



Medicines Act 1968

1968 CHAPTER 67

PART IV

PHARMACIES

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
 - (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.

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(3) In this Part of this Act—

^{F1}

“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 ^{M1}Pharmacy Act 1954 as registrar for the purposes of that Act, and in relation to Northern Ireland means the person appointed under [^{F2}Article 9(1) of the ^{M2}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 [^{F3}Article 19 of the Pharmacy (Northern Ireland) Order 1976].

Textual Amendments

F1 Definition in s. 69(3) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt.XII**

F2 Words substituted by (E.W.)(S.) **S.I. 1977/1050, art. 2(2)** and (N.I.) S.R. 1977 No. 170, **reg. 3**

F3 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,

[^{F4} 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), [^{F5} 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 . . . ^{F6} 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—

(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

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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 ^{M3}Pharmacy Act 1954, and in relation to Northern Ireland means a certificate of registration within the meaning of [^{F7}the ^{M4}Pharmacy (Northern Ireland) Order 1976].

Textual Amendments

- F4** Words inserted by [S.I. 1987/2202, art. 3\(1\)](#)
F5 Words substituted by [S.R. 1987/457, reg. 3\(a\)](#)
F6 Words repealed by [S.R. 1987/457 reg. 3\(b\)](#)
F7 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, . . . ^{F8} 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, [^{F9}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, [^{F10}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 . . . ^{F11} as have been registered pharmacies for less than three years.]

(2) The requirements referred to in the preceding subsection in relation to a superintendent are that—

- (a) the superintendent is a pharmacist;

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- (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

- F8** Word repealed by [S.I. 1987/2202, art. 3\(2\)\(a\)](#)
- F9** Words inserted by [S.I. 1987/2202, art. 3\(2\)\(b\)](#)
- F10** Words substituted by [S.R. 1987/457, reg. 3\(a\)](#)
- F11** 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 ^{M5}Mental Health Act 1959, or, in Scotland, a [^{F12}guardian] 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 ^{M6}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;
 - (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

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- (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, [^{F13}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, [^{F13}curator bonis,] judicial factor, committee or guardian [^{F14}; 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 [^{F15}voluntary arrangement proposed for the purposes of, and approved under, Part VIII of the Insolvency Act 1986][^{F16}or Chapter II of Part VIII of the Insolvency (Northern Ireland) Order 1989].]

Textual Amendments

- F12** Words in s. 72(1) substituted (S.) (1.4.2002) by 2000 asp 4, s. 88(2), **Sch. 5 para. 12(a)**; S.S.I. 2001/81, art. 3, **Sch. 2**
- F13** Words in s. 72(3)(d)(4)(c) repealed (S.) (1.4.2002) by 2000 asp 4, s. 88(2)(3), **Sch. 5 para. 12(b)**, **Sch. 6**; S.S.I. 2001/81, art. 3, **Sch. 2**
- F14** Words inserted by **Insolvency Act 1985** (c. 65, SIF 66), s. 235, **Sch. 8 para. 15**, **Sch. 9 para. 11(2)**
- F15** Words substituted by **Insolvency Act 1986** (c. 45, SIF 66), s. 439(2), **Sch. 14**
- F16** 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.

[^{F17}72A The responsible pharmacist

- (1) It is the duty of the responsible pharmacist mentioned in sections 70, 71 and 72 of this Act to secure the safe and effective running of the pharmacy business at the premises in question so far as concerns—
- (a) the retail sale at those premises of medicinal products (whether they are on a general sale list or not), and
- (b) the supply at those premises of such products in circumstances corresponding to retail sale.
- (2) A person may not be the responsible pharmacist in respect of more than one set of premises at the same time, except in circumstances specified by the Health Ministers in regulations, and then only if such conditions as may be so specified are complied with.

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- (3) The responsible pharmacist must establish (if they are not already established), maintain and keep under review procedures designed to secure the safe and effective running of the business as mentioned in subsection (1) of this section.
- (4) The responsible pharmacist must make a record (which must be available at the premises) of—
 - (a) who the responsible pharmacist is in relation to the premises on any day and at any time, and
 - (b) such other matters as the Health Ministers specify in regulations.
- (5) It is the duty of the person carrying on the business to secure that—
 - (a) the record is properly maintained, and
 - (b) it is preserved for at least as long as is specified in regulations made by the Health Ministers.
- (6) The Health Ministers may make further provision in regulations in relation to the responsible pharmacist.
- (7) The regulations may, in particular, make further provision about the matters mentioned in subsections (1) to (4) of this section, and make provision about—
 - (a) the qualifications and experience which a person must have if he is to be a responsible pharmacist,
 - (b) the responsible pharmacist's absence from the premises,
 - (c) the supervision by the responsible pharmacist, when he is not present on the premises, of relevant activities there,
 - (d) circumstances in which the responsible pharmacist may supervise relevant activities at a pharmacy of which he is not the responsible pharmacist,
 - (e) the form in which the procedures referred to in subsection (3) of this section are to be recorded and matters which must be covered by them,
 - (f) the form in which the record referred to in subsection (4) of this section is to be kept and particulars which must be included in it.
- (8) In subsection (7)(c) and (d), “relevant activities” means things mentioned in section 10 and transactions mentioned in section 52(1)(c) of this Act.]

Textual Amendments

F17 Ss. 72A, 72B inserted (19.7.2006 for specified purposes) by [Health Act 2006 \(c. 28\)](#), **ss. 30(1)**, **83(1)**
(e)

[^{F17}**72B Section 72A: supplementary**

- (1) The failure by a person to comply with any requirements of section 72A of this Act, or of regulations made under that section, may constitute misconduct for the purposes of section 80 of this Act, section 8 of the Pharmacy Act 1954 and Article 20 of the Pharmacy (Northern Ireland) Order 1976; and the Statutory Committee may deal with such a failure accordingly.
- (2) A person who does not have the qualifications and experience required by regulations made by virtue of section 72A(7)(a) of this Act is not to be considered as a responsible pharmacist for the purposes of sections 70 to 72 of this Act.

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- (3) Subsection (4) of this section applies if a person—
- (a) fails to comply with the requirements of subsection (2) of section 72A of this Act, or of regulations made under that subsection,
 - (b) fails to comply with any requirements as to absence from the premises contained in regulations made by virtue of subsection (7)(b) of that section.
- (4) If this subsection applies, the person in question is not to be considered while the failure continues as being in charge of the business at the premises in question (or in a subsection (3)(a) case at any of them) for the purposes of sections 70 to 72 of this Act.]

Textual Amendments

F17 Ss. 72A, 72B inserted (19.7.2006 for specified purposes) by [Health Act 2006 \(c. 28\)](#), **ss. 30(1)**, **83(1)**
(e)

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.
- (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.

Status:

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