

Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use

TITLE IV

MANUFACTURE AND IMPORTATION

Article 40

1 Member States shall take all appropriate measures to ensure that the manufacture of the medicinal products within their territory is subject to the holding of an authorization. This manufacturing authorization shall be required notwithstanding that the medicinal products manufactured are intended for export.

2 The authorization referred to in paragraph 1 shall be required for both total and partial manufacture, and for the various processes of dividing up, packaging or presentation.

However, such authorization shall not be required for preparation, dividing up, changes in packaging or presentation where these processes are carried out, solely for retail supply, by pharmacists in dispensing pharmacies or by persons legally authorized in the Member States to carry out such processes.

3 Authorization referred to in paragraph 1 shall also be required for imports coming from third countries into a Member State; this Title and Article 118 shall have corresponding application to such imports as they have to manufacture.

[^{F14} The Member States shall forward to the Agency a copy of the authorisation referred to in paragraph 1. The Agency shall enter that information on the Community database referred to in Article 111(6).]

Textual Amendments

F1 Inserted by [Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use.](#)

Article 41

In order to obtain the manufacturing authorization, the applicant shall meet at least the following requirements:

- (a) specify the medicinal products and pharmaceutical forms which are to be manufactured or imported and also the place where they are to be manufactured and/or controlled;
- (b) have at his disposal, for the manufacture or import of the above, suitable and sufficient premises, technical equipment and control facilities complying with the legal requirements which the Member State concerned lays down as regards both manufacture and control and the storage of medicinal products, in accordance with Article 20;
- (c) have at his disposal the services of at least one qualified person within the meaning of Article 48.

The applicant shall provide particulars in support of the above in his application.

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Article 42

1 The competent authority of the Member State shall issue the manufacturing authorization only after having made sure of the accuracy of the particulars supplied pursuant to Article 41, by means of an inquiry carried out by its agents.

2 In order to ensure that the requirements referred to in Article 41 are complied with, authorization may be made conditional on the carrying out of certain obligations imposed either when authorization is granted or at a later date.

3 The authorization shall apply only to the premises specified in the application and to the medicinal products and pharmaceutical forms specified in that same application.

Article 43

The Member States shall take all appropriate measures to ensure that the time taken for the procedure for granting the manufacturing authorization does not exceed 90 days from the day on which the competent authority receives the application.

Article 44

If the holder of the manufacturing authorization requests a change in any of the particulars referred to in points (a) and (b) of the first paragraph of Article 41, the time taken for the procedure relating to this request shall not exceed 30 days. In exceptional cases this period of time may be extended to 90 days.

Article 45

The competent authority of the Member State may require from the applicant further information concerning the particulars supplied pursuant to Article 41 and concerning the qualified person referred to in Article 48; where the competent authority concerned exercises this right, application of the time-limits referred to in Article 43 and 44 shall be suspended until the additional data required have been supplied.

Article 46

The holder of a manufacturing authorization shall at least be obliged:

- (a) to have at his disposal the services of staff who comply with the legal requirements existing in the Member State concerned both as regards manufacture and controls;
- (b) to dispose of the authorized medicinal products only in accordance with the legislation of the Member States concerned;
- (c) to give prior notice to the competent authority of any changes he may wish to make to any of the particulars supplied pursuant to Article 41; the competent authority shall, in any event, be immediately informed if the qualified person referred to in Article 48 is replaced unexpectedly;
- (d) to allow the agents of the competent authority of the Member State concerned access to his premises at any time;
- (e) to enable the qualified person referred to in Article 48 to carry out his duties, for example by placing at his disposal all the necessary facilities;
- (f) ^{F2}to comply with the principles and guidelines of good manufacturing practice for medicinal products and to use as starting materials only active substances, which have

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been manufactured in accordance with the detailed guidelines on good manufacturing practice for starting materials.

[^{F3}This point shall also be applicable to certain excipients, the list of which as well as the specific conditions of application of which shall be established by a Directive adopted by the Commission. That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 121(2a).]]

Textual Amendments

- F2** Substituted by [Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use.](#)
- F3** Substituted by [Directive 2008/29/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use, as regards the implementing powers conferred on the Commission.](#)

[^{F1}Article 46a

1 For the purposes of this Directive, manufacture of active substances used as starting materials shall include both total and partial manufacture or import of an active substance used as a starting material as defined in Part I, point 3.2.1.1 (b) Annex I, and the various processes of dividing up, packaging or presentation prior to its incorporation into a medicinal product, including repackaging or re-labelling, such as are carried out by a distributor of starting materials.

[^{F32} The Commission shall be empowered to adapt paragraph 1 to take account of scientific and technical progress. That measure, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 121(2a).]]

Textual Amendments

- F1** Inserted by [Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use.](#)
- F3** Substituted by [Directive 2008/29/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use, as regards the implementing powers conferred on the Commission.](#)

Article 47

[^{F3}The principles and guidelines of good manufacturing practices for medicinal products referred to in Article 46(f) shall be adopted in the form of a directive. That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 121(2a).]

Detailed guidelines in line with those principles will be published by the Commission and revised necessary to take account of technical and scientific progress.

[^{F1}The principles of good manufacturing practice for active substances used as starting materials referred to in point (f) of Article 46 shall be adopted in the form of detailed guidelines.

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The Commission shall also publish guidelines on the form and content of the authorisation referred to in Article 40(1), on the reports referred to in Article 111(3) and on the form and content of the certificate of good manufacturing practice referred to in Article 111(5).]

Textual Amendments

- F1** Inserted by [Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use.](#)
- F3** Substituted by [Directive 2008/29/EC of the European Parliament and of the Council of 11 March 2008 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use, as regards the implementing powers conferred on the Commission.](#)

Article 48

1 Member States shall take all appropriate measures to ensure that the holder of the manufacturing authorization has permanently and continuously at his disposal the services of at least one qualified person, in accordance with the conditions laid down in Article 49, responsible in particular for carrying out the duties specified in Article 51.

2 If he personally fulfils the conditions laid down in Article 49, the holder of the authorization may himself assume the responsibility referred to in paragraph 1.

Article 49

1 Member States shall ensure that the qualified person referred to in Article 48 fulfils the [F⁴minimum] conditions of qualification set out in paragraphs 2 and 3.

2 A qualified person shall be in possession of a diploma, certificate or other evidence of formal qualifications awarded on completion of a university course of study, or a course recognized as equivalent by the Member State concerned, extending over a period of at least four years of theoretical and practical study in one of the following scientific disciplines: pharmacy, medicine, veterinary medicine, chemistry, pharmaceutical chemistry and technology, biology.

However, the minimum duration of the university course may be three and a half years where the course is followed by a period of theoretical and practical training of a minimum duration of one year and including a training period of at least six months in a pharmacy open to the public, corroborated by an examination at university level.

Where two university courses or two courses recognized by the State as equivalent co-exist in a Member State and where one of these extends over four years and the other over three years, the three-year course leading to a diploma, certificate or other evidence of formal qualifications awarded on completion of a university course or its recognized equivalent shall be considered to fulfil the condition of duration referred to in the second subparagraph in so far as the diplomas, certificates or other evidence of formal qualifications awarded on completion of both courses are recognized as equivalent by the State in question.

The course shall include theoretical and practical study bearing upon at least the following basic subjects:

- [F²Experimental physics]
- General and inorganic chemistry
- Organic chemistry
- Analytical chemistry

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- Pharmaceutical chemistry, including analysis of medicinal products
- General and applied biochemistry (medical)
- Physiology
- Microbiology
- Pharmacology
- Pharmaceutical technology
- Toxicology
- Pharmacognosy (study of the composition and effects of the natural active substances of plant and animal origin).

Studies in these subjects should be so balanced as to enable the person concerned to fulfil the obligations specified in Article 51.

In so far as certain diplomas, certificates or other evidence of formal qualifications mentioned in the first subparagraph do not fulfil the criteria laid down in this paragraph, the competent authority of the Member State shall ensure that the person concerned provides evidence of adequate knowledge of the subjects involved.

3 The qualified person shall have acquired practical experience over at least two years, in one or more undertakings which are authorized to manufacture medicinal products, in the activities of qualitative analysis of medicinal products, of quantitative analysis of active substances and of the testing and checking necessary to ensure the quality of medicinal products.

The duration of practical experience may be reduced by one year where a university course lasts for at least five years and by a year and a half where the course lasts for at least six years.

Textual Amendments

- F2** Substituted by [Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use.](#)
- F4** Deleted by [Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use.](#)

Article 50

1 A person engaging in the activities of the person referred to in Article 48 from the time of the application of Directive 75/319/EEC, in a Member State without complying with the provisions of Article 49 shall be eligible to continue to engage in those activities [^{F2}within the Community].

2 The holder of a diploma, certificate or other evidence of formal qualifications awarded on completion of a university course — or a course recognized as equivalent by the Member State concerned — in a scientific discipline allowing him to engage in the activities of the person referred to in Article 48 in accordance with the laws of that State may — if he began his course prior to 21 May 1975 — be considered as qualified to carry out in that State the duties of the person referred to in Article 48 provided that he has previously engaged in the following activities for at least two years before 21 May 1985 following notification of this directive in one or more undertakings authorized to manufacture: production supervision and/or qualitative and quantitative analysis of active substances, and the necessary testing and checking under the direct authority of the person referred to in Article 48 to ensure the quality of the medicinal products.

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If the person concerned has acquired the practical experience referred to in the first subparagraph before 21 May 1965, a further one year's practical experience in accordance with the conditions referred to in the first subparagraph will be required to be completed immediately before he engages in such activities.

Textual Amendments

- F2** Substituted by [Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use.](#)

Article 51

1 Member States shall take all appropriate measures to ensure that the qualified person referred to in Article 48, without prejudice to his relationship with the holder of the manufacturing authorization, is responsible, in the context of the procedures referred to in Article 52, for securing:

- a in the case of medicinal products manufactured within the Member States concerned, that each batch of medicinal products has been manufactured and checked in compliance with the laws in force in that Member State and in accordance with the requirements of the marketing authorization;
- [^{F2}b in the case of medicinal products coming from third countries, irrespective of whether the product has been manufactured in the Community, that each production batch has undergone in a Member State a full qualitative analysis, a quantitative analysis of at least all the active substances and all the other tests or checks necessary to ensure the quality of medicinal products in accordance with the requirements of the marketing authorisation.]

The batches of medicinal products which have undergone such controls in a Member State shall be exempt from the controls if they are marketed in another Member State, accompanied by the control reports signed by the qualified person.

2 In the case of medicinal products imported from a third country, where appropriate arrangements have been made by the Community with the exporting country to ensure that the manufacturer of the medicinal product applies standards of good manufacturing practice at least equivalent to those laid down by the Community, and to ensure that the controls referred to under point (b) of the first subparagraph of paragraph 1 have been carried out in the exporting country, the qualified person may be relieved of responsibility for carrying out those controls.

3 In all cases and particularly where the medicinal products are released for sale, the qualified person must certify in a register or equivalent document provided for that purpose, that each production batch satisfies the provisions of this Article; the said register or equivalent document must be kept up to date as operations are carried out and must remain at the disposal of the agents of the competent authority for the period specified in the provisions of the Member State concerned and in any event for at least five years.

Textual Amendments

- F2** Substituted by [Directive 2004/27/EC of the European Parliament and of the Council of 31 March 2004 amending Directive 2001/83/EC on the Community code relating to medicinal products for human use.](#)

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Article 52

Member States shall ensure that the duties of qualified persons referred to in Article 48 are fulfilled, either by means of appropriate administrative measures or by making such persons subject to a professional code of conduct.

Member States may provide for the temporary suspension of such a person upon the commencement of administrative or disciplinary procedures against him for failure to fulfil his obligations.

Article 53

The provisions of this Title shall also apply to homeopathic medicinal products.