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STATUTORY INSTRUMENTS

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**2010 No. 231**

**The Pharmacy Order 2010**

**PART 4**

**Registration**

**Appeals to the Appeals Committee**

**40.**—(1) Except as provided for by paragraphs (2) and (3), a person in respect of whom an appealable decision has been made may appeal against it to the Appeals Committee by giving notice of appeal to the Registrar within 28 days beginning with the date on which the written statement of the reasons for the decision was sent.

<sup>F1</sup>(1A) .....

(2) In the case of an appealable decision to which paragraph (4) or (9) of article 24 applies, the person in respect of whom that decision has been made may appeal against it to the Appeals Committee by giving notice of appeal to the Registrar within 28 days beginning with the date on which [<sup>F2</sup>by virtue of that paragraph—

(a) the application is taken to have been refused by the Registrar; <sup>F3</sup>...

<sup>F3</sup>(b) .....]

(3) In the case of an appealable decision to which paragraph (6)(a) or (b) of article 47 applies, the institution or other provider on which probational or remedial measures have been imposed or from or in relation to which approval has been withdrawn or refused may bring an appeal to the Appeals Committee by giving notice of appeal to the Council within 28 days beginning with the date on which the decision is made or within such longer period as the Council may, in the circumstances of any particular case, allow.

(4) Where, on an application by a person in respect of whom an appealable decision to which paragraph (1) relates has been made, the Registrar is satisfied that that person did not receive the written statement of the reasons for the decision within 14 days of the statement being sent, the Registrar may by authorisation in writing extend the time for giving notice of appeal under paragraph (1).

(5) Where an appealable decision to which paragraph (3) relates has been taken, the decision to impose probational or remedial measures on, or to refuse approval of or withdraw approval from, an institution or other provider does not take effect—

- (a) until the period for bringing an appeal in respect of the decision has expired, but if the period for bringing an appeal has been extended under paragraph (4), that extended period is, for the purposes of this paragraph, to be treated as a period for bringing an appeal (notwithstanding that this may require reversal of the action taken); and
- (b) where an appeal is brought within the period for bringing an appeal, until the date on which the appeal is finally disposed of, or is abandoned or fails by reason of its non-prosecution.

(6) Where an appealable decision has been taken to remove an entry or an annotation in respect of a person or a registered pharmacy from any part of the Register, or to refuse to renew such an entry or annotation in any part of the Register, the decision does not take effect—

- (a) until the period for bringing an appeal in respect of the decision has expired, but if the period for bringing an appeal has been extended under paragraph (4), that extended period is, for the purposes of this paragraph, to be treated as the period for bringing an appeal (notwithstanding that this may require reversal of the action taken); and
- (b) where an appeal is brought within the period for bringing an appeal, until the date on which the appeal is finally disposed of, or is abandoned or fails by reason of its non-prosecution.

(7) Having considered the appeal, the Appeals Committee may—

- (a) dismiss the appeal;
- (b) allow the appeal and quash the decision appealed against<sup>F4</sup> ... ;
- (c) substitute for the decision appealed against any other decision that the person taking the decision could have taken;<sup>F5</sup> ...

[<sup>F6</sup>(ca) <sup>F7</sup> ..... or]

- (d) remit or refer the case to the Registrar for disposal of the matter in accordance with the Appeals Committee’s directions.

(8) The Appeals Committee must, as soon as reasonably practicable, send to the person bringing the appeal a statement in writing giving the person notice of the Committee’s decision and the reasons for it and of any right of appeal under article 41(1).

(9) Except as provided in paragraph (10), the statement referred to in paragraph (8) must be sent—

- (a) where the appellant is an individual, to that individual at that individual’s home address in the Register;
- (b) where the appellant is a partnership, to that partnership at its principal office; and
- (c) where the appellant is a body corporate, to that body corporate at its registered or principal office.

(10) Where the appellant is an institution or other provider on which probational or remedial measures have been imposed or from or in relation to which approval has been withdrawn or refused, the statement referred to in paragraph (8) must be sent to that institution or other provider at the last known address of that institution or other provider.

(11) Subject to paragraph (12), the Appeals Committee must, as soon as reasonably practicable, publish, in such manner as it sees fit, its decision and the reasons for it.

(12) If the Appeals Committee has allowed the appeal, or has taken a decision or issued a direction that has the effect of allowing the appeal, it is not required to publish its decision and the reasons for it unless the person making the appeal so requests.

(13) For the purposes of paragraphs (5) and (6) an appeal is finally disposed of once all rights in relation to the appeal have been exhausted.

(14) In this article any reference to a person in respect of whom an appealable decision has been made is, in a case where the decision relates to a registered pharmacy, or to premises that have been or would have been a registered pharmacy, to be construed as a reference to the applicant for registration or, as the case may be, to the person who is or has been carrying on a retail pharmacy business at the premises.

**F1** [Art. 40\(1A\)](#) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 2 para.**

- 25(a)** (with reg. 12A, Sch. 2 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 10(3)-(7)); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in art. 40(2) substituted (1.6.2016) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **52**; S.I. 2015/1451, art. 6(b)
- F3** Art. 40(2)(b) and preceding word omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 2 para. 25(b)** (with reg. 12A, Sch. 2 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 10(3)-(7)); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in art. 40(7)(b) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 2 para. 25(c)(i)** (with reg. 12A, Sch. 2 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 10(3)-(7)); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Word in art. 40(7)(c) omitted (18.11.2016) by virtue of The European Qualifications (Health and Social Care Professions) Regulations 2016 (S.I. 2016/1030), regs. 1, **35(4)** (with reg. 155)
- F6** Art. 40(7)(ca) inserted (18.11.2016) by The European Qualifications (Health and Social Care Professions) Regulations 2016 (S.I. 2016/1030), regs. 1, **35(5)** (with reg. 155)
- F7** Art. 40(7)(ca) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 2 para. 25(c)(ii)** (with reg. 12A, Sch. 2 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 10(3)-(7)); 2020 c. 1, Sch. 5 para. 1(1)

#### Commencement Information

- I1** Art. 40 in force at 10.2.2010 for specified purposes, see **art. 1(3)**
- I2** Art. 40(1), (3)-(14) in force at 27.9.2010 in so far as not already in force by S.I. 2010/1621, art. 2(1), **Sch.**
- I3** Art. 40(2) in force at 27.9.2010 for specified purposes by S.I. 2010/1621, art. 2(1), **Sch.**
- I4** Art. 40(2) in force at 4.1.2011 in so far as not already in force by S.I. 2010/1621, **art. 2(2)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Pharmacy Order 2010, Section 40.