
DRAFT STATUTORY INSTRUMENTS

2007 No.

The Pharmacists and Pharmacy Technicians Order 2007

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reference to a city, town or district) in which a person lives and contact details, but a person's home address shall not be published without his consent;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.