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DRAFT STATUTORY INSTRUMENTS

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**2010 No.**

**The Pharmacy Order 2010**

**PART 6**

**Fitness to practise**

**Disclosure of information: general**

**49.**—(1) For the purpose of assisting the Council (including its staff and its committees) in carrying out functions in respect of the fitness to practise of a registrant, or of assisting the Registrar in carrying out functions in respect of identifying any person entered in the Register by virtue of article 34(1)(b), a person authorised by the Council may require—

- (a) a registrant (except the registrant in respect of whom the information or document is sought); or
- (b) any other person,

who, in the opinion of the authorised person, is able to supply information or produce any document which appears to be relevant to the discharge of any such function, to supply the information or produce the document.

(2) Nothing in paragraph (1) requires or permits—

- (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 Council 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 58 .

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

(4) If a person fails to supply any information or to produce any document within 14 days of being required to do so under paragraph (1), or within such longer period as the Council in the circumstances of a particular case may allow, the Council 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) in a case where the person in respect of whom the information or document is sought is domiciled in Scotland, the sheriff in whose sheriffdom that person is domiciled; and

- (b) in any other case, the county court (the Central London County Court if the person in respect of whom the information or document is sought is not domiciled in Great Britain).