
DRAFT STATUTORY INSTRUMENTS

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enactment or instrument set out in Schedule 1 is the same as that of the enactment or instrument amended, revoked or repealed.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—

(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.

(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

(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⁽¹⁸⁾ (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⁽¹⁹⁾)—

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

⁽¹⁸⁾ 1989 c.40.

⁽¹⁹⁾ 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.