

2007 No. 441

HEALTH CARE AND ASSOCIATED PROFESSIONS

PHARMACISTS

The Royal Pharmaceutical Society of Great Britain (Registration Rules) Order of Council 2007

Made - - - - - *26th February 2007*

Laid before Parliament *2nd March 2007*

Coming into force - - - *30th March 2007*

At the Council Chamber, Whitehall, the 26th day of February 2007

By the Lords of Her Majesty's Most Honourable Privy Council

The Council of the Royal Pharmaceutical Society of Great Britain has made the Royal Pharmaceutical Society of Great Britain (Registration) Rules 2007, which are set out in the Schedule to this Order, in exercise of the powers conferred by articles 7(2)(d) and (4)(d), 17(1), 30(1), 31(1), 33(1), 35(2) and (4), 36(1), 40(1), 59(1) and 66(1) of the Pharmacists and Pharmacy Technicians Order 2007(a).

In accordance with articles 40(4) and 66(3) of that Order, the Council of the Royal Pharmaceutical Society of Great Britain has consulted, in relation to rules under article 59(1) of that Order, Primary Care Trusts in England, Local Health Boards in Wales and Health Boards in Scotland, and in relation to rules under article 40(1) of that Order, such registrants or classes of registrants as it considers appropriate.

By virtue of article 66(4) of that Order, such Rules shall not come into force until approved by order of the Privy Council.

Their Lordships, having taken these Rules into consideration, are pleased to and do approve them.

This Order may be cited as the Royal Pharmaceutical Society of Great Britain (Registration Rules) Order of Council 2007 and shall come into force on 30th March 2007.

Christine Cook
Deputy Clerk of the Privy Council

SCHEDULE

The Royal Pharmaceutical Society of Great Britain (Registration) Rules 2007

CONTENTS

PART 1

General

1. Citation and commencement
2. Interpretation: general
3. Service of documents

PART 2

The Register

4. The keeping of the register
5. The content of the register etc.

PART 3

Applications related to registration

6. Application for registration in the Register of Pharmacists
7. Retention in the Register of Pharmacists
8. Applications to move to a different part of the Register
9. Applications for annotations to denote that a registered pharmacist is a supplementary prescriber or an independent prescriber
10. Applications for voluntary removal from the register or of annotations to the register
11. Rescinding decisions if voluntary removal is obtained by false or misleading information
12. Applications for restoration within twelve months of specified removals from the register
13. Duty to notify the Registrar of changes to information
14. Waiver of fees

PART 4

Fraudulent and incorrect entries

15. Notice of Intention to Remove: stage one
16. Subsequent action by Registrar: stage two
17. Decisions in contested cases: stage three

PART 5

Appeals Procedure

18. Interpretation of Part 5
19. Venue of proceedings
20. Notice of Appeal
21. Action following receipt of Notice of Appeal
22. Notice of Hearing
23. Case management meetings

24. Evidence
25. Clinical and other specialist advice
26. Burden and standard of proof
27. Consideration of appeals on the papers
28. Procedure at hearings
29. Representation
30. Witness evidence
31. Attendance of the public at hearings
32. Postponements and adjournments
33. Decision of the Committee
34. Costs of the hearing
35. Notes and transcripts of hearings

The Council of the Royal Pharmaceutical Society of Great Britain makes these Rules in exercise of the powers conferred by articles 7(2)(d) and (4)(d), 17(1), 30(1), 31(1), 33(1), 35(2) and (4), 36(1), 40(1), 59(1) and 66(1) of the Pharmacists and Pharmacy Technicians Order 2007.

In accordance with articles 40(4) and 66(3) of that Order, the Council of the Royal Pharmaceutical Society of Great Britain has consulted, in relation to rules under article 59(1) of that Order, Primary Care Trusts in England, Local Health Boards in Wales and Health Boards in Scotland, and in relation to rules under article 40(1) of that Order, such registrants or classes of registrants as it considers appropriate.

PART 1

General

Citation and commencement

1. These Rules may be cited as the Royal Pharmaceutical Society of Great Britain (Registration) Rules 2007 and shall come into force on 30th March 2007.

Interpretation: general

2.—(1) In these Rules—

“Criminal Records Bureau” means the body established under Part V of the Police Act 1997(a);

“Fitness to Practise Rules” means the Royal Pharmaceutical Society of Great Britain (Fitness to Practise and Disqualification etc.) Rules 2007(b);

“the Order” means the Pharmacists and Pharmacy Technicians Order 2007;

“prescribed fee” means a fee prescribed in rules under article 40(1) of the Order;

“registered address” shall be construed in accordance with rule 5(4);

“registered name” shall be construed in accordance with rule 5(3);

“retention fee”, unless the context otherwise requires, means any fee prescribed in rules under article 40(1)(b) of the Order; and

“the standards” means the standards of conduct, practice and performance (including the Society’s Code of Ethics and the related guidance) published by the Council under article 45(1) of the Order.

(2) Pending the coming into force of article 21 of the Order, these Rules shall apply as if references to the register, applicants and registrants were references only to the Register of Pharmacists, applicants for registration in that register and registered pharmacists respectively.

(a) 1997 c.50.

(b) These Rules have been Scheduled to S.I. 2007/442.

Service of documents

3.—(1) Any notice, demand or document required to be served by the Society under these Rules shall be in writing and shall be served by sending it by a postal service or another delivery service (including by electronic mail) or by leaving it at—

- (a) in the case of a registrant, subject to paragraph (2), the address of the registrant that appears in the register or any electronic mail address of the registrant that the registrant has notified to the Society as an address for communications; or
- (b) in the case of an applicant who is not a registrant, his last known home address or any electronic mail address of the applicant that the applicant has notified to the Society as an address for communications.

(2) If the registrant or applicant so requests, notices, demands or documents may be sent to or left at—

- (a) where the registrant or applicant is represented by a solicitor, the solicitor's practising or electronic mail address; or
- (b) where the registrant or applicant is represented by a defence organisation or trade union, the business or electronic mail address of that defence organisation or trade union.

(3) Where any notice, demand or document is sent by post, it shall be treated (unless sent by second class post) as having been served on the day after it was posted, or where a notice, demand or document has been sent by electronic mail or left at an address, it shall be treated as having been served on the day at which it was sent to, or left at, that address.

(4) A notice of appeal given under article 43(1) of the Order shall be delivered by sending it to the Registrar at the Society's headquarters by a postal or courier service in the course of which receipt is recorded.

PART 2

The Register

The keeping of the register

4.—(1) The register shall be maintained and kept—

- (a) secure, in a manner which guards against falsification; and
- (b) in electronic format (a copy, together with additional information, may be held by the Registrar, otherwise than electronically).

(2) The Registrar is responsible for ensuring that an entry appears in the register in respect of each person who is newly registered or newly restored to the register(a).

(3) Before making alterations to any of the particulars in a registrant's entry, the Registrar shall satisfy himself as to the accuracy of any new information to be entered in the register, and may require the registrant concerned to produce a statutory declaration, a marriage certificate or such other documentary evidence as the Registrar may consider appropriate in any case.

(4) Where the Health or Disciplinary Committee determines that a registrant's fitness to practise is impaired, the Registrar shall annotate that registrant's entry in the register with a record of the determination.

(5) Where the Disciplinary Committee gives a direction that a person be removed from the register, the Registrar shall ensure that an appropriate alteration is made to the register removing that person from it (once the direction has taken effect).

(6) Where a fitness to practise committee—

- (a) issues a warning to a registrant;
- (b) agrees undertakings with a registrant that relate to his fitness to practise;

(a) His duty to keep the entry up-to-date is in article 34(1) of the Order.

- (c) gives a direction that a registrant be suspended from the register (including a direction imposing an interim suspension order), or gives a direction amending that direction; or
- (d) gives a direction that a registrant's registration be conditional on his compliance with specified requirements (including a direction imposing an order for interim conditional registration), or gives a direction amending that direction,

the Registrar shall ensure that an appropriate alteration to the register is made to record that warning, undertaking, direction or amending direction (in the case of directions, once that direction has taken effect).

The content of the register etc.

5.—(1) The register shall, in respect of each person who is entered in the register, contain the following information—

- (a) the registrant's title (including fellowship of the Society);
- (b) name under which the registrant is known professionally;
- (c) the registrant's registration number;
- (d) the registrant's home address;
- (e) the date of first, and any subsequent, registration; and
- (f) any specialisations approved by the Council in accordance with rules made under the Order.

(2) The Registrar may disclose the information referred to in paragraph (1)(a) to (c), (e) and (f) that does not appear in the lists published in accordance with article 30(2) of the Order to—

- (a) an employer of a registrant; or
- (b) any other person, if he considers it to be in the public interest to do so.

(3) The name included in the register in accordance with paragraph (1)(b) is the "registered name" of the registrant for the purpose of these Rules.

(4) The address included in the register in accordance with paragraph (1)(d) is the "registered address" of the registrant for the purpose of these Rules.

(5) The Registrar shall only record a title to be included in the register by virtue of paragraph (1)(a) (other than Mr, Mrs, Miss or Ms) where he is satisfied as to the authenticity of the title claimed.

PART 3

Applications related to registration

Application for registration in the Register of Pharmacists

6.—(1) Subject to the following provisions of this rule, applicants for registration in the Register of Pharmacists shall apply using the relevant application form, which shall be in such form as the Council shall determine from time to time.

(2) The application form shall—

- (a) require the applicant—
 - (i) to specify the part of the register in which registration is sought, and if the applicant wishes to be registered in Part 2, to give the undertaking referred to in article 11(2) of the Order,
 - (ii) to provide his full home address and contact details (including a telephone number and electronic mail address, where possible),
 - (iii) to declare in terms that he—
 - (aa) agrees, upon registration with the Society, to adhere to the standards, and
 - (bb) understands that, in the event that he is found to have given false or misleading information in connection with his application for registration, he may be removed from the register,

- (iv) to provide any necessary supporting documentation, as mentioned in paragraph (3),
 - (v) to sign and date the application, and
 - (vi) in the case of persons who have qualified within Great Britain, to have the form countersigned and dated by a pharmacist who is registered in the practising part of the register and who is in good standing with the Society;
- (b) include a demand that the applicant pay any relevant prescribed fee;
 - (c) request the applicant to provide information relating to the applicant's gender, ethnicity and any disability, for monitoring purposes.
- (3) A person applying for registration shall provide to the Registrar, together with his application form—
- (a) evidence of his identity in the form of—
 - (i) his passport (or true copy of it, certified by a notary) or another document which is considered acceptable by the Registrar as proof of his identity, and
 - (ii) a photograph which is signed and dated by a legal or health care professional, justice of the peace or person of standing in the community, who has known the applicant for at least two years and who certifies that the photograph is a true likeness of the applicant;
 - (b) where the applicant wishes to use a registered name which is different to the name given on the evidence of his identity—
 - (i) the relevant marriage certificate or certificate of civil partnership,
 - (ii) the relevant certificate of change of name, or
 - (iii) evidence of the change of name in the form of a statutory declaration;
 - (c) evidence of his date of birth in the form of—
 - (i) his passport (or a true copy of it, certified by a notary) or the other document considered acceptable under paragraph (3)(a)(i), and
 - (ii) either—
 - (aa) his birth certificate (or a certified true copy of it), or
 - (bb) a statutory declaration;
 - (d) where an applicant seeks to rely on rights acquired by virtue of marriage or civil partnership to a national of a relevant European State—
 - (i) sufficient evidence (in the opinion of the Registrar) of the marriage or civil partnership,
 - (ii) the passport (or a true copy of it, certified by the Registrar) of the partner that is the national of a relevant European State, and
 - (iii) an explanation, together with any relevant supporting evidence, as to why the applicant is entitled to be treated as an EEA national;
 - (e) sufficient evidence (in the opinion of the Registrar) that he is appropriately qualified;
 - (f) as regards the good physical and mental health of the applicant, in the case of—
 - (i) an exempt person, a document (which, if it is not in English, the Registrar may require to be translated by a professional translator acceptable to him), issued no more than three months prior to the date on which it is presented to the Registrar, which attests to his good physical and mental health, and which is sufficient evidence of his good physical and mental health for the purposes of article 17(4)(a) of the Order, or
 - (ii) in the case of any other person (or an exempt person who chooses to attest to his physical and mental health in this way), a self declaration, in the form determined by the Council from time to time, of his good physical and mental health, which is signed and dated by the applicant;
 - (g) sufficient evidence (in the opinion of the Registrar) of his good character or repute, which in the case of an exempt person who is considered appropriately qualified by virtue of article 12(1)(b) of the Order, need only include—
 - (i) a document (which, if it is not in English, the Registrar may require to be translated by a professional translator acceptable to him), issued no more than three months prior to the date

on which it is presented to the Registrar, which is sufficient evidence of his good character or repute for the purposes of article 17(4)(b) of the Order, and

- (ii) a self declaration in respect of the matters set out in article 48(1)(e) to (k) of the Order, in the form determined by the Council from time to time, of his good character or repute, which is signed and dated by the applicant,

but which in other cases shall include a self declaration (in respect of the matters set out in article 48(1)(e) to (k) of the Order, in the form determined by the Council from time to time, of his good character or repute, which is signed and dated by the applicant) and may include the additional matters set out in paragraph (4); and

- (h) such additional documents, information or evidence as the Registrar may reasonably require for the purposes of verifying the information in, or determining, the application.

(4) The additional matters referred to in paragraph (3)(g) are—

- (a) a completed and signed application form and authorisation for the Registrar to obtain a certificate of enhanced disclosure from the Criminal Records Bureau;
- (b) where the applicant has previously obtained a certificate of standard or enhanced disclosure from the Criminal Records Bureau for the purpose of applying to be entered on a list of performers or providers of pharmaceutical services as part of the health service, a certified true copy of that certificate;
- (c) where the applicant has been the subject of a determination by a regulatory body that his fitness to practise is impaired, or a determination to the same effect, details of any investigations, the proceedings and the outcome;
- (d) in the case of a pharmacist who qualified or has practised outside Great Britain, a certificate of good standing or current professional status issued no more than six months prior to the date of the application—
 - (i) by the appropriate authority of the country in which the pharmacist qualified, and
 - (ii) by the appropriate authority of every country in which the pharmacist has practised within the five years immediately preceding the date of the application;
- (e) in the case of an applicant who obtained his degree in the United Kingdom, confirmation from the university which awarded the degree that nothing adverse is known about the applicant.

(5) Before deciding whether or not an applicant's fitness to practise is impaired for reasons other than adverse physical or mental health, the Registrar may seek the advice of the Disciplinary Committee in respect of the application.

(6) In making a decision about an applicant's good character, the Registrar shall have regard to the matters set out in the Society's Good Character Assessment Framework, published by the Council under article 45(1) of the Order.

(7) Before deciding whether or not an applicant's fitness to practise is impaired because of adverse physical or mental health, the Registrar may seek the advice of the Health Committee in respect of the application.

(8) The Registrar shall refuse the application if the applicant does not pay the relevant prescribed fee.

Retention in the Register of Pharmacists

7.—(1) Each registrant who appears in the Register of Pharmacists on 1st January of any calendar year shall be liable to pay the retention fee for that year.

(2) Subject to the following provisions of this rule, applicants for retention in the Register of Pharmacists shall apply using the relevant application form, which shall be in such form as the Council shall determine from time to time, and which shall include the retention fee notice.

(3) The Registrar shall send to each registrant an application form for retention in the register at least one month before the date on which the retention fee falls due.

(4) If a registrant has not received an application form for retention in the register by 10th December of any year, he must notify the Registrar accordingly.

- (5) The application form shall (amongst other matters)—
- (a) include a demand that the registrant pay the retention fee by 1st January;
 - (b) require the registrant to declare in terms—
 - (i) his intention to adhere (or continue to adhere) to the standards,
 - (ii) whether he is practising or non-practising,
 - (iii) any criminal convictions or police cautions not previously notified to the Society, and
 - (iv) any findings of impairment of his fitness to practise made by a regulatory body which have not previously been notified to the Society;
 - (c) inform the registrant in terms that if the declaration included in the application is not completed to the satisfaction of the Registrar, the Registrar will not process the application and the registrant will be deemed to have failed to pay the retention fee; and
 - (d) inform the registrant in terms that in the event he is found to have given false or misleading information in connection with the retention of him on the register, that may be treated as misconduct for the purposes of article 48(1)(a) of the Order, which may result in his removal from the register.
- (6) Where a registrant has failed to pay the retention fee by 1st January of the year to which the fee relates, the Registrar shall serve on that registrant a final demand informing him in terms that—
- (a) no further warning will be given; and
 - (b) failure to pay the retention fee within two months from the date of the final demand will result in removal of him from the register.
- (7) Subject to paragraph (8), where a registrant has failed to pay the retention fee by the date notified in accordance with paragraph (6), the Registrar shall remove him from the register.
- (8) If either there is an ongoing fitness to practise investigation or there are ongoing fitness to practise proceedings in respect of the registrant, the Registrar shall not remove him from the register under paragraph (7), except in exceptional cases where the public interest would be best served by doing so.

Applications to move to a different part of the Register

8.—(1) Subject to the following provisions of this rule, registrants wishing to move to a different part of the register shall apply using the relevant application form, which shall be in such form as the Council shall determine from time to time.

- (2) The application form shall (amongst other matters)—
- (a) include a demand that the applicant pay any relevant prescribed fee;
 - (b) require the applicant, if he wishes to move to Part 1 of the register, to declare in terms that—
 - (i) he agrees, upon moving to Part 1 of the register, to adhere to the standards, and
 - (ii) he understands that, in the event that he is found to have given false or misleading information in connection with his application, that may be treated as misconduct for the purposes of article 48(1)(a) of the Order, which may result in his removal from the register;
 - (c) require the applicant to provide any necessary supporting documentation, information or evidence as mentioned in the application form, and such additional documents, information or evidence as the Registrar may reasonably require for the purposes of verifying the information in and determining the application; and
 - (d) require the applicant to sign and date the application.
- (3) Before deciding whether or not to grant an application, the Registrar may seek the advice of the Health or Disciplinary Committee in respect of the application.
- (4) The Registrar shall refuse the application if the applicant does not pay the relevant prescribed fee.

Applications for annotations to denote that a registered pharmacist is a supplementary prescriber or an independent prescriber

9.—(1) Subject to the following provisions of this rule, a registered pharmacist seeking an annotation to the Register of Pharmacists, or the restoration of an annotation to the Register of Pharmacists, to denote he is a supplementary prescriber or an independent prescriber^(a) shall apply using the relevant application form, which shall be in such form as the Council shall determine from time to time.

(2) The application form shall (amongst other matters)—

(a) include a demand that the applicant pay any relevant prescribed fee; and

(b) require the applicant—

(i) to provide any necessary supporting documentation, information or evidence as mentioned in the application form, and such additional documents, information or evidence as the Registrar may reasonably require for the purposes of verifying the information in and determining the application, and

(ii) to sign and date the application.

(3) The Registrar shall refuse the application if the applicant does not pay the relevant prescribed fee.

(4) Each registered pharmacist whose entry in the Register of Pharmacists on 1st January of any calendar year is annotated to the effect that he is a supplementary prescriber or an independent prescriber shall be liable to pay the retention fee in respect of that annotation for that year.

(5) Subject to the following provisions of this rule, applicants for retention of such an annotation shall apply using the relevant application form, which shall be in such form as the Council shall determine from time to time.

(6) The Registrar shall send to each registrant whose entry in the register is annotated an application form for retention of the annotation at least one month before the date on which the retention fee in respect of that annotation falls due.

(7) If a registrant with an annotation has not received an application form for retention of the annotation by 10th December of any year, he must notify the Registrar accordingly.

(8) The application form for retention of the annotation shall (amongst other matters) include a demand that the registrant pay the retention fee in respect of the annotation by 1st January.

(9) Where a registrant has failed to pay the retention fee in respect of an annotation by 1st January of the year to which the fee relates, the Registrar shall serve on that registrant a final demand informing him in terms that—

(a) no further warning will be given; and

(b) failure to pay the retention fee in respect of the annotation within two months from the date of the final demand will result in removal of the annotation.

(10) Where a registrant has failed to pay the retention fee in respect of the annotation by the date notified in accordance with paragraph (9), the Registrar shall remove the annotation from the Register of Pharmacists.

(11) The Registrar shall remove any annotation in the Register of Pharmacists to denote that a registrant is a supplementary prescriber or an independent prescriber where doing so is necessary to give effect to a decision of a fitness to practise committee.

Applications for voluntary removal from the register or of annotations to the register

10.—(1) Subject to the following provisions of this rule, a registrant seeking voluntary removal from the register, or of an annotation to the register, shall apply using the relevant application form, which shall be in such form as the Council shall determine from time to time.

(2) The application form for a registrant seeking voluntary removal from the register shall (amongst other matters)—

(a) These are the only specialisations that are currently subject to annotations.

- (a) include a demand that the applicant pay any relevant prescribed fee; and
- (b) require the applicant—
 - (i) if he is a superintendent pharmacist, to state this fact,
 - (ii) to declare in terms that he is not aware of any investigation by any enforcement or regulatory body, or proceedings brought by such a body, that relate to his fitness to practise, or of any act or omission on his part which might render him liable to an allegation being referred to the Society that his fitness to practise is impaired,
 - (iii) to provide any necessary supporting documentation, information or evidence as mentioned in the application form, and such additional documents, information or evidence as the Registrar may reasonably require for the purposes of verifying the information in and determining the application, and
 - (iv) to sign and date the application.

(3) Upon receipt of an application for voluntary removal from the register, the Registrar shall make such inquiries as he considers necessary to satisfy himself that there are no ongoing investigations or outstanding proceedings relating to the registrant's fitness to practise.

(4) Upon receipt of an application for voluntary removal of an annotation to the register, the Registrar shall make such inquiries as he considers necessary in the circumstances of the case, and if he decides to grant the application, he shall correct the register accordingly.

(5) The Registrar shall refuse the application if the applicant does not pay the relevant prescribed fee.

(6) The Registrar shall not grant an application for voluntary removal from the register unless—

- (a) he is satisfied that there are no ongoing investigations or outstanding proceedings relating to the registrant's fitness to practise; or
- (b) in exceptional cases, where there are such investigations or proceedings, he considers that the public interest would be best served by granting the application,

(7) Where an application for voluntary removal from the register has been granted, the Registrar shall remove him from the register and publish that fact in the Pharmaceutical Journal and on the Society's website^(a).

Rescinding decisions if voluntary removal is obtained by false or misleading information

11.—(1) Where the Registrar becomes aware that an application for voluntary removal from the register—

- (a) has been granted in reliance upon information provided by the former registrant relating to fitness to practise matters that was false or misleading; and
- (b) but for that information, the application would have been refused by virtue of rule 10(6),

the Registrar shall rescind the decision to grant the application (and accordingly, the former registrant again becomes a registrant).

(2) That information shall be treated as information which calls into question the registrant's fitness to practise for the purposes of article 49(1)(b) of the Order.

Applications for restoration within twelve months of specified removals from the register

12.—(1) Where a person—

- (a) has been removed from the register under article 17(2)(b) or 33(2) or (3) of the Order, or under rule 7(7) or 10(6); and
- (b) is seeking restoration to the register within twelve months of his removal from it,

(a) The Society's website is at www.rpsgb.org.uk.

subject to the following provisions of this rule, he shall apply using the relevant application form, which shall be in such form as the Council shall determine from time to time^(a).

(2) The application form shall (amongst other matters)—

- (a) include a demand that the applicant pay any relevant prescribed fee; and
- (b) require the applicant—
 - (i) to declare in terms that he is not aware of any investigation by any enforcement or regulatory body, or proceedings brought by such a body, that relate to his fitness to practise, or of any action or omission on his part which might render him liable to an allegation being referred to the Society that his fitness to practise is impaired,
 - (ii) to provide any necessary supporting documentation, information or evidence as mentioned in the application form, and such additional documents, information or evidence as the Registrar may reasonably require for the purposes of verifying the information in and determining the application, and
 - (iii) to sign and date the application.

(3) The Registrar shall refuse the application if the applicant does not pay—

- (a) the relevant prescribed fee relating to the application; and
- (b) if the applicant was removed from the register under rule 7(7), the fee that was outstanding at the time that he was removed.

(4) The Registrar shall refuse the application if the applicant was removed because of a failure to provide documentation, evidence or information and that documentation, evidence or information is not included in his application.

Duty to notify the Registrar of changes to information

13. The registrant shall notify the Registrar forthwith of—

- (a) any change to the name under which he practises, or if he does not practise, the name by which he is generally known;
- (b) any change to his home address or other contact details that he has notified to the Society.

Waiver of fees

14. The Registrar may decide, at his discretion, not to charge a prescribed fee or to waive it in whole or in part.

PART 4

Fraudulent and incorrect entries

Notice of Intention to Remove: stage one

15.—(1) Where the Registrar has reasonable grounds for believing that a registrant's—

- (a) entry in the register may have been fraudulently procured or incorrectly made; or
- (b) fitness to practise was impaired at the time of his registration and he had not informed the Registrar of the relevant matter (that is, a matter that is “a serious matter or a problem with his physical or mental health” for the purposes of article 35(1)(a) of the Order) before his registration,

paragraph (2) applies.

(2) In the circumstances set out in paragraph (1), the Registrar—

(a) All other persons removed under these Rules, apart from rule 4(5), or removed under Parts 2 to 4 of the Order, shall apply in accordance with rule 6.

- (a) may serve a Notice of Intention to Remove on that registrant; and
- (b) shall consider whether or not to refer the matter to the Health Committee or the Disciplinary Committee for it to consider making an order under article 54 of the Order.

(3) If the Registrar has reasonable grounds for believing that the registrant's fitness to practise is impaired, he may decide to consider the matter in accordance with article 49(1) of the Order, instead of serving a Notice of Intention to Remove.

(4) Before serving a Notice of Intention to Remove, the Registrar may make such inquiries, including the instruction of external agents and investigators, and the commissioning of medical reports, as he considers necessary or expedient.

(5) The Notice of Intention to Remove shall—

- (a) set out the grounds for believing that the registrant's—
 - (i) entry in the register may have been fraudulently procured or incorrectly made, or
 - (ii) fitness to practise was impaired at the time of his registration and he had not informed the Registrar of the relevant matter before his registration;
- (b) be accompanied by copies of any evidence that is in a form which can be copied and on which the Registrar would rely in any proceedings under this Part to remove him from the register;
- (c) invite the registrant to submit written representations and any relevant evidence to the Registrar, no later than 28 days after service of the Notice, as to why he should not be removed from the register;
- (d) inform the registrant that, should he fail to submit written representations to the Registrar within the period stipulated in sub-paragraph (c), he shall be removed from the register; and
- (e) except in cases where the Registrar has reasonable grounds for believing that the registrant's entry in the register was incorrectly made, invite him to indicate whether or not he wishes the matter to be considered at a hearing.

Subsequent action by Registrar: stage two

16.—(1) Where the Registrar has not received any representations from the registrant within the period stipulated in rule 15(4)(c), he shall remove that person from the register.

(2) Where the Registrar does receive representations within the period stipulated in rule 15(4)(c), he—

- (a) shall consider the representations and any evidence received; and
- (b) may make such further inquiries (including obtaining legal advice) as he considers necessary.

(3) Where the Registrar is satisfied that the registrant's—

- (a) entry in the register was not fraudulently procured or incorrectly made; or
- (b) fitness to practise was not impaired at the time of his registration, or that it was so impaired but he had informed the Registrar of the relevant matter before his registration,

he shall close the matter and advise the registrant accordingly.

(4) Where the Registrar is minded to determine that the registrant's—

- (a) entry in the register may have been fraudulently procured or incorrectly made, or
- (b) fitness to practise was impaired at the time of his registration and he had not informed the Registrar of the relevant matter before his registration,

if he is minded to rely, when making that determination, on evidence that he has obtained as a result of his further inquiries, paragraph (5) applies, but in all other cases, he shall move to determine the matter in accordance with rule 17(1)(b) or (2).

(5) Where this paragraph applies, the Registrar shall send to the registrant the additional evidence on which he is minded to rely, and if the registrant has not already requested a hearing or is not entitled to one, invite him, no later than 28 days after service of the additional evidence—

- (a) to submit written representations and any relevant additional evidence to the Registrar; or

- (b) except in cases where the Registrar has reasonable grounds for believing that the registrant's entry in the register was incorrectly made, invite him (again) to indicate whether or not he wishes the matter to be considered at a hearing.

Decisions in contested cases: stage three

17.—(1) If the registrant does not request a hearing or is not entitled to one—

- (a) after the period stipulated in rule 16(5), or
- (b) if no such period need be stipulated, once the Registrar has taken a decision to that effect,

the Registrar shall determine the matter.

(2) Where the registrant has requested a hearing (as a response either to the invitation in the Notice of Intention to Remove or the notification under rule 16(5))—

- (a) the Registrar shall refer the matter to the Disciplinary Committee, which shall hold a hearing in accordance with the procedure set out in rule 20 onwards of the Fitness to Practise Rules, for the purposes of making findings of fact in relation to the matter and advising the Registrar accordingly; and
- (b) once the Registrar has received the advice of the Disciplinary Committee, he shall determine the matter.

(3) Where the Registrar determines that the registrant's—

- (a) entry in the register may have been fraudulently procured or incorrectly made; or
- (b) fitness to practise was impaired at the time of his registration and he had not informed the Registrar of the relevant matter before his registration,

he shall remove that person from the register, in accordance with article 34(3) or 35(1) of the Order, whichever is appropriate to his case, but in all other cases he shall close the matter and notify the registrant accordingly.

PART 5

Appeals Procedure

Interpretation of Part 5

18.—(1) In this Part—

“appellant” means a person appealing against an appealable registration decision;

“case officer” means the person representing the Society in matters relating to the appeal prior to any hearing;

“chair” means the chair of the Committee;

“Committee” means the Registration Appeals Committee;

“Notice of Appeal” means a notice of an appeal against an appealable registration decision under article 43(1) of the Order;

“Notice of Hearing” shall be construed in accordance with rules 21(f) and 22;

“parties” means the Society and the appellant (or, where appropriate, their representatives);

“the presenter” means the representative of the Society presenting the case at a hearing (and includes employees of the Society); and

“secretary” means the secretary to the Committee.

(2) For the purposes of this Part—

- (a) a meeting or hearing of the Committee, other than when it is deliberating in private, is considered to be “in private” if it is held in the presence of—
 - (i) the parties and any person representing a party (where present),

- (ii) the person acting as secretary to the Committee,
 - (iii) any witness giving evidence,
 - (iv) any clinical or specialist adviser,
 - (v) any person responsible for the recording of the proceedings, or
 - (vi) any other person whose presence is deemed necessary by the chair of the Committee, but otherwise excluding everyone else; and
- (b) the private deliberations of the Committee are considered to be “in private” if they are held in the presence of—
- (i) the person acting as secretary to the Committee,
 - (ii) any clinical or specialist adviser, or
 - (iii) any person responsible for the recording of the proceedings, but otherwise excluding everyone else.

Venue of proceedings

19. The procedures as regards proceedings set out in this Part shall apply to all proceedings of the Committee irrespective of where in Great Britain the proceedings take place.

Notice of Appeal

20.—(1) Subject to paragraph (3), a Notice of Appeal shall only be valid if it is in the format described in paragraph (2)(a).

(2) The Notice of Appeal shall—

- (a) state that it is a Notice of Appeal;
- (b) provide the full name and address of the appellant;
- (c) provide a daytime telephone number at which the appellant can be contacted;
- (d) state the appellant’s registration number (where applicable);
- (e) state whether the appellant is to be represented in the course of the proceedings, and if so, providing contact details for the representative;
- (f) state the date of the decision being appealed against;
- (g) contain a copy of the decision being appealed against;
- (h) set out the grounds on which the appeal is being brought;
- (i) be accompanied by copies of the material—
 - (i) submitted by the appellant (as an applicant) to the Registrar or the body that made the appealable registration decision prior to the appealable registration decision being taken, or
 - (ii) not so submitted, but on which the appellant intends to rely in the course of the appeal proceedings;
- (j) be accompanied by a skeleton argument containing the submissions of the appellant;
- (k) state whether the appellant wishes the appeal to be considered on the papers or at a hearing; and
- (l) in a case where the appellant wishes a hearing to be held, state whether he wishes for a case management meeting, and if so, the issues he wishes to be considered at that meeting.

(3) At a case management meeting, the chair may—

- (a) extend the time for delivery of the skeleton argument and any additional material necessary to determine the appeal; and
- (b) allow the appellant to amend the details regarding representation.

(a) A template is available on the Society’s website.

Action following receipt of Notice of Appeal

- 21.** Following receipt of the Notice of Appeal, the secretary shall—
- (a) acknowledge receipt of the Notice of Appeal and the accompanying material submitted by the appellant;
 - (b) send copies of the Notice of Appeal and the accompanying material to a case officer;
 - (c) require the case officer to provide him with copies of all documents on which the Society intends to rely in defending the appeal;
 - (d) send copies of any documents provided by the case officer under paragraph (c) to the appellant or (where applicable) his representative;
 - (e) as soon as possible, inform the parties of the date—
 - (i) of any case management meeting (if the chair agrees to hold one), and
 - (ii) on which the Committee will consider the appeal (which, in the case of a hearing, unless the parties agree otherwise, shall be no less than 28 days after the date on which the secretary serves the Notice of Hearing); and
 - (f) where the appellant has stated that he wishes the Committee to consider the appeal at a hearing, send a Notice of Hearing to the parties, which shall be in the format described in rule 22.

Notice of Hearing

- 22.** The Notice of Hearing shall—
- (a) state the date, time and venue of the hearing;
 - (b) inform the appellant of his right to attend and to be represented or accompanied at the hearing in accordance with rule 29(2) and (3);
 - (c) inform the appellant that the Committee may proceed with the hearing in his absence;
 - (d) inform the appellant of the provisions relating to—
 - (i) evidence set out in rule 24,
 - (ii) procedure at hearings set out in rule 28, and
 - (iii) witness evidence set out in rule 30;
 - (e) require the appellant to inform the secretary, within 14 days of service of the Notice of Hearing, whether he intends to—
 - (i) attend the hearing,
 - (ii) be represented at the hearing, and if so, by whom, and
 - (iii) seek to call any witnesses at the hearing, and if so, whom.

Case management meetings

23.—(1) Where a hearing is to be held, a case management meeting may be convened by the chair of his own motion or at the request of the parties.

(2) Where a case management meeting is to be convened, the secretary shall give the parties such notice of it as is reasonable (in the opinion of the chair) in all the circumstances of the case.

(3) A case management meeting may be conducted by teleconference or such other method as is determined by the chair, in consultation with the parties.

(4) Case management meetings shall be held in private.

(5) At a case management meeting, the chair (in addition to the matters mentioned in rule 20(3)) may—

- (a) issue such directions as he considers necessary for the just and expeditious management of the case; and
- (b) give preliminary rulings on questions of law and admissibility of evidence.

Evidence

24.—(1) All questions of admissibility of evidence and law before the Committee shall be decided by the chair.

(2) Subject only to the requirements of relevance and fairness, and with the permission of the chair, the Committee may receive—

- (a) subject to paragraph (3), any documentary evidence; and
- (b) where a hearing is held, any oral evidence,

whether or not such evidence would be admissible in any subsequent civil proceedings if the decision of the Committee were appealed to the relevant court.

(3) Where a party wishes to adduce a witness statement, the Committee shall only receive such evidence if the statement—

- (a) contains an attestation, in a format acceptable to the Committee, that the statement is true; and
- (b) is signed by the person making it.

(4) Where an appellant has been convicted of a criminal offence in the British Islands (and has not successfully appealed against the conviction), a copy of the certificate of conviction certified by a competent officer of the court (or in Scotland, an extract conviction) shall be admissible as conclusive proof of that conviction and the findings of fact on which it was based.

(5) The only evidence which may be adduced by the appellant in rebuttal of a conviction certified or extracted in accordance with paragraph (4) is evidence for the purpose of proving that he is not the person referred to in the certificate or extract.

(6) A formal notification of a determination about an appellant's fitness to practise made by a body responsible under any enactment for the regulation of a health or social care profession (in the United Kingdom or elsewhere), and signed by an officer authorised by that body to sign such a notification, shall be sufficient evidence, unless the contrary is proved, of any facts found proved by that regulatory body.

(7) The chair shall only allow a party to adduce written evidence at a hearing which has not been submitted in accordance with this Part in exceptional circumstances which could not reasonably have been foreseen at the time of the service of the Notice of Appeal or of any case management meeting.

Clinical and other specialist advice

25. The Committee may, at any time in the course of proceedings before it (including at a hearing), seek advice from—

- (a) a clinical adviser, appointed under article 62(1)(a) of the Order, on a health related issue; or
- (b) another specialist adviser, appointed under article 62(1)(b) of the Order, on issues falling within their speciality or related to it.

Burden and standard of proof

26.—(1) The appellant shall bear the burden of establishing that the appealable registration decision against which he is appealing should be overturned.

(2) If the appeal is against a decision to refuse to register the appellant, the Committee shall only decide to register, or direct the Registrar to register, the appellant if the appellant has proved that he is entitled to be registered.

(3) Where facts are in dispute, the Committee shall consider whether they have been established in accordance with the civil standard of proof.

Consideration of appeals on the papers

27.—(1) The Committee shall determine an appeal on the papers unless the appellant has requested a hearing on the Notice of Appeal.

(2) No later than 7 days before the hearing, the secretary shall provide the Committee with an agenda and the documents relevant to the consideration of the appeal.

(3) Before making its decision, in addition to considering the material submitted by the parties, the Committee may obtain advice from a clinical or other specialist adviser appointed in accordance with article 62(1) of the Order.

(4) The secretary shall record—

- (a) any advice tendered by a clinical or specialist adviser (where present);
- (b) any rulings on questions of law or admissibility made by the chair;
- (c) the decision of the Committee; and
- (d) the reasons for the Committee's decision.

Procedure at hearings

28.—(1) No later than 7 days before the hearing, the secretary shall provide the Committee with an agenda and the documents relevant to the consideration of the appeal.

(2) The order of proceedings at the hearing shall be as follows—

- (a) the chair shall declare the hearing open;
- (b) where the appellant is not present or represented at the hearing, the chair—
 - (i) shall require the secretary to adduce evidence that all reasonable efforts have been made to serve the Notice of Hearing on the appellant, and
 - (ii) having consulted the Committee, may—
 - (aa) if he is satisfied that the Notice of Hearing has been duly served, proceed with the hearing in the absence of the appellant, or
 - (bb) adjourn the hearing and issue appropriate directions;
- (c) the presenter shall make an opening statement, outlining what he considers to be the relevant circumstances of the case;
- (d) the appellant may adduce evidence in support of his appeal, and may call witnesses (provided that the chair is satisfied that the witness is in a position to provide relevant testimony and subject to paragraph (4));
- (e) the presenter may adduce evidence in rebuttal of the position of the appellant and in support of the position of the Society, and may call witnesses (provided that the chair is satisfied that the witness is in a position to provide relevant testimony and subject to paragraph (4));
- (f) the appellant may make a closing statement;
- (g) the Committee shall deliberate in private and shall then announce its decision on the appeal in the presence of the parties (where present), together with the reasons for its decision.

(3) The conduct of the hearing shall otherwise be at the discretion of the chair, who may (amongst other matters) invite the parties to make additional submissions to those outlined in paragraph (2).

(4) The chair may refuse to allow a witness to give oral evidence, or to give evidence on a particular matter, if he is satisfied that all or part of the evidence that the witness is to provide, or is to provide on that matter, should have been disclosed to the party not calling the witness at an earlier stage in the proceedings.

Representation

29.—(1) The presenter shall be a person who is—

- (a) a barrister, advocate or solicitor who satisfies the requirements of article 59(2)(c)(i) or (ii) of the Order; or
- (b) an employee of the Society,

or both.

(2) The appellant may be represented by a person who is—

- (a) a barrister, advocate or solicitor who satisfies the requirements of article 59(2)(c)(i) or (ii) of the Order; or
- (b) a representative from his or its defence organisation or his trade union,

or both.

(3) Where the appellant is not represented, he may be accompanied and advised by a supporter, but the supporter—

- (a) shall not be—
 - (i) a member of the Council of the Society or of one of its statutory committees,
 - (ii) an employee of the Society, or
 - (iii) a witness at the hearing; and
- (b) shall only be entitled to address the Committee with the permission of the chair.

Witness evidence

30.—(1) Persons giving oral evidence at a hearing (referred to in these Rules as “witnesses”, and which includes an appellant giving oral evidence) shall be required to take an oath, or to affirm, before giving their oral evidence.

(2) The Society may not compel the appellant to be a witness.

(3) A party may not call a person to be a witness unless that party has provided to the other party a written statement of evidence provided by the witness at least 7 days before the hearing (which meets the requirements of rule 24), unless the chair determines otherwise.

(4) The Committee may, upon the application of the party calling the witness, direct that any details which may identify that witness should not be revealed in public.

(5) Witnesses—

- (a) shall first be examined by the party calling them;
- (b) may be cross examined;
- (c) may then be re-examined by the party calling them;
- (d) may then be questioned by the Committee through the chair, and with the leave of the chair, by a clinical or specialist adviser.

(6) The parties may then question the witnesses on matters arising out of the Committee’s questions, with the party calling the witness being given the last opportunity to do so (as between the parties).

(7) Any further questioning of witnesses shall be at the discretion of the chair.

(8) Except for expert witnesses and the appellant, witnesses shall not be allowed to attend the proceedings until after they have completed giving their evidence and been formally released by the chair.

Attendance of the public at hearings

31.—(1) Subject to paragraph (2), hearings before the Committee shall be conducted in public.

(2) Where an issue under consideration relates to the health of the appellant or a third party, the hearing, or the relevant part of the hearing, that relates to that issue shall be conducted in private if the Committee is satisfied—

- (a) having given the parties (where present), and any third party from whom the Committee considers it appropriate to hear, an opportunity to make representations; and
- (b) having obtained the advice of a clinical adviser,

that the interest of the appellant or the third party in maintaining their privacy as regards that issue outweigh the public interest in holding the hearing, or the relevant part of the hearing, in public.

(3) The Committee may exclude from the whole or any part of a hearing any person whose conduct, in the opinion of the Committee, has disrupted or is likely to disrupt the hearing.

Postponements and adjournments

32.—(1) The chair may, of his own motion, or upon the application of a party, postpone any hearing of which notice has been given under these Rules before the hearing begins.

(2) The Committee may, of its own motion or upon the application of a party, adjourn the proceedings at any stage, provided that—

- (a) no injustice is caused to the parties; and
- (b) the decision to adjourn is made after hearing representations from the parties (where present).

(3) In considering whether or not to grant a request for postponement or adjournment, the chair or Committee shall, amongst other matters, have regard to—

- (a) the public interest in the expeditious disposal of the case;
- (b) the potential inconvenience caused to a party or any witnesses to be called by that party;
- (c) the conduct of the party seeking the postponement or adjournment; and
- (d) fairness to the appellant.

(4) Where the proceedings have been postponed or adjourned, the secretary shall, as soon as practicable, notify the parties of the date, time and venue of the postponed or resumed hearing.

Decision of the Committee

33.—(1) The written notice under article 43(5), shall be given, in addition to the appellant, to—

- (a) the case officer; and
- (b) any other person whom the secretary considers, in the public interest, ought to be informed of the Committee's decision.

(2) The written notice given to the appellant shall be accompanied by a record of—

- (a) any advice relating to the case tendered by a clinical or specialist adviser;
- (b) any rulings on questions of law or admissibility of evidence made by the chair.

Costs of the hearing

34.—(1) Where a hearing is to be held, the parties shall serve on each other, and on the secretary, a schedule of costs or expenses relating to the hearing no less than 24 hours before the date of the hearing.

(2) After announcing the Committee's decision on the appeal, the chair may invite representations as to whether costs or expenses should be assessed against either party.

(3) After hearing any representations from the parties, the Committee may, if it thinks fit and having regard to the party's ability to pay, order that a party pay by a specified date all or part of the costs or expenses relating to the hearing incurred by the other party.

(4) Where the Committee orders a party to pay costs or expenses, the chair may—

- (a) summarily assess the costs or expenses to be paid; or
- (b) require the parties either to agree the figure for the costs or expenses to be awarded or to submit to taxation before a person appointed by the secretary.

(5) Where a person is appointed by the secretary in accordance with paragraph (4)(b), if one of the parties has provided an estimate of costs or expenses that is above the final figure arrived at by the person appointed, that party shall pay the costs of the taxation.

Notes and transcripts of hearings

35.—(1) Subject to paragraph (3), the Society shall arrange for all hearings to be recorded in writing or electronic form.

(2) Any party to the proceedings shall, on application to the Society and on payment of any fee determined by the Society under article 63(1) of the Order, be furnished with a transcript of the record of any part of the hearing at which he was entitled to be present.

(3) The private deliberations of the Committee shall not be recorded.

Given under the official seal of the Royal Pharmaceutical Society of Great Britain this 15th day of February
2007



Hemant Patel
President

Ann Lewis
Secretary

EXPLANATORY NOTE

(This note is not part of the Order)

This Order approves Rules of the Royal Pharmaceutical Society of Great Britain (“the Society”) that set out various matters relating to the Register of Pharmacists and (once article 21 of the Pharmacists and Pharmacy Technicians Order 2007 (“the Order”) comes into force) the Register of Pharmacy Technicians – in particular, application arrangements and provisions regarding appeals against adverse decisions to the Society’s Registration Appeals Committee.

Part 1 contains preliminary matters, including provisions relating to the service of documents. Part 2 deals with the form and keeping of the registers. Amongst other matters it requires the registers to be kept in an electronic format and secure, and contains provisions relating to the recording of fitness to practise matters.

Part 3 contains the detailed provisions relating to applications for registration in, and retention in, the Register of Pharmacists – and for the inclusion and retention of annotations in that Register to denote that the applicant is a supplementary prescriber or an independent prescriber. Applications have to be accompanied by the relevant prescribed fee and must generally be refused if this is not paid. As regards applications for retention in that Register or retention of annotations, a final demand must be sent before the registrant is removed from the Register or his annotation is removed.

Separate provision is made for applications for moving between different parts of the registers and for voluntary removal from them. Applications for voluntary removal will generally be refused where there is an ongoing investigation or there are outstanding proceedings relating to the registrant’s fitness to practise. Registrants are given duties to notify the Registrar forthwith of changes to their name or contact details, and the Registrar is given a discretion to waive fees.

Part 4 contains a procedure for dealing with registration that may have been fraudulently procured or incorrectly obtained, or where the registrant’s fitness to practise was impaired at the time of registration but this was not declared to the Registrar. In these cases, before determining the matter, the Registrar will serve a Notice of Intention to Remove, and the registrant may elect for a hearing (which will be before the Society’s Disciplinary Committee) or for his case to be determined on the papers.

Part 5 contains the appeals procedure for a range of appealable registration decisions, a term defined in the Order: it includes most decisions to refuse to grant applications for registration or for annotations in the register to denote specialisations. Appeals are to the Society’s Registration Appeals Committee. The applicant is required to complete a Notice of Appeal which has to contain specified information, such as the grounds for appeal. There are detailed provisions relating to the submission of evidence and, where an appellant elects for an oral hearing, the procedures for the hearing including the calling of witnesses. There are also provisions relating to the burden and standard of proof to be applied (the civil standard), costs and the availability of transcripts.

2007 No. 441

HEALTH CARE AND ASSOCIATED PROFESSIONS

PHARMACISTS

The Royal Pharmaceutical Society of Great Britain (Registration
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