



# Medicines Act 1968

## 1968 CHAPTER 67

### PART IV

#### PHARMACIES

##### Modifications etc. (not altering text)

- C1** Pt. IV: Power to amend conferred (N.I.) (2.4.2001) by 2001 c. 3 (N.I.), s. 60, **Sch. 4 para. 2(2)**; S.R. 2001/128, art. 2(4), **Sch.**

*Persons lawfully conducting retail pharmacy business*

#### **69** General provisions.

- (1) Subject to the provisions of any order made under section 73 of this Act, a person carrying on a retail pharmacy business shall be taken to be a person lawfully conducting such a business if, not being disqualified by virtue of section 80 of this Act,—
- (a) that person (or, if the business is carried on by a partnership, each, or, in Scotland, one or more, of the partners) is a pharmacist and the conditions specified in section 70 of this Act are fulfilled in relation to the business, or
  - (b) that person is a body corporate and the conditions specified in section 71 of this Act are fulfilled in relation to the business, or
  - (c) that person is a representative of a pharmacist (as defined by section 72 of this Act) and the conditions specified in subsection (2) of that section are fulfilled in relation to him and in relation to the business and the period applicable in accordance with subsection (3) of that section has not expired.
- (2) For the purposes of the application of this Part of this Act to a business which—
- (a) is or is to be carried on in one or more separate or distinct parts (but not the whole) of a building, whether it is or is to be also carried on elsewhere or not, or

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- (b) so far as concerns the retail sale of medicinal products, or the supply of such products in circumstances corresponding to retail sale, is or is to be carried on in one or more separate or distinct parts (but not the whole) of a building, whether it is or is to be carried on elsewhere or not, each such part of that building shall be taken to be separate premises.
- (3) In this Part of this Act—
- “the appointed day” means such day as the Ministers may by order appoint for the purposes of this Part of this Act;
- “the board”, in relation to a body corporate, means the body of persons controlling the body corporate, by whatever name called;
- “the Council” means the Council of the Pharmaceutical Society;
- “the registrar” in relation to Great Britain means the person appointed under section 1 of the <sup>M1</sup>Pharmacy Act 1954 as registrar for the purposes of that Act, and in relation to Northern Ireland means the person appointed under [<sup>F1</sup>Article 9(1) of the <sup>M2</sup>Pharmacy (Northern Ireland) Order 1976] as registrar for the purposes of that Act;
- “the Statutory Committee” in relation to Great Britain means the committee appointed under section 7 of the Pharmacy Act 1954, and in relation to Northern Ireland means the committee appointed under [<sup>F2</sup>Article 19 of the Pharmacy (Northern Ireland) Order 1976].

#### Textual Amendments

- F1** Words substituted by (E.W.)(S.) S.I. 1977/1050, **art. 2(2)** and (N.I.) S.R. 1977 No. 170, **reg. 3**
- F2** Words substituted by S.I. 1976/1213 (N.I. 22), **Sch. 5 para. 4**

#### Marginal Citations

- M1** 1954 c. 61.
- M2** S.I. 1976/1213 (N.I. 22)

## 70 Business carried on by individual pharmacist or by partners.

- (1) Subject to the next following subsection, the conditions referred to in section 69(1) (a) of this Act are that, at all premises where the business is carried on and medicinal products, other than medicinal products on a general sale list, are sold by retail—
- (a) the business, so far as concerns the retail sale at those premises of medicinal products (whether they are medicinal products on a general sale list or not), or the supply at those premises of such products in circumstances corresponding to retail sale, is under the personal control of the person carrying on the business or that of another pharmacist, and
- (b) his name and certificate of registration or those of the other pharmacist, as the case may be, are conspicuously exhibited,
- [<sup>F3</sup>and that it is the personal control of persons none of whom is a pharmacist by virtue of section 4A of the Pharmacy Act 1954 (qualification by European diploma), [<sup>F4</sup>or Article 8(2)(c) of the Pharmacy (Northern Ireland) Order 1976], which fulfils the condition imposed by virtue of paragraph (a) above in relation to such of those premises . . . <sup>F5</sup> as have been registered pharmacies for less than three years.]
- (2) In relation to a business carried on by a partnership the preceding subsection shall have effect as if—

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- (a) in paragraph (a) of that subsection, for the word “person”, there were substituted the words “one or more of the partners”, and
- (b) in paragraph (b) of that subsection, for the words “his name and certificate of registration”, there were substituted the words “the name and certificate of registration of the partner (or, if more than one, of each partner) exercising personal control at those premises as mentioned in the preceding paragraph”.

In the application of this subsection to Scotland, for paragraph (a) there shall be substituted the following paragraph—

- “(a) in paragraph (a) of that subsection, for the words “the person carrying on the business” there were substituted the words “one or more of the partners who are pharmacists”, and”

- (3) In this section and in sections 71 and 72 of this Act “certificate of registration” in relation to Great Britain means a certificate of registration under the <sup>M3</sup>Pharmacy Act 1954, and in relation to Northern Ireland means a certificate of registration within the meaning of [<sup>F6</sup>the <sup>M4</sup>Pharmacy (Northern Ireland) Order 1976].

#### Textual Amendments

- F3** Words inserted by [S.I. 1987/2202, art. 3\(1\)](#)
- F4** Words substituted by [S.R. 1987/457, reg. 3\(a\)](#)
- F5** Words repealed by [S.R. 1987/457 reg. 3\(b\)](#)
- F6** Words substituted by [S.I. 1976/1213 \(N.I. 22\), Sch. 5 para. 5](#)

#### Marginal Citations

- M3** [1954 c. 61.](#)
- M4** [S.I. 1976/1213 \(N.I. 22\)](#)

## 71 Bodies corporate.

- (1) The conditions referred to in section 69(1)(b) of this Act are that the business, so far as concerns the keeping, preparing and dispensing of medicinal products other than medicinal products on a general sale list, is under the management of a superintendent in respect of whom the requirements specified in subsection (2) of this section are fulfilled, . . . <sup>F7</sup> that, at all premises where the business is carried on and medicinal products, other than medicinal products on a general sale list, are sold by retail—
  - (a) the business, so far as concerns the retail sale at those premises of medicinal products (whether they are medicinal products on a general sale list or not) or the supply at those premises of such products in circumstances corresponding to retail sale, if it is not under the personal control of the superintendent, is carried on, subject to the directions of the superintendent, under the personal control of a manager or assistant who is a pharmacist, and
  - (b) the name and certificate of registration of the person under whose personal control the business is carried on at those premises as mentioned in the preceding paragraph (whether he is the superintendent or some other person) are conspicuously exhibited, [<sup>F8</sup>and that it is the personal control of persons none of whom (whether the superintendent or a manager or assistant) is a pharmacist by virtue of section 4A of the Pharmacy Act 1954, [<sup>F9</sup>or Article 8(2)(c) of the Pharmacy (Northern Ireland) Order 1976], which fulfils the condition imposed by virtue of paragraph (a) above in relation to such of those premises . . . <sup>F10</sup> as have been registered pharmacies for less than three years.]

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- (2) The requirements referred to in the preceding subsection in relation to a superintendent are that—
- (a) the superintendent is a pharmacist;
  - (b) a statement in writing signed by him, and signed on behalf of the body corporate, specifying his name and stating whether he is a member of the board of that body or not, has been sent to the registrar; and
  - (c) he does not act in a similar capacity for any other body corporate.

#### Textual Amendments

- F7** Word repealed by [S.I. 1987/2202](#), [art. 3\(2\)\(a\)](#)  
**F8** Words inserted by [S.I. 1987/2202](#), [art. 3\(2\)\(b\)](#)  
**F9** Words substituted by [S.R. 1987/457](#), [reg. 3\(a\)](#)  
**F10** Words repealed by [S.R. 1987/457](#), [reg. 3\(b\)](#)

## 72 Representative of pharmacist in case of death or disability.

- (1) The provisions of this section shall have effect where a pharmacist carries on a retail pharmacy business and—
- (a) he dies, or
  - (b) he is adjudged bankrupt or enters into a composition or scheme or deed of arrangement with his creditors, or, in Scotland, sequestration of his estate is awarded or he makes a trust deed for behoof of his creditors or a composition contract, or
  - (c) a receiver is appointed for him under Part VIII of the <sup>M5</sup>Mental Health Act 1959, or, in Scotland, a curator bonis or judicial factor is appointed for him on the ground that he suffers from mental disorder, or, in Northern Ireland, a committee, receiver or guardian is appointed in his case under the <sup>M6</sup>Lunacy Regulation (Ireland) Act 1871,
- and a representative of his thereafter carries on his business.
- (2) The conditions referred to in section 69(1)(c) of this Act are that the name and address of the representative, and the name of the pharmacist whose representative he is, have been notified to the registrar and that, at all premises at which the business is carried on and medicinal products, other than medicinal products on a general sale list, are sold by retail,—
- (a) the business, so far as concerns the retail sale at those premises of medicinal products (whether they are medicinal products on a general sale list or not) or the supply at those premises of such products in circumstances corresponding to retail sale, is under the personal control of a pharmacist, and
  - (b) his name and certificate of registration are conspicuously exhibited.
- (3) The period referred to in section 69(1)(c) of this Act—
- (a) in the case of the death of a pharmacist, is a period of five years from the date of his death;
  - (b) in the case of the bankruptcy or sequestration of the estate of a pharmacist, is a period of three years from the date on which he is adjudged bankrupt or the date of the award of sequestration, as the case may be;

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- (c) in the case of a composition or scheme or deed of arrangement, or of a trust deed or composition contract, is a period of three years from the date on which the trustee appointed thereunder becomes entitled to carry on the business; and
- (d) in a case falling within subsection (1)(c) of this section, is a period of three years from the date of the appointment of the receiver, curator bonis, judicial factor, committee or guardian,

or, in any such case, is such longer period as, on the application of the representative, the Statutory Committee, having regard to all the circumstances of the case, may direct.

(4) In this section “representative”—

- (a) in relation to a pharmacist who has died, means his executor or administrator and, in respect of a period of three months from the date of his death, if he has died leaving no executor who is entitled and willing to carry on the business, includes any person beneficially interested in his estate;
- (b) in a case falling within paragraph (b) of subsection (1) of this section, means the trustee in bankruptcy or the trustee in the sequestration or any trustee appointed under the composition scheme, deed of arrangement, trust deed or composition contract; and
- (c) in a case falling within paragraph (c) of that subsection, means the receiver, curator bonis, judicial factor, committee or guardian <sup>[F11]</sup>; and in paragraph (b) above the reference to a trustee appointed under a composition, scheme or deed of arrangement includes a reference to the supervisor of a <sup>[F12]</sup>voluntary arrangement proposed for the purposes of, and approved under, Part VIII of the Insolvency Act 1986<sup>[F13]</sup> or Chapter II of Part VIII of the Insolvency (Northern Ireland) Order 1989.]

#### Textual Amendments

**F11** Words inserted by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235, Sch. 8 para. 15, **Sch. 9 para. 11(2)**

**F12** Words substituted by [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 439(2), **Sch. 14**

**F13** Words in s. 72(4) added (N.I.) (1.10.1991) by [S.I. 1989/2405 \(N.I. 19\)](#), art. 381, **Sch. 9 Pt. II para. 24**; [S.R. 1991/411](#), **art.2**

#### Marginal Citations

**M5** [1959 c. 72](#).

**M6** [1871 c. 22](#).

### 73 Power to extend or modify conditions.

- (1) The Health Ministers may by order add to, revoke or vary any of the provisions of sections 70 to 72 of this Act, so as either—
  - (a) to modify, or provide new conditions in substitution for, the conditions referred to in any of the paragraphs of section 69(1) of this Act, or
  - (b) for the purposes of any of those paragraphs, to provide alternative conditions compliance with which is to have the like effect as compliance with the conditions referred to in that paragraph.
- (2) Any provision made by an order in accordance with subsection (1) of this section may be made either generally or in relation to any particular circumstances specified in the order.

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- (3) Any order made under this section may direct that subsection (1) or subsection (2) of section 69 of this Act shall have effect subject to such exceptions or modifications as appear to the Health Ministers to be necessary or expedient in consequence of the provision made by the order in accordance with subsection (1) of this section.
- (4) Where an order under this section is for the time being in force, any reference to section 69 of this Act in any other enactment as amended by this Act shall be construed as a reference to that section as modified by the order.
- (5) No order shall be made under this section unless a draft of the order has been laid before Parliament and approved by a resolution of each House of Parliament.

### *Registration of pharmacies*

#### **74 Meaning of “registered pharmacy”.**

- (1) Subject to the next following subsection, in this Act “registered pharmacy” means premises for the time being entered in the register required to be kept under section 75 of this Act.
- (2) Where immediately before the appointed day any premises are entered in the register kept under section 12 of the <sup>M7</sup>Pharmacy and Poisons Act 1933, and are so entered otherwise than in the separate part of that register mentioned in section 1(5) of the <sup>M8</sup>Pharmacy and Medicines Act 1941, those premises, if they are not a registered pharmacy by virtue of the preceding subsection, shall be a registered pharmacy by virtue of this subsection until either they cease to be entered in that register or the year which includes the appointed day expires, whichever first occurs.
- (3) In this section and in section 76 of this Act “year” means a period of twelve months beginning on such date as the Council may from time to time determine.
- (4) In the application of this section to Northern Ireland, in subsection (2)—
  - (a) for the words from “any premises are entered” to “<sup>M9</sup>Pharmacy and Medicines Act 1941” there shall be substituted the words “an annual licence under section 17 of the <sup>M10</sup>Pharmacy and Poisons Act (Northern Ireland) 1925 is in force for any premises”;
  - (b) after the word “shall” there shall be inserted the words “(subject to the provisions of any order made under paragraph 1 of Schedule 4 to this Act)”; and
  - (c) for the words “entered in that register” there shall be substituted the words “the subject of such a licence”,
 and in subsection (3) the reference to the Council shall be construed as a reference to the Minister of Health and Social Services for Northern Ireland.

#### **Marginal Citations**

- M7** 1933 c. 25.  
**M8** 1941 c. 42.  
**M9** 1941 c. 42.  
**M10** 1925 c. 8 (N.I.)

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## 75 Registration of premises.

- (1) It shall be the duty of the registrar to keep a register for the purposes of this section (in this Part of this Act referred to as “the register”) and, subject to the following provisions of this section, on payment of the prescribed fee to enter in the register any premises in respect of which an application is made under this section.
- (2) Any application for the registration of premises under this section shall be made in the prescribed manner and shall specify the premises to which the application relates and shall contain such other particulars as may be prescribed.
- (3) On the making of any such application the registrar shall notify the appropriate Minister, specifying the premises to which the application relates and the date on which the application was made, and shall not enter those premises in the register before the end of the period of two months from that date, unless before the end of that period the appropriate Minister consents to his doing so.
- (4) If it appears to the appropriate Minister that in a material respect the premises do not comply with the requirements of regulations made under section 66 of this Act which are for the time being in force, and accordingly he proposes to certify that the premises are unsuitable for registration under this section, he shall, before the end of the period referred to in subsection (3) of this section, serve on the applicant a notice stating his proposals and the reasons for them, and shall serve a copy of that notice on the registrar; and, where a copy of such a notice is served on him, the registrar shall not enter the premises in the register except where required to do so in accordance with the following provisions of this section.
- (5) If, within the time allowed after the service on him of a notice under subsection (4) of this section, the applicant gives notice to the appropriate Minister of his desire to be heard with respect to the proposals, or makes representations in writing to the appropriate Minister with respect to the proposals, then, before determining whether to issue a certificate under this section in respect of the premises,—
  - (a) if the applicant has given notice of his desire to be heard, the appropriate Minister shall afford to him an opportunity of appearing before, and being heard by, a person appointed by that Minister for the purpose, or
  - (b) if he has made representations in writing, that Minister shall consider those representations.
- (6) Where the appropriate Minister has served a notice under subsection (4) of this section, then—
  - (a) if he determines not to issue a certificate certifying that the premises are unsuitable for registration under this section, he shall notify the applicant and the registrar of his decision and (subject to subsection (7) of this section) the registrar shall forthwith enter the premises in the register;
  - (b) if the appropriate Minister issues such a certificate, he shall transmit the certificate to the registrar and shall notify the applicant that he has done so, and, if so required by the applicant, shall inform him of the reasons for his decision to issue such a certificate.
- (7) Notwithstanding anything in the preceding provisions of this section, the registrar shall not enter any premises in the register in pursuance of an application under this section unless it is shown to his reasonable satisfaction either—
  - (a) that at the time of the application the applicant is a person lawfully conducting a retail pharmacy business, or

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- (b) that, if the premises are entered in the register, and the applicant begins to carry on a retail pharmacy business at those premises, then as from the time when he begins to do so he will be a person lawfully conducting a retail pharmacy business.
- (8) In this section “the appropriate Minister”—
- (a) in relation to premises in England or Wales, means [<sup>F14</sup>the Secretary of State];
- (b) in relation to premises in Scotland, means the Secretary of State; and
- (c) in relation to premises in Northern Ireland, means the Minister of Health and Social Services for Northern Ireland,
- and “the time allowed” means the period of twenty-eight days or such extended period as the appropriate Minister may in any particular case allow.

#### Textual Amendments

**F14** Words substituted by virtue of S.I. 1968/1699, arts. 2, 5(4)(a)

#### Modifications etc. (not altering text)

**C2** Functions of Secretary of State in matters only affecting Wales exercisable by Secretary of State for Wales: S.I. 1969/388, art. 2(1)

## 76 Supplementary provisions as to registration of premises.

- (1) Where any premises have been entered in the register, then, in respect of each year subsequent to the year in which the premises were so entered, a further fee (in this section referred to as a “retention fee”) of the prescribed amount shall be payable by the person carrying on a retail pharmacy business at those premises.
- (2) If, on demand being made to him in the prescribed manner, the person carrying on a retail pharmacy business at any premises entered in the register fails to pay a retention fee in respect of those premises within two months from the date on which the demand is made, the Council may direct the registrar to remove the premises from the register; but if, before the end of the year in respect of which the retention fee is payable or such longer period as in any particular case the Council may allow, the person carrying on the business pays to the registrar the retention fee in respect of that year, together with such additional sum (if any) by way of penalty as may be prescribed,—
- (a) the registrar shall restore the premises to the register, and
- (b) if the Council so direct, the restoration shall be deemed to have had effect as from the date on which the premises were removed from the register.
- (3) Where a change occurs in the ownership of a retail pharmacy business carried on at any premises registered under section 75 of this Act, the registration of the premises under that section—
- (a) if the change occurs on the death of the person carrying on the business, or, in the case of a partnership, on the death of one of the partners, shall become void at the end of the period of three months from the date of the death, and
- (b) in any other case, shall become void at the end of the period of twenty-eight days from the date on which the change occurs.
- (4) Where section 74(2) of this Act has effect in relation to any premises, an application for the premises to be entered in the register may be made in the prescribed manner at



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any time before the end of the year which includes the appointed day; and where such an application is made by virtue of this subsection—

- (a) the provisions of section 75 of this Act shall not apply, and
- (b) on payment of a fee equal to a retention fee, the registrar shall enter the premises in the register.

(5) Where the registration of any premises under section 75 of this Act in respect of a business becomes void by virtue of subsection (3) of this section, an application for the premises to be restored to the register may be made by the person who, in consequence of the change of ownership, has become the owner of the business; and where such an application is made, and it is shown to the reasonable satisfaction of the registrar either—

- (a) that at the time of the application the applicant is a person lawfully conducting a retail pharmacy business, or
- (b) that, if the premises are restored to the register, and the applicant thereafter carries on a retail pharmacy business at those premises, then as from the time when he begins to do so he will be a person lawfully conducting a retail pharmacy business,

and (in a case where, if the registration had not become void, a retention fee would have become payable) a fee equal to a retention fee has been paid, the registrar shall restore the premises to the register.

- (6) Any regulations prescribing anything for the purposes of section 75 of this Act or this section shall be made by the Health Ministers.
- (7) A document purporting to be a certificate signed by the registrar and stating that, on a specified date, specified premises were, or were not, entered in the register shall be admissible in any proceedings as evidence (and, in Scotland, shall be sufficient evidence) that those premises were, or were not, entered in the register on that date.
- (8) Any fees received by the registrar by virtue of the last preceding section or this section shall be applicable for the purposes of the Pharmaceutical Society.
- (9) In the application of this section to Northern Ireland, any reference to the Council shall be construed as a reference to the Minister of Health and Social Services for Northern Ireland, the reference to subsection (2) of section 74 of this Act shall be construed as a reference to that subsection as modified by subsection (4) of that section, and subsection (8) shall be omitted.

## **77 Annual return of premises to registrar.**

Every person who carried on a retail pharmacy business shall, in the month of January in each year, send to the registrar—

- (a) a list of all premises at which his business, so far as it consists of the retail sale of medicinal products, is carried on, and
- (b) in the case of any premises where medicinal products, other than medicinal products on a general sale list, are sold by retail, or are supplied in circumstances corresponding to retail sale, the name of the pharmacist under whose personal control the business, so far as concerns the retail sale or supply of medicinal products at those premises, is carried on.

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*Provisions as to use of certain titles, descriptions and emblems*

**78 Restrictions on use of titles, descriptions and emblems.**

- (1) The provisions of this section shall have effect subject to section 79 of this Act.
- (2) On and after the appointed day no person shall—
  - (a) take or use any of the following titles, that is to say, chemist and druggist, druggist, dispensing chemist, and dispensing druggist, or
  - (b) take or use the title of chemist in connection with the sale of any goods by retail or the supply of any goods in circumstances corresponding to retail sale, unless the conditions specified in the next following subsection are fulfilled.
- (3) Those conditions are—
  - (a) in the case of an individual, that he is a person lawfully conducting a retail pharmacy business (either alone or as a member of a partnership) and that he does not take or use the title in question in connection with any premises at which any goods are sold by retail, or are supplied in circumstances corresponding to retail sale, unless those premises are a registered pharmacy, and
  - (b) in the case of a body corporate, that the body is a person lawfully conducting a retail pharmacy business and that the title in question is not taken or used by that body in connection with any premises at which any goods are sold by retail, or are supplied in circumstances corresponding to retail sale, unless those premises are a registered pharmacy, and that the pharmacist who, in relation to that business, is such a superintendent as is referred to in section 71(1) of this Act is a member of the board of the body corporate.
- (4) On and after the appointed day no person shall, in connection with a business carried on by him which consists of or includes the retail sale of any goods, or the supply of any goods in circumstances corresponding to retail sale, use the description “pharmacy” except in respect of a registered pharmacy or in respect of the pharmaceutical department of a hospital or a health centre.
- (5) On and after the appointed day—
  - (a) no person who is not a pharmacist shall take or use any of the following titles, that is to say, pharmaceutical chemist, pharmacist, member of the Pharmaceutical Society, and Fellow of the Pharmaceutical Society, and
  - (b) without prejudice to the preceding paragraph, no person shall take or use any of those titles in connection with a business carried on (whether by him or by some other person) at any premises which consists of or includes the retail sale of any goods, or the supply of any goods in circumstances corresponding to retail sale, unless those premises are a registered pharmacy or a hospital or health centre.
- (6) On and after the appointed day no person shall, in connection with any business, use any title, description or emblem likely to suggest—
  - (a) that he possesses any qualification with respect to the sale, manufacture or assembly of medicinal products which he does not in fact possess, or
  - (b) that any person employed in the business possesses any such qualification which that person does not in fact possess.

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- (7) For the purposes of the last preceding subsection the use of the description "pharmacy", in connection with a business carried on at any premises, shall be taken to be likely to suggest that the person carrying on the business (where that person is not a body corporate) is a pharmacist and that any other person, under whose personal control the business (so far as concerns the retail sale of medicinal products or the supply of such products in circumstances corresponding to retail sale) is carried on at those premises, is also a pharmacist.
- (8) Where a person is lawfully conducting a retail pharmacy business as being a representative of a pharmacist in the circumstances specified in section 69(1)(c) of this Act, subsections (5) to (7) of this section shall not have effect so as to prevent the representative from taking or using, in connection with that business, any title, description or emblem which the pharmacist himself could have used in accordance with those subsections.

## **79 Provision for modifying or extending restrictions under s. 78.**

- (1) The Health Ministers may by order provide that any of the restrictions imposed by section 78 of this Act shall cease to have effect, or shall have effect subject to such exceptions as may be specified in the order.
- (2) Without prejudice to the preceding subsection, regulations made by the Health Ministers may (in addition to the restrictions for the time being having effect by virtue of section 78 of this Act) impose such further restrictions or other requirements with respect to the use of titles, descriptions and emblems as may be specified in the regulations.
- (3) Without prejudice to the application of section 129(6) of this Act, before making any order or regulations under this section the Health Ministers shall consult the Council.
- (4) Regulations made under this section shall be of no effect unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House of Parliament.

### *Disqualification, and removal of premises from register*

## **80 Power for Statutory Committee to disqualify and direct removal from register.**

- (1) Where a body corporate carries on a retail pharmacy business and—
  - (a) that body is convicted of an offence under any of the relevant Acts, or
  - (b) any member of the board or any officer of or person employed by that body is convicted of an offence, or has been guilty of misconduct, and the offence or misconduct is such as in the opinion of the Statutory Committee renders him, or would if he were a pharmacist render him, unfit to be a pharmacist,then, subject to the following provisions of this Part of this Act, the Statutory Committee, after inquiring into the case, may direct that the body corporate shall be disqualified for the purposes of this Part of this Act.
- (2) In any case falling within the preceding subsection—
  - (a) if the Statutory Committee give a direction under that subsection, they shall direct the registrar to remove from the register all premises entered in the

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- register as being premises at which the body corporate carries on a retail pharmacy business;
- (b) if the Statutory Committee do not give a direction under the preceding subsection, they may, if they think fit, direct the registrar to remove from the register all those premises, or such of them as may be specified in the direction under this paragraph.
- (3) Directions under subsection (1) of this section and under paragraph (a) of the last preceding subsection, and any direction under paragraph (b) of the last preceding subsection, may, if the Statutory Committee think fit, be given so as to have effect for a limited period; and in that case the registrar, at the end of that period, shall restore to the register any premises removed from it in compliance with the direction given under paragraph (a) or paragraph (b) of the last preceding subsection.
- (4) Where, in any such case as is mentioned in subsection (1) of section 72 of this Act, a representative, or a person employed by a representative in the business referred to in that subsection,—
- (a) is convicted of an offence, or
- (b) has been guilty of misconduct,
- and the offence or misconduct is such as in the opinion of the Statutory Committee renders him, or would if he were a pharmacist render him, unfit to be a pharmacist, then, subject to the following provisions of this Part of this Act, the Statutory Committee, after inquiring into the case, may direct that the representative shall be disqualified for the purposes of this Part of this Act.
- (5) In this and the next following section “the relevant Acts” means the <sup>M11</sup>Pharmacy Act 1954. [<sup>F15</sup>the <sup>M12</sup>Pharmacy (Northern Ireland) Order 1976], [<sup>F16</sup>this Act and the <sup>M13</sup>Misuse of Drugs Act 1971], and “representative” has the same meaning as in section 72 of this Act.

#### Textual Amendments

**F15** Words substituted by S.I. 1976/1213 (N.I. 22), **Sch. 5 para. 6**

**F16** Words substituted by Misuse of Drugs Act 1971 (c. 38), **s. 12(7)**

#### Modifications etc. (not altering text)

**C3** S. 80: Power to amend conferred (15.3.2000) by 1999 c. 8, s. 60(1)(2)(4), **Sch. 3 para. 2(3)(a)**; S.I. 2000/779, **art. 2(1)**

#### Marginal Citations

**M11** 1954 c. 61.

**M12** S.I. 1976/1213 (N.I. 22)

**M13** 1971 c. 38.

## 81 Grounds for disqualification in certain cases.

- (1) The Statutory Committee shall not give a direction under subsection (1) of section 80 of this Act, in a case falling within paragraph (b) of that subsection, and shall not give a direction under subsection (4) of that section, unless—
- (a) one or more of the facts specified in the next following subsection are proved to the satisfaction of the Committee, and

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- (b) the Committee are of the opinion, having regard to those facts, that the board of the body corporate are, or, as the case may be, the representative is, to be regarded as responsible for the offence or misconduct in question.
- (2) The facts referred to in subsection (1)(a) of this section are-
- (a) that the offence or misconduct in question was instigated or connived at by the board or by a member of the board, or by the representative, as the case may be;
  - (b) that, in the case of a body corporate, a member of the board, or an officer of or person employed by the body corporate, had, at some time within twelve months before the date on which the offence or misconduct in question occurred, been guilty of a similar offence or similar misconduct and that the board had, or with the exercise of reasonable care would have had, knowledge of that previous offence or misconduct;
  - (c) that, in the case of the representative, he or a person employed by him had, at some time within twelve months before the date on which the offence or misconduct in question occurred, been guilty of a similar offence or similar misconduct and (where it was a similar offence or similar misconduct on the part of an employee) that the representative had, or with the exercise of reasonable care would have had, knowledge of that previous offence or misconduct;
  - (d) if the offence or misconduct in question is a continuing offence or continuing misconduct, that the board, or the representative, had, or with the exercise of reasonable care would have had, knowledge of its continuance;
  - (e) in the case of an offence in respect of a contravention of an enactment contained in any of the relevant Acts, that the board, or the representative, had not exercised reasonable care to secure that the enactment was complied with.

**Modifications etc. (not altering text)**

C4 S. 81: Power to amend conferred (15.3.2000) by 1999 c. 8, s. 60(1)(2)(4), **Sch. 3 para. 2(3)(a)**; S.I. 2000/779, **art. 2(1)**

**82 Procedure relating to disqualification.**

- (1) The Statutory Committee shall not give a direction under section 80 of this Act except with the assent of the chairman of the Committee.
- (2) A direction under that section shall not take effect until the end of the period of three months from the date on which notice of the direction is given to the body corporate or other person to whom it relates, and, if an appeal against the direction is brought under this section, shall not take effect until that appeal has been determined or withdrawn.
- (3) Where any such direction is given, the body corporate or other person to whom it relates may, at any time before the end of the period of three months specified in subsection (2) of this section, appeal against the direction to the High Court.
- (4) The Pharmaceutical Society may appear as respondent on any such appeal; and, for the purpose of enabling directions to be given as to costs on any such appeal, the Pharmaceutical Society shall be deemed to be a respondent to the appeal whether they appear on the hearing of the appeal or not.

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- (5) On any such appeal, the High Court may give such directions in the matter as appear to the Court to be appropriate; and it shall be the duty of the Statutory Committee to comply with any such directions and (where appropriate) of the registrar to make such alterations in the register as are necessary to give effect to them.
- (6) No appeal shall lie from any decision of the High Court under this section.
- (7) In the application of this section to Scotland, any reference to the High Court shall be construed as a reference to the Court of Session, and any reference to costs shall be construed as a reference to expenses.
- (8) In the application of this section to Northern Ireland, any reference to the High Court shall be construed as a reference to a judge of the Supreme Court of Judicature of Northern Ireland.

**Modifications etc. (not altering text)**

**C5** s. 82: Power to amend conferred (15.3.2000) by 1999 c. 8, s. 60(1)(2)(4), **Sch. 3 para. 2(3)(a)**; S.I. 2000/779, **art. 2(1)**

**83 Revocation of disqualification.**

- (1) At any time while a direction under section 80 of this Act is in force the Statutory Committee, either on the application of the person to whom it relates or without any such application, may revoke the direction.
- (2) If, on an application to the Statutory Committee to revoke such a direction, the Committee refuse to revoke it, the applicant, at any time before the end of the period of three months from the date on which notice of the refusal is given to him, may appeal to the High Court against the refusal.
- (3) Subsections (4) to (6) of section 82 of this Act shall have effect in relation to any appeal under this section as they have effect in relation to appeals under that section.
- (4) In the application of this section to Scotland, any reference to the High Court shall be construed as a reference to the Court of Session; and in the application of this section to Northern Ireland, any reference to the High Court shall be construed as a reference to a judge of the Supreme Court of Judicature of Northern Ireland.

**Modifications etc. (not altering text)**

**C6** S. 83: Power to amend conferred (15.3.2000) by 1999 c. 8, s. 60(1)(2)(4), **Sch. 3 para. 2(3)(a)**; S.I. 2000/779, **art. 2(1)**

*Supplementary provisions*

**84 Offences under Part IV.**

- (1) Any person who contravenes section 77 of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F17</sup>level 3 on the standard scale].

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- (2) Any person who contravenes section 78 of this Act or who contravenes any regulations made under section 79(2) of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding [<sup>F18</sup>level 3 on the standard scale].

**Textual Amendments**

- F17** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c.48, SIF 39:1\)](#), [ss. 38, 46](#), (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) [S.I. 1984/703 \(N.I. 3\)](#), [arts. 5, 6](#)
- F18** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c.48, SIF 39:1\)](#), [ss. 38, 46](#), (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c.21, SIF 39:1\)](#), [ss. 289F, 289G](#) and (N.I.) [S.I. 1984/703 \(N.I. 3\)](#), [arts. 5, 6](#)

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