employed or engaged to provide services in, or in relation to, any area of pharmacy, or
    - (ii) with whom he has arrangements to do so,of the investigation of the registrant's fitness to practise; and
  - (d) if the registrant is a registered pharmacy technician, notify any person in England or Wales of whom the Registrar is aware—
    - (i) by whom the registrant concerned is employed or engaged to provide services in, or in relation to, any area of pharmacy, or
    - (ii) with whom he has arrangements to do so,of the investigation of the registrant's fitness to practise.
- (4) Where a registrant fails to comply with a requirement imposed on him under paragraph (3)
- (a) within 14 days of the requirement being imposed—
    - (a) the failure may be treated as misconduct for the purposes of article 48(1)(a) and the Registrar may refer the matter to the Committee that is considering the allegation in respect of the registrant; and
    - (b) the Registrar may seek an order of the relevant court requiring the requested details to be supplied.
- (5) For the purposes of this article, the “relevant court” means—
- (a) the county court; or
  - (b) if the registrant is a registered pharmacist domiciled in Scotland, the sheriff in whose sheriffdom that registrant is domiciled.

### **Consideration by the Investigating Committee**

**50.**—(1) Where an allegation or a matter has been referred to the Investigating Committee under this Order by the Registrar (referred to in this article as “the allegation”), it shall decide whether the allegation ought to be considered by the Disciplinary Committee or the Health Committee.

(2) If the Investigating Committee decides that the allegation need not be considered by the Disciplinary Committee or the Health Committee, unless the person who is the subject of the allegation (referred to in this article as “the person concerned”) has requested a referral under paragraph (3)—

- (a) the Investigating Committee may issue—
  - (i) a warning or advice to the person concerned in connection with any matter arising out of or related to the allegation, and
  - (ii) advice to any other person or other body involved in its investigation of the allegation on any matter arising out of or related to the allegation; and
- (b) the Registrar shall inform the person concerned and the person who made the allegation, if any, of the Committee’s decision and any action it is taking under sub-paragraph (a).

(3) If the Investigating Committee decides that the allegation ought to be considered by the Disciplinary Committee or the Health Committee or the person concerned has requested a referral under this paragraph—

- (a) the Investigating Committee shall refer the allegation—
  - (i) in the case of an allegation that the person concerned’s fitness to practise is impaired by reason only of adverse physical or mental health, to the Health Committee,
  - (ii) in the case of an allegation that the person concerned’s fitness to practise is impaired by reason of adverse physical or mental health and by reason of other matters, to the Health Committee or the Disciplinary Committee, whichever one the Investigating Committee considers more appropriate, or
  - (iii) in any other case, to the Disciplinary Committee;
- (b) where the Investigating Committee is of the opinion that the committee to which it is referring the allegation should consider making an interim order under article 54, it shall notify the committee accordingly; and
- (c) the Registrar shall inform the person concerned and the person who made the allegation, if any, of the Investigating Committee’s decision to refer the allegation to the Health Committee or the Disciplinary Committee.

(4) If, having considered an allegation, the Investigating Committee is of the opinion that the Society should consider exercising any of its powers to bring criminal proceedings under any enactment, it shall notify the Registrar accordingly.

### **Consideration by the Health Committee**

**51.**—(1) Where an allegation is referred to the Health Committee by—

- (a) the Registrar under rules made under article 49(2)(a);
- (b) the Investigating Committee under article 50(3)(a)(i) or (ii); or
- (c) the Disciplinary Committee under rules made under article 59(3)(g),

the Committee shall, except in such circumstances as may be prescribed, determine whether or not the fitness to practise of the person in respect of whom the allegation is made (referred to in this article as “the person concerned”) is impaired.

(2) If the Health Committee determines that the person concerned's fitness to practise is not impaired—

- (a) the Committee may issue—
  - (i) a warning or advice to the person concerned in connection with any matter arising out of or related to the allegation, and
  - (ii) advice to any other person or other body involved in its investigation of the allegation on any issue arising out of or related to the allegation;
- (b) the Registrar shall inform the person concerned and the person who made the allegation, if any, of the Committee's decision and any action it is taking under sub-paragraph (a); and
- (c) the Committee shall, if the person concerned so requests, publish in such manner as it sees fit a statement summarising its determination, or may publish such a statement if he consents.

(3) If the Health Committee determines that the person concerned's fitness to practise is impaired by reason of adverse physical or mental health, it may—

- (a) issue—
  - (i) a warning to the person concerned in connection with any matter arising out of or related to the allegation and give a direction that details of the warning must be recorded in the person concerned's entry in the register, and
  - (ii) advice to any other person or other body involved in its investigation of the allegation on any issue arising out of or related to the allegation;
- (b) give a direction that the person concerned's registration shall be suspended, for such period not exceeding 12 months as may be specified in the direction; or
- (c) give a direction that the person concerned's registration shall be conditional upon his compliance, during a period specified in the direction not exceeding 3 years, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or in the person concerned's interests.

(4) Where the Health Committee has given a direction under this article, following a review it may if it thinks fit—

- (a) where the person concerned's registration is suspended, give a direction that—
  - (i) the suspension be extended for such further period not exceeding 12 months as may be specified in the direction, starting from the time when the period of suspension would otherwise expire,
  - (ii) the person concerned's registration be suspended indefinitely, if the suspension has already been in force throughout a period of at least 2 years,
  - (iii) in the case of an indefinite suspension, terminate the suspension, provided that the review takes place in the circumstances provided for in paragraph (5), or
  - (iv) on expiry or termination of the period of suspension (including a period of suspension that was expressed to be indefinite), the person concerned's registration shall be conditional upon his compliance, during a period specified in the direction not exceeding 3 years, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or in the person concerned's interests;
- (b) where the person concerned's registration is conditional upon his compliance with requirements specified in a direction given under this article, give a direction that—

- (i) the period specified in the direction for compliance with the requirements shall be extended for such further period not exceeding 3 years as may be specified in the direction, starting from the time when the earlier period would otherwise expire,
- (ii) the requirements be added to, reduced, removed or otherwise varied in such manner as is specified in the direction, or
- (iii) the person concerned's registration shall instead be suspended (for example, where he has failed to comply, whether wholly or partly, with the requirements), for such period not exceeding 12 months as may be specified in the direction.

(5) If the Health Committee gives a direction under paragraph (4)(a)(ii), the Committee shall review the direction if—

- (a) the person concerned asks them to do so; and
- (b) at least two years have elapsed—
  - (i) since the direction took effect, or
  - (ii) if the direction has already been reviewed by the Committee, since the conclusion of the last review by the Committee.

(6) If the person concerned is registered in both of the Society's registers, the Health Committee—

- (a) shall make separate determinations under this article in relation to each register; and
- (b) may give a direction under paragraph (3) or (4) in relation to only one of the registers or different directions in relation to each register,

but may otherwise deal with the matter as a single case.

(7) If the Health Committee issues a warning or gives a direction under this article, the Registrar shall on its behalf send to the person concerned at his last known home address a statement in writing notifying him of—

- (a) the reasons for the warning or the direction; and
- (b) any right of appeal he has under article 56.

### **Consideration by the Disciplinary Committee**

**52.**—(1) Where an allegation is referred to the Disciplinary Committee by—

- (a) the Registrar under rules made under article 49(2)(a);
- (b) the Investigating Committee under article 50(3)(a)(ii) or (iii);
- (c) an individual assessor or an assessment team under rules made under article 53(2)(c); or
- (d) the Health Committee under rules made under article 59(3)(h),

the Committee shall, except in such circumstances as may be prescribed, determine whether or not the fitness to practise of the person in respect of whom the allegation is made (referred to in this article as “the person concerned”) is impaired.

(2) If the Disciplinary Committee determines that the person concerned's fitness to practise is not impaired—

- (a) the Committee may issue—
  - (i) a warning or advice to the person concerned in connection with any matter arising out of or related to the allegation, and
  - (ii) advice to any other person or other body involved in its investigation of the allegation on any issue arising out of or related to the allegation;

- (b) the Registrar shall inform the person concerned and the person who made the allegation, if any, of the Committee's decision and any action it is taking under sub-paragraph (a); and
  - (c) the Committee shall, if the person concerned so requests, publish in such manner as it sees fit a statement summarising its determination, or may publish such a statement if he consents.
- (3) If the Disciplinary Committee determines that the person concerned's fitness to practise is impaired, it may—
- (a) issue—
    - (i) a warning to the person concerned in connection with any matter arising out of or related to the allegation and give a direction that details of the warning must be recorded in the person concerned's entry in the register, and
    - (ii) advice to any other person or other body involved in its investigation of the allegation on any issue arising out of or related to the allegation;
  - (b) give a direction that the person concerned be removed from the register;
  - (c) give a direction that the person concerned's registration shall be suspended, for such period not exceeding 12 months as may be specified in the direction; or
  - (d) give a direction that the person concerned's registration shall be conditional upon his compliance, during a period specified in the direction not exceeding 3 years, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or in the person concerned's interests.
- (4) Where the Disciplinary Committee has given a direction under this article, other than a direction that the person concerned be removed from the register, following a review it may if it thinks fit—
- (a) where the person concerned's registration is suspended, give a direction that—
    - (i) the person concerned be removed from the register,
    - (ii) the suspension be extended for such further period not exceeding 12 months as may be specified in the direction, starting from the time when the period of suspension would otherwise expire,
    - (iii) the person concerned's registration be suspended indefinitely, if the suspension has already been in force throughout a period of at least 2 years,
    - (iv) in the case of an indefinite suspension, terminate the suspension, provided that the review takes place in the circumstances provided for in paragraph (5), or
    - (v) on expiry or termination of the period of suspension (including a period of suspension that was expressed to be indefinite), the person concerned's registration shall be conditional upon his compliance, during a period specified in the direction not exceeding 3 years, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or in the person concerned's interests;
  - (b) where the person concerned's registration is conditional upon his compliance with requirements specified in a direction given under this article, give a direction that—
    - (i) the period specified in the direction for compliance with the requirements shall be extended for such further period not exceeding 3 years as may be specified in the direction, starting from the time when the earlier period would otherwise expire,
    - (ii) the requirements be added to, reduced, removed or otherwise varied in such manner as is specified in the direction,

- (iii) the person concerned's registration shall instead be suspended (for example, where he has failed to comply, whether wholly or partly, with the requirements), for such period not exceeding 12 months as may be specified in the direction, or
- (iv) the person concerned be removed from the register, if he has failed to comply, whether wholly or partly, with the requirements.

(5) If the Disciplinary Committee gives a direction under paragraph (4)(a)(iii), the Committee shall review the direction if—

- (a) the person concerned asks them to do so; and
- (b) at least two years have elapsed—
  - (i) since the direction took effect, or
  - (ii) if the direction has already been reviewed by the Committee, since the conclusion of the last review by the Committee.

(6) If the person concerned is registered in both of the Society's registers, the Disciplinary Committee—

- (a) shall make separate determinations under this article in relation to each register; and
- (b) may give a direction under paragraph (3) or (4) in relation to only one of the registers or different directions in relation to each register,

but may otherwise deal with the matter as a single case.

(7) If the Disciplinary Committee issues a warning or gives a direction under this article, the Registrar shall on its behalf send to the person concerned at his last known home address a statement in writing notifying him of—

- (a) the reasons for the warning or the direction; and
- (b) any right of appeal he has under article 56.

### **Professional performance assessments**

**53.**—(1) The Council may make rules authorising the Registrar and fitness to practise committees to give directions, in such circumstances as may be prescribed (including during proceedings of the committee), requiring an assessment of the standard of a registrant's professional performance by an individual assessor or an assessment team.

(2) The Council may make such provision in rules in connection with the composition of professional performance assessment teams, and functions of and procedures to be followed by individual assessors and assessment teams, as it considers appropriate, and may in particular make provision with regard to—

- (a) the Society entering into arrangements with other bodies for those bodies to provide individual assessors or assessment teams to carry out the assessments;
- (b) allowing an assessment by an individual assessor or an assessment team to include an assessment of the standard of a registrant's professional performance both at any time prior to the assessment and at the time of the assessment; and
- (c) referring to the Investigating Committee or the Disciplinary Committee a case where an individual assessor or an assessment team considers that a registrant has failed to comply with a reasonable requirement that he or it has imposed on him.

(3) An individual assessor or an assessment team, in connection with carrying out an assessment of the standard of a registrant's professional performance—

- (a) may require the production of, inspect and take copies of any records (in whatever form they are held) arising out of or related to the registrant's professional practice; and



- (b) where such records are kept otherwise than in legible form, may require a copy of them to be given to the team in a legible form.
- (4) Nothing in, or in rules under, this article shall require or permit—
  - (a) any disclosure of information which is prohibited by or under any enactment, but where that prohibition arises because the information is in a form which allows for the identification of an individual, an individual assessor or an assessment team, when requiring the production of records under paragraph (3)(a), may require that the records be put in a form which does not allow for the identification of that individual; or
  - (b) the production of records which a person could not be compelled to produce in civil proceedings in the High Court or the Court of Session under article 56.
- (5) In determining for the purposes of paragraph (4)(a) whether a disclosure of personal data is prohibited, it shall be assumed, for the purposes of section 35(1) of the Data Protection Act 1998<sup>(26)</sup> (disclosures required by law or made in connection with legal proceedings etc.), that disclosure of the personal data is required by paragraph (3).
- (6) If a person fails to produce any records within 14 days of his being required to do so under paragraph (3), the Registrar or the committee on whose behalf the individual assessor or an assessment team is carrying out the assessment in connection with which the records are being sought may seek an order of the relevant court requiring the records to be produced.
- (7) For the purposes of this article, the “relevant court” means—
  - (a) the county court (the central London county court in the case of a registered pharmacist who is not domiciled in Great Britain or a registered pharmacy technician who is not domiciled in England or Wales); or
  - (b) if—
    - (i) the records are being sought in relation to a registered pharmacist, and
    - (ii) the registered pharmacist is domiciled in Scotland,the sheriff in whose sheriffdom that registered pharmacist is domiciled.

### Interim Orders

- 54.—(1) Where the Health Committee or the Disciplinary Committee is satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of a registrant, for the registration of that registrant to be suspended or to be made subject to conditions, the Committee may make an order—
- (a) that his registration be suspended during such period not exceeding 18 months as may be specified in the order (an “interim suspension order”); or
  - (b) that his registration shall be conditional on his compliance, during such period not exceeding 18 months as may be specified in the order, with such requirements specified in the direction as the Committee thinks fit to impose (an “order for interim conditional registration”).
- (2) Subject to paragraphs (7) and (8), where the Health Committee or the Disciplinary Committee has made an order under paragraph (1), the Committee that made the order—
- (a) shall review it within the period of 6 months beginning on the date on which the order was made, and shall thereafter, for so long as the order continues in force, further review it—
    - (i) before the end of the period of 6 months beginning on the date of the decision of the immediately preceding review, or

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(26) 1998 c.29.

- (ii) if after the end of the period of three months beginning on the date of the decision of the immediately preceding review the person concerned requests an earlier review, as soon as practicable after that request; and
  - (b) may review it where new evidence relevant to the order has become available after it was made.
- (3) Where an interim suspension order or an order for interim conditional registration has been made in relation to any person under any provision of this article (including this paragraph) the committee that made the order (or the committee that is treated as the committee that made the order by virtue of paragraph (8)(a)) may—
- (a) revoke the order or revoke any condition imposed by the order;
  - (b) add to, remove or otherwise vary any condition imposed by the order; or
  - (c) if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest—
    - (i) replace an order for interim conditional registration with an interim suspension order having effect for the remainder of the term of the previous order, or
    - (ii) replace an interim suspension order with an order for interim conditional registration having effect for the remainder of the term of the previous order.
- (4) If an order is made under any provision of this article, the Registrar shall without delay send a notification of the order to the person to whose registration it relates at his last known home address.
- (5) The Society may apply to the relevant court for an order made by the Health Committee or the Disciplinary Committee under paragraph (1) or (3)—
- (a) to be extended;
  - (b) that has been extended to be further extended,
- and on such an application the relevant court may extend, or further extend, for up to 12 months the period for which the order has effect.
- (6) Any reference in this article to an interim suspension order, or to an order for interim conditional registration, includes a reference to such an order as extended under paragraph (5).
- (7) For the purposes of paragraph (2), the first review after the relevant court’s extension of an order made by the Health Committee or the Disciplinary Committee, or after a replacement order made by the Health Committee or the Disciplinary Committee under paragraph (3)(c), shall take place—
- (a) if the order (or the order which has been replaced) has not been reviewed at all under paragraph (2), within the period of 6 months beginning on the date (“the relevant date”) on which the relevant court ordered the extension or on which a replacement order under paragraph (3)(c) was made; and
  - (b) if the order has been reviewed under paragraph (2), within the period of three months beginning on the relevant date.
- (8) Where one of the Committees that may make orders under this article has made such an order but then refers the related fitness to practise case under rules made under article 59(3)(g)(ii) or (h)(ii) to the other Committee that may make orders under this article—
- (a) the order that has been made under this article is to be treated as made by the Committee to which the case is referred; and
  - (b) as soon as is practicable, the Committee to which the case is referred must review the order.
- (9) A registrant who is aggrieved by a decision of the Health Committee or the Disciplinary Committee to make or vary an order under this article may appeal against that decision to the relevant court, and the court may—

- (a) in the case of an interim suspension order, terminate the suspension;
- (b) in the case of an order for interim conditional registration, revoke or vary any condition imposed by the order; and
- (c) in either case, substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it),

but unless the court otherwise directs the order shall remain in force pending the outcome of the appeal.

(10) The decision of the relevant court on any application under paragraph (9) shall be final.

(11) If an order is made in relation to any person under this article and that order remains in effect immediately before the determination in respect of the allegation against that person under article 51(1) or 52(1), the committee considering that allegation shall revoke the order once it has determined whether or not the person's fitness to practise is impaired.

(12) In this article "the relevant court" means—

- (a) in a case relating to a registered pharmacist who is domiciled in Scotland, the Court of Session; and
- (b) in any other case, the High Court.

### **Restoration of names to the register: fitness to practise**

**55.**—(1) Subject to paragraph (2)—

- (a) a person whose name has been removed from one or both of the Society's registers in accordance with a direction under article 52(3)(b) or (4)(a)(i) or (b)(iv) may apply to the Registrar for his name to be restored to any register from which he has been removed; and
- (b) the Registrar shall refer that application to the Disciplinary Committee.

(2) An application may not be made under paragraph (1)—

- (a) before the expiration of five years from the date of removal; or
- (b) within 12 months of the date of an earlier application under paragraph (1) in respect of that person.

(3) The Council may make such provision in rules in connection with applications for restoration by virtue of paragraph (1) as it considers appropriate, and may in particular make provision with regard to—

- (a) the form and manner in which applications for restoration are to be made (and the rules may provide that applicants shall apply using application forms that are in such form as the Council may determine from time to time);
- (b) the information to be provided by the applicant, including—
  - (i) the name under which he intends to practise, or in the case of a person who does not intend to practise, the name by which he is generally known, and
  - (ii) his home address;
- (c) whether any, and if so what, additional education, training or continuing professional development is required before restoration, and the rules may make provision for these issues to be determined in individual cases by the Continuing Professional Development Committee;
- (d) fitness to practise matters; and
- (e) refusal of applications (including where the applicant has not paid the fee prescribed under article 40(1)(a)).

(4) An application under this article shall not be granted unless the person applying for his name to be restored to the register provides such evidence of his fitness to practise as the Disciplinary Committee directs.

(5) Where the Disciplinary Committee refuses an application for restoration to one of the Society's registers, the Registrar shall send to the applicant at his last known home address a statement in writing notifying him of the reasons for the decision.

(6) If the Disciplinary Committee grants the application, it may give a direction that the person's registration shall be conditional upon his compliance, during a period specified in the direction not exceeding 3 years, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or in the person's interests.

(7) Where the Disciplinary Committee gives a direction under paragraph (6), that direction shall, for the purposes of article 52(4), be treated as a direction under article 52.

(8) If the application under this article relates to both of the Society's registers, the Disciplinary Committee—

- (a) shall make separate determinations under this article in relation to each register; and
- (b) may give a direction under paragraph (6) in relation to only one of the registers or different directions in relation to each register,

but may otherwise deal with the matter as a single case.

(9) If, during a continuous period when a person is not registered, a person makes two or more applications under this article in respect of a register and the applications are refused, the Disciplinary Committee may direct that he may make no further applications under this article in respect of that register (if the applications related to both registers and the applicant has been restored to neither register, the direction may cover both registers).

(10) If the Disciplinary Committee gives a direction under paragraph (6) or (9), the Registrar shall on its behalf send to the person concerned at his last known home address a statement in writing notifying him of—

- (a) the reasons for the direction; and
- (b) his right of appeal under article 56.

### **Appeals against appealable fitness to practise decisions**

**56.**—(1) The following decisions are appealable fitness to practise decisions for the purposes of this Part—

- (a) a decision of the Registrar under article 41 to refuse an application for restoration to one of the Society's registers for a reason that relates to the applicant's fitness to practise;
- (b) a decision of the Health Committee under article 51 to give a direction for suspension or for conditional registration or varying the conditions imposed by a direction for conditional registration (including a decision to give such a direction that extends an earlier direction);
- (c) a decision of the Disciplinary Committee under article 52 to give a direction—
  - (i) to remove a person from a register, or
  - (ii) for suspension or conditional registration or for varying the conditions imposed by a direction for conditional registration (including a decision to give such a direction that extends an earlier direction);
- (d) a decision of the Disciplinary Committee under article 55(6) to give a direction for conditional registration; and

- (e) a decision of the Disciplinary Committee to give a direction under article 55(9) that a person may make no further applications under that article in respect of a particular register (or both registers).
- (2) A person in respect of whom an appealable fitness to practise decision has been made may appeal against that decision to the relevant court, provided that he does so (subject to any rules of the relevant court in respect of the admissibility of applications to it) within 28 days beginning with the date on which the written notice of the reasons for the decision was sent to him.
- (3) In this article and article 57, “the relevant court” means—
- (a) the High Court; or
  - (b) as regards an application relating to registration in the Register of Pharmacists, if the person making the appeal is domiciled in Scotland, the Court of Session.
- (4) Having considered the appeal, the relevant court may—
- (a) dismiss the appeal;
  - (b) allow the appeal, and—
    - (i) quash the decision appealed against, or
    - (ii) in the case of an appeal in respect of a direction, quash the direction in respect of which the appeal is made;
  - (c) in the case of an appeal in respect of a direction, substitute for the direction any other direction that the committee or person giving the direction could have given; or
  - (d) remit or refer the case to the Registrar, the Health Committee or the Disciplinary Committee for him or it to dispose of the matter in accordance with directions from the relevant court,

and may make such order as to costs or, in Scotland, expenses as the relevant court thinks fit.

### **The taking effect of directions in respect of appealable fitness to practise decisions**

**57.**—(1) Where an appealable fitness to practise decision is taken in respect of a direction, that direction shall not take effect—

- (a) until the period for bringing an appeal in respect of the direction has expired; or
- (b) where an appeal is brought within the period for bringing an appeal, until the date on which the appeal is finally disposed of, or is abandoned or fails by reasons of its non-prosecution.

(2) Where an appeal is brought, within the period for bringing an appeal, against an appealable fitness to practise decision in respect of a direction (“the later direction”) that extends, varies or replaces an earlier direction, the earlier direction shall continue to have effect until the date on which the appeal is finally disposed of, or is abandoned or fails by reason of its non-prosecution.

(3) Where, as a result of the extension of an earlier direction pursuant to paragraph (2), a later direction takes effect on a date after it was due to take effect, the period for which the later direction was originally expressed to have effect (howsoever expressed) shall be treated as commencing—

- (a) on the date on which it was originally due to take effect; or
- (b) if this would mean that the later direction would in practice expire before it commences, on the date on which the appeal is finally disposed of, or is abandoned or fails by reason of its non-prosecution.

### **Interim measures pending a direction taking effect**

**58.**—(1) Where—

- (a) the Health Committee gives a direction for suspension under article 51; or

- (b) the Disciplinary Committee gives a direction for suspension, or to remove a person from a register, under article 52,

if the Committee is satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the best interests of the person who is the subject of the direction, it may order that his registration in the register shall be suspended forthwith, pending the coming into force of the direction.

(2) Where—

- (a) the Health Committee gives a direction for conditional registration under article 51; or  
(b) the Disciplinary Committee gives a direction for conditional registration under article 52 or 55(6),

if the committee is satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the best interests of the person who is the subject of the direction, it may order that his registration in the register shall be conditional upon his compliance, pending the coming into force of the direction, with such requirements specified in the order as the Committee thinks fit to impose.

(3) Where the Health Committee or the Disciplinary Committee, as the case may be, makes an order under paragraph (1) or (2), the Registrar shall send to the person who is the subject of the order at his last known home address a statement in writing notifying him of the contents of the order and his right of appeal under paragraph (4).

(4) A registrant who is aggrieved by a decision of the Health Committee or the Disciplinary Committee to make an order under this article may appeal against that decision to the relevant court, and the court may—

- (a) dismiss the appeal;  
(b) in the case of an order under paragraph (1), terminate the suspension; and  
(c) in the case of an order under paragraph (2), revoke or vary any condition imposed by the order,

and the decision of the relevant court on any application under this paragraph shall be final.

(5) In this article “the relevant court” means—

- (a) in a case relating to a registered pharmacist who is domiciled in Scotland, the Court of Session; and  
(b) in any other case, the High Court.

## PART 6

### Proceedings

#### Rules in respect of proceedings

**59.**—(1) Subject to the following provisions of this Part, the Council shall make such provision in rules in connection with the procedure to be followed and rules of evidence to be observed by—

- (a) the Registration Appeals Committee; and  
(b) fitness to practise committees (whether exercising functions under this Order or the Medicines Act 1968),

as it considers appropriate.

(2) The rules under paragraph (1) above in respect of the Health Committee, the Disciplinary Committee or the Registration Appeals Committee shall, and in respect of the Investigating Committee may, include provision—

- (a) for securing that, where a hearing is to be held, notice of when and where the hearing is to be held is given, at such time and in such manner as may be specified in the rules, to any person to whom the proceedings relate;
- (b) for securing that the person concerned (which, for the purposes of this article, where appropriate, includes an individual who, or body corporate which, is subject to disqualification proceedings under Part 4 of the Medicines Act 1968) and the Society shall, if they so require, be entitled to be heard by the committee—
  - (i) at any hearing, or
  - (ii) in fitness to practise proceedings, on any other occasion when the committee is considering making an interim suspension order or an order for interim conditional registration;
- (c) for enabling the person concerned and the Society to be represented at the hearing, or in fitness to practise proceedings on any other occasion when the committee is considering making an interim suspension order or an order for interim conditional registration, by—
  - (i) a person with a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990),
  - (ii) an advocate in Scotland, or a solicitor with rights of audience to appear in the Court of Session or the High Court of Justiciary by virtue of section 25A of the Solicitors (Scotland) Act 1980<sup>(27)</sup> (rights of audience in the Court of Session etc.), or
  - (iii) a person of such other description as may be specified in rules, if the rules so allow and the person concerned or the Society so elects;
- (d) for proceedings before the committee to be held in public, except and to the extent that rules provide otherwise; and
- (e) in respect of reviewing directions under article 51 or 52—
  - (i) which are due to expire, or
  - (ii) in circumstances where the committee is considering varying the requirements specified in the direction.

(3) The rules under paragraph (1) may include provision—

- (a) in respect of the preliminary consideration of a case before a committee (including considering representations from the person concerned and the Society during its preliminary consideration);
- (b) following preliminary consideration of a case—
  - (i) in the case of an appeal before the Registration Appeals Committee, allowing the Committee, in prescribed circumstances, to allow the appeal or take a decision that has the effect of allowing the appeal,
  - (ii) in fitness to practise proceedings, allowing the committee, in prescribed circumstances, to make a finding that the person concerned's fitness to practise is not impaired, and
  - (iii) in disqualification proceedings, allowing the Disciplinary Committee, in prescribed circumstances, to dismiss the case;

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<sup>(27)</sup> Section 25A was inserted by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40), section 24, and has been amended by: the Criminal Procedure and Consequential Provisions (Scotland) Act 1995 (c.40), Schedule 4, paragraph 1; S.I. 1999/1042; and S.S.I. 2000/121.

- (c) in respect of consensual disposal of a fitness to practise case following preliminary consideration of it, including provision—
  - (i) enabling a fitness to practise committee, in such circumstances as may be specified in the rules, to agree with the person concerned that he will comply with such undertakings as the committee considers appropriate, and
  - (ii) with respect to the procedure to be followed where any such undertakings are breached (the rules may provide that the breach may be treated as misconduct for the purposes of article 48(1)(a) and for the matter to be dealt with as a misconduct allegation that is before the committee);
- (d) in respect of consensual disposal of a disqualification case following preliminary consideration of it, including provision—
  - (i) enabling the Disciplinary Committee, in such circumstances as may be specified in the rules, to agree with the individual or body corporate that he or it will comply with such undertakings as the Committee considers appropriate, and
  - (ii) with respect to the procedure to be followed where any such undertakings are breached;
- (e) in respect of case management meetings (and the rules may provide that the preliminary consideration of a case is to take place at a case management meeting) and directions, including provision with respect to the procedure to be followed where case management directions are breached;
- (f) in respect of cancelling, postponing or adjourning hearings and staying proceedings in appropriate circumstances;
- (g) enabling the Disciplinary Committee to refer a fitness to practise case before it to the Health Committee, in such circumstances as may be prescribed—
  - (i) for advice, or
  - (ii) for the Health Committee to dispose of the case;
- (h) enabling the Health Committee to refer a case before it to the Disciplinary Committee, in such circumstances as may be prescribed—
  - (i) for advice, or
  - (ii) for the Disciplinary Committee to dispose of the case;
- (i) enabling the Registration Appeals Committee to refer a case before it to a fitness to practise committee for advice;
- (j) enabling the committee to draw such inference as seems appropriate to it in the particular circumstances of the case if the person concerned fails—
  - (i) during fitness to practise proceedings, to submit to any examination or assessment required or directed to be carried out in accordance with rules made under this article or article 53, or
  - (ii) to co-operate with the committee;
- (k) enabling the committee, at any time during the course of proceedings, to make such inquiries as it considers appropriate;
- (l) enabling the Disciplinary Committee, following consideration of a disqualification case, instead of issuing a direction under section 80 of the Medicines Act 1968 (disqualification, and removal of persons from the register)—
  - (i) to agree with the individual or body corporate that he or it will comply with such undertakings as the Committee considers appropriate, and the rules may include



provision with respect to the procedure to be followed where any such undertakings are breached, and

(ii) to dispose of the matter by way of a reprimand or a warning; and

(m) for the award of, and in respect of the assessment of, costs or expenses, and may require the committee to have regard to a person's ability to pay when considering the making of an award against him under the rules.

(4) An award of costs may, by leave of the High Court, be enforced in the same manner as an order of the High Court to the same effect.

(5) An award of expenses may, by leave of the Court of Session, be enforced in the same manner as a decree of the Court of Session to the same effect.

(6) The rules under paragraph (1) above may make provision—

(a) as to the form which is to be used for any document (and may provide that specified documents are to be in such form as the Council may determine from time to time); and

(b) for documents and certificates to be sent or received as an electronic communication.

### **Procedure of fitness to practise committees and the Registration Appeals Committee**

**60.**—(1) For the purposes of proceedings under this Order in England and Wales—

(a) a fitness to practise committee or the Registration Appeals Committee may administer oaths; and

(b) a fitness to practise committee, the Registration Appeals Committee or any party to proceedings before them may issue a writ of subpoena ad testificandum or subpoena duces tecum.

(2) No person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

(3) Section 36 of the Supreme Court Act 1981(28) (subpoena issued by High Court to run throughout the United Kingdom) shall apply in relation to any such proceedings in England and Wales as it applies in relation to causes and matters in the High Court.

(4) For the purposes of any such proceedings in Scotland, the committee may administer oaths and the Court of Session shall on the application of any party to the proceedings have the like power as in any action in that court—

(a) to grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the committee, and for the issue of letters of second diligence against any witnesses or havers failing to appear after due citation;

(b) to grant warrant for the recovery of documents; and

(c) to grant commissions to persons to take the evidence of witnesses or to examine havers and receive their exhibits and productions.

(5) Where—

(a) several sittings of a fitness to practise committee are required to enable the committee to dispose of a case; or

(b) on an appeal to the relevant court under article 56, the case is remitted to a fitness to practise committee to dispose of the case in accordance with directions given by the court,

the validity of the proceedings on the case before the committee shall not be called into question by reason only that members of the committee who were present at a former meeting were not

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(28) 1981 c.54; section 36 has been amended by the Courts and Legal Services Act 1990 (c.41), Schedule 17, paragraph 13.

present at a later meeting of the committee or that members present at a later meeting were not present at a former meeting of the committee.

### **Legal advisers**

**61.**—(1) The Council shall appoint suitably qualified and experienced barristers, solicitors or advocates to be legal advisers, except that the Council may make rules which provide for it to enter into arrangements with another person, body or group (including a committee established under the Charter) for that person, body or group to appoint suitably qualified and experienced barristers, solicitors or advocates to be legal advisers on its behalf.

(2) Legal advisers appointed under this article must not be a member of the Council or a statutory committee.

(3) Legal advisers appointed under this article may be appointed either generally or for any particular class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument under which they are appointed.

(4) The Council may make rules as to the functions of legal advisers appointed under this article.

### **Clinical and other specialist advisers**

**62.**—(1) In connection with proceedings under this Order, the Council—

(a) shall appoint registered medical practitioners to be clinical advisers, except that the Council may make rules which provide for it to enter into arrangements with another person, body or group (including a committee established under the Charter) for that person, body or group to appoint registered medical practitioners to be clinical advisers on its behalf; and

(b) may appoint persons to act as specialist advisers on issues on which, in the Council's opinion, specialist knowledge is required, and the Council may make rules which provide for it to enter into arrangements with another person, body or group (including a committee established under the Charter) for that person, body or group to appoint persons to be specialist advisers on its behalf.

(2) Persons appointed to be—

(a) clinical advisers must have specialist expertise in a particular field or fields; and

(b) specialist advisers must have particular expertise in the speciality for which they are appointed.

(3) Clinical advisers shall be appointed for the purpose of giving advice to the Health Committee or the Investigating Committee on health related issues under consideration by the Committee in the course of proceedings before it and may also be appointed to give advice to the Council or the Society's committees on other health related issues.

(4) If specialist advisers are appointed under paragraph (1)(b) above, their appointment shall be for the purpose of giving advice—

(a) to one or more of the statutory committees on issues falling within their speciality which are under consideration by the committee in the course of proceedings before it; and

(b) to the Council or the Society's committees on issues falling within their speciality or related to it.

(5) Advisers appointed under this article must not be a member of the Council or a statutory committee.

(6) Advisers appointed under this article with regard to proceedings may be appointed either generally or for any particular class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument under which they are appointed.

(7) The Council may make rules as to the functions of advisers appointed under this article.

## PART 7

### Miscellaneous

#### General fees

**63.**—(1) Subject to paragraph (2), the Society may charge such fees in connection with the exercise of its, the Council's or its statutory committees' functions as it may reasonably determine.

(2) No fee may be charged, pursuant to paragraph (1), in connection with the exercise of a function where provision is made for the charging of a fee in connection with the exercise of that function elsewhere in this Order.

#### Education and training outside the United Kingdom

**64.**—(1) The Society may perform the following functions outside the United Kingdom—

- (a) accreditation of degree courses for prospective pharmacists and approval of providers of such courses;
- (b) approval or accreditation of programmes or courses of education and training for prospective pharmacy technicians;
- (c) approval of courses for, or providers of, postgraduate education and training for prospective pharmacists;
- (d) approval of premises as being suitable for postgraduate education and training of prospective pharmacists;
- (e) approval of courses for, or providers of, preregistration additional education, training or experience for prospective pharmacists and prospective pharmacy technicians; and
- (f) approval of courses for, or providers of, additional education, training or experience for pharmacists and pharmacy technicians either for continuing professional development or for the purposes of obtaining annotations to professional registers,

and it may enter into arrangements with a body outside the United Kingdom to assist it in the performance of the functions referred to in sub-paragraphs (a) to (f) or to perform those functions on its behalf.

(2) Approval or accreditation pursuant to paragraph (1) may—

- (a) be made subject to conditions (such as limiting approval of a course to the provision of that course at specified premises); and
- (b) be in respect of a programme or course of education or training that only provides part of the education or training needed for an approved or accredited course or programme, or for an approved qualification, where the Society is satisfied that there are appropriate arrangements in place for persons participating in the education and training to receive the remainder of the education or training necessary for the approved or accredited course or programme, or for the approved qualification, elsewhere.

## Prosecutions

65. Notwithstanding anything in any enactment, proceedings for an offence under this Order may be begun—

- (a) in England and Wales, at any time within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the Society to justify a prosecution came to the Society's knowledge;
- (b) in Scotland, at any time within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify a prosecution came to the prosecutor's knowledge; or
- (c) within a period of two years beginning with the date of the commission of the offence,

whichever period first expires.

## Rules

66.—(1) Any power to make rules under this Order may be exercised—

- (a) so as to make different provision—
  - (i) with respect to different cases or different classes of cases, or
  - (ii) in respect of the same case or class of case for different purposes;
- (b) in relation to all cases to which the power extends or in relation to all those cases subject to specified exceptions; or
- (c) so as to make any supplementary, incidental, consequential, transitional, transitory or saving provision which the Council considers necessary or expedient.

(2) The Council shall ensure that its rule making powers under this Order are exercised in such a way so as to ensure that its rules are and remain consistent with the requirements of the Treaties, the Pharmacy Qualifications Directive and the Second General System Directive.

(3) Before making rules under Part 6 of this Order, the Council shall consult—

- (a) Primary Care Trusts in England;
- (b) Local Health Boards in Wales; and
- (c) unless the rules relate exclusively to proceedings with regard to pharmacy technicians, Health Boards in Scotland.

(4) No rules made under this Order, apart from rules made solely under article 40 (or article 40 together with paragraph (1)), shall come into force until approved by order of the Privy Council.

(5) The Privy Council may approve rules submitted to them for approval either in the form submitted to them or subject to such modifications as appear to them requisite.

## Amendments, repeals and revocations

67. The amendments, repeals and revocations contained in Schedule 1 shall have effect.

## Transitional provisions

68.—(1) The transitional provisions contained in Schedule 2 shall have effect.

(2) The Privy Council may by order make such further transitional, transitory or saving provisions as it considers appropriate.

### **Privy Council procedures etc.**

**69.**—(1) Any power vested in the Privy Council to make an order under this Order may be exercised by any two or more members of the Privy Council.

(2) Any power of the Privy Council to make an order under this Order shall be exercisable by statutory instrument, and except for an order made solely in respect of—

- (a) approving byelaws under paragraph 4(1) of Schedule 2; or
- (b) approving rules made under—
  - (i) article 16 (or article 16 together with article 66(1)),
  - (ii) article 27 (or article 27 together with article 66(1)),
  - (iii) article 30 (or article 30 together with article 66(1)),
  - (iv) article 31 (or article 31 together with article 66(1)),
  - (v) article 36 (or article 36 together with article 66(1)),
  - (vi) article 37 (or article 37 together with article 66(1)), or
  - (vii) article 39 (or article 39 together with article 66(1)),

an order of the Privy Council under this Order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Paragraph (2) and article 66(4) do not preclude the inclusion of rules under article 16, 27, 30, 31, 36, 37, 39 or 40 in a set of rules which is to be approved by an order of the Privy Council that is subject to annulment in pursuance of a resolution of either House of Parliament.

(4) For the purposes of section 1 of the Statutory Instruments Act 1946<sup>(29)</sup> (definition of “Statutory Instrument”), paragraph (2) shall have effect as if contained in an Act of Parliament.

(5) Any act of the Privy Council under this Order shall be sufficiently signified by an instrument signed by the Clerk of the Privy Council.

(6) Where an order or act of the Privy Council under this Order is signified by an instrument purporting to be signed by the Clerk of the Privy Council, that shall be evidence, and in Scotland sufficient evidence, of—

- (a) the fact that the instrument was duly made, or the act duly done; and
- (b) the instrument’s terms.

Clerk of the Privy Council

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(29) 1946 c.36; section 1 has been amended by the Government of Wales Act 1998 (c.38), Schedule 12, paragraph 2.