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## STATUTORY INSTRUMENTS

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# 1976 No. 1213

## Pharmacy (Northern Ireland) Order 1976

### PART III

#### REGISTRATION OF PHARMACEUTICAL CHEMISTS, DRUGGISTS AND STUDENTS

##### **The registers**

6.—(1) There shall continue to be kept, in accordance with the succeeding provisions of this Order,—

- (a) a register of pharmaceutical chemists;
- (b) a register of druggists; and
- (c) a register of students.

(2) Registration under this Order shall not entitle any person so registered to practice medicine or surgery or any branch of medicine or surgery.

##### **Examinations**

7.—(1) For the purpose of ascertaining the proficiency in any subjects of persons desirous of being registered under this Order as pharmaceutical chemists, the Council may cause examinations to be held at such times and in such manner as may be prescribed, and shall appoint examiners to conduct any such examinations.

(2) A person shall not conduct any such examination until his appointment has been approved by the Head of the Department, and such appointment shall not continue in force for more than five years except with the consent of the Head of the Department on application being made by the Council.

(3) The Society shall allow the Pharmacy Inspector or any other officer appointed by the Department for that purpose to be present during the progress of any examination held for the purposes of this Order.

(4) Examiners appointed to conduct any examination under this Article may, after such examination, grant or refuse to the persons taking part in the examination, as the examiners in their discretion may consider fit, recognition of the proficiency of such persons in the subjects of the examination, or any of them.

(5) The Council may make arrangements for the holding of examinations for the purposes of this Order with—

- (a) any university in Northern Ireland;
- (b) any institution of further education or other body in Northern Ireland which may be prescribed for the holding of such examinations.

(6) For the purpose of ascertaining the proficiency of candidates in any subject, the Council may recognise—

- (a) the examinations of, or any examinations accepted by—

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- (i) any university in Northern Ireland; or
- (ii) any institution or body such as is referred to in paragraph (5)( b) which is prescribed for the purposes of this paragraph;
- (b) the examinations of—
  - (i) any other university in the United Kingdom;
  - (ii) any body in the United Kingdom which is recognised by the Council as a body of comparable academic status to a university and is prescribed for the purposes of this paragraph.

### Qualifications for registration

8.—(1) Every person who possesses the prescribed qualifications and gives to the registrar such reasonable proof of such qualifications as may be prescribed shall, upon payment to the Society of the proper fees (if any), be entitled to be registered as a student under this Order.

(2) [<sup>F1</sup>Subject to paragraph (2A),] The following persons shall, upon payment to the Society of the proper fees (if any), be entitled to be registered under this Order as pharmaceutical chemists—

- (a) every person who, immediately before the commencement of this Order, was entitled to be registered as a pharmaceutical chemist under the Act of 1925;
- (b) every person who—
  - (i) is registered as a student;
  - (ii) has been duly examined in such subjects as may be prescribed and has obtained from the examiners recognition of his proficiency therein; or possesses such qualifications as may be prescribed and, having been duly examined in any additional subject which may be prescribed for a person of those qualifications, has obtained from the examiners recognition of his proficiency in that subject;
  - (iii) has undergone such a course of practical training as may be prescribed; and
  - (iv) has attained the age of twenty-one years;

and who gives to the registrar such reasonable proof of those facts as may be prescribed.

[<sup>F2</sup>(c) every person who, being a national of a member State, holds an appropriate European diploma.]

[<sup>F1</sup>(2A) A person shall not be entitled to be registered under this Order as a pharmaceutical chemist by virtue of paragraph (2)(b) or (c) unless he satisfies such conditions (if any) as to character, physical or mental health or other matters as may be prescribed.]

(3) Every person who, immediately before the commencement of this Order, was entitled to be registered as a druggist under the Act of 1925 shall, upon payment of the proper fees (if any), be entitled to be registered as a druggist under this Order.

(4) Notwithstanding anything in paragraph (2), the Council may, if it thinks fit, cause to be registered under this Order as a pharmaceutical chemist any person (other than a person such as is described in paragraph (2)( a)[<sup>F2</sup> or (c)] who is a member of a prescribed pharmaceutical society outside Northern Ireland and who—

- (a) satisfies the Council as to his competence to practise as a pharmaceutical chemist;
- (b) pays to the Society the proper fees (if any) for registration; and
- (c) complies with such other conditions as may be prescribed.

[<sup>F3</sup>(5) Where a person—

- (a) gives to the registrar such reasonable proof as may be prescribed that he satisfies the prescribed requirements for a particular annotation to be recorded against his name in the register of pharmaceutical chemists in accordance with regulations under Article 5(1)(ff); and
- (b) pays the prescribed fee to the Society,

he shall be entitled to have that annotation recorded against his name in that register.]

- F1 1994 NI 2
- F2 SR 1987/457
- F3 SR 2004/78

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

- C1 Art. 8(2)(c) power to restrict conferred by S.I. 1972/1265 (N.I. 14), art. 63AA(3)(c) (as inserted (26.3.2008) by Health (Miscellaneous Provisions) Act (Northern Ireland) 2008 (c. 2), ss. 10(3), 18(1)(a))

**[<sup>F4</sup>Registration by virtue of appropriate European diploma**

**8A.**—(1) Where a person is registered by virtue of Article 8(2)(c) an indication that he has been registered in respect of an appropriate European diploma shall be entered in the register against his name.

[  
<sup>F5</sup>(1A) Any person who—

- (a) is not a national of a member State, but
- (b) is, by virtue of a right conferred by Article 11 of Council Regulation (EEC) No. 1612/68 or any other enforceable Community right, entitled to be treated, for the purposes of access to the profession of pharmacy, no less favourably than a national of such a State,

shall be treated for the purposes of subsection (1) above as if he were such a national.]

(2) Subject to paragraphs (3) to (5), the following diplomas are appropriate European diplomas for the purposes of Article 8(2)(c), namely—

- (a) any diploma specified in Schedule 2A,<sup>F5</sup> . . .
- (b) any diploma in pharmacy which is not so specified but has been granted in a member State either before the implementation date or to a person who commenced the training of which the diploma is evidence before that date.

[ any diploma in pharmacy which is not so specified but is evidence of training commenced  
<sup>F5</sup>(c) before 3rd October 1990 and undertaken on the territory of the former German Democratic Republic.]

(3) A diploma granted in a member State before the implementation date or granted to a person who began the training of which the diploma is evidence before that date is not an appropriate European diploma for the purposes of Article 8(2)(c) unless—

- (a) in the case of a diploma specified in Schedule 2A, either—
  - (i) the diploma<sup>F5</sup> is evidence of] training that would have satisfied the requirements laid down by the Pharmacists Training Directive; or
  - (ii) the competent authorities of any member State have certified that the holder of the diploma has lawfully practised pharmacy for at least three consecutive years during the five years preceding the date of the certificate; or

[ in the case of any diploma falling within subsection 2(b) of this section—

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- <sup>F5</sup>(b) (i) the diploma is evidence of training which would satisfy the requirements of Article 2 of the Pharmacists Training Directive and is treated by the competent authorities of the member State in which it was awarded as equivalent to a diploma specified in Schedule 2A to this Order; or
- (ii) the competent authorities of any member State have certified that the holder of the diploma has lawfully practised pharmacy for at least three consecutive years during the five years preceding the date of the certificate.]

[<sup>F5</sup>(3A) A diploma such as is mentioned in subsection (2)(c) of this section is not an appropriate European diploma for the purposes of this section unless—

- (a) it entitles its holder to practise pharmacy throughout the territory of Germany on the same conditions as those applying to the holder of a diploma specified in paragraph 4(1) of Schedule 2A to this Order; and
- (b) the competent authorities in Germany have certified that the holder of the diploma has lawfully practised pharmacy in Germany for at least three consecutive years during the five years preceding the date of the certificate.]

(4) Where under Article 11 it falls to the registrar or the Council to determine whether or not any of the conditions specified in paragraph (3) is satisfied in relation to any diploma—

- (a) the satisfaction of the condition specified in sub-paragraph (a)(i) of the said paragraph (3) may be established by the production of a certificate of the competent authorities of the member State in relation to which the diploma is specified in Schedule 2A, or otherwise; and

[ the satisfaction of the condition specified in paragraph (b)(i) of the said subsection (3),  
<sup>F5</sup>(aa) or paragraph (a) of subsection (3A), may be established by the production of a certificate of the competent authorities of the member State in which the diploma was awarded, or otherwise,]

- (b) the satisfaction of the condition specified in sub-paragraph (a)(ii)<sup>F5</sup> or (b)(ii), or paragraph (b) of subsection (3A),] of the said paragraph (3) shall be established by the production of the relevant certificate, and not otherwise.

(5) Where at any time during the period of the Greek derogation any person is registered in respect of the qualification specified in paragraph 5 of Schedule 2A or in respect of any other diploma awarded in the Hellenic Republic—

- (a) an indication that the registration is subject to the provisions of this paragraph shall be entered in the registrar against that person's name; and
- (b) the registration shall not authorise the person whose name is registered to do anything for which registration is required by any provision made by or under the Medicines Act 1968, the Misuse of Drugs Act 1971 or the Poisons (Northern Ireland) Order 1976, except as an employed person.

(6) In this Article and Schedule 2A—

“competent authorities”, in relation to a member State, means any authority or body designated by that member State in accordance with Community Council Directive No. 85/433/EEC, as amended by Community Council Directive No. 85/584/EEC<sup>F5</sup> and Community Council Directive 90/658/EEC] concerning the mutual recognition of diplomas, certificates and other evidence of formal qualification in pharmacy;

“employed person” means an employed person in accordance with Council Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community;

“the implementation date”, in relation to a member State, means the date on which that State implemented the Pharmacists Training Directive;

“the period of the Greek derogation” means the period during which the Hellenic Republic makes use of the derogation provided by paragraph 1 of Article 3 of Community Council Directive No. [85/433/EEC](#); and

“the Pharmacists Training Directive” means Community Council Directive No. [85/432/EEC](#) concerning the co-ordination of provisions laid down by law, regulation or administrative action in respect of certain activities in the field of pharmacy.

(7) For the purposes of this Article a member State is to be regarded as having implemented the Pharmacists Training Directive on the date notified to the Commission of the European Communities as that on which it did so.]

**F4** SR 1987/457

**F5** SR 1996/393

VALID FROM 22/05/2008

**[<sup>F6</sup>Visiting pharmaceutical chemist from a relevant European State**

**8B.** Schedule 2B (visiting pharmaceutical chemist from a relevant European State) shall have effect.]

**F6** [Art. 8B](#) inserted (22.5.2008) by [European Qualifications \(Pharmacy\) Regulations \(Northern Ireland\) 2008 \(S.R. 2008/192\)](#), [reg. 8](#)

### The registrar

**9.—(1)** The Department may appoint a fit and proper person as a registrar for the purposes of this Order.

(2) The registrar shall make out and maintain the registers mentioned in Article 6(1)(a), (b) and (c) as complete and separate registers of all persons registered respectively in respect of the several qualifications for registration prescribed by this Order.

(3) Each register shall be divided into such separate parts as may be required for the purposes of this Order, and in each register or separate part thereof the names shall be in alphabetical order according to the surnames, with the respective residences entered opposite to such names.

(4) The registrar shall also keep proper indexes of the registers and all such other lists as may be required and as may be necessary for giving effect to this Order and to the regulations made thereunder.

(5) The registrar shall keep each such register correctly and strike off the names of all registered persons as and when they die or are removed from any such register, and shall make any necessary alterations in the addresses of the persons registered under this Order.

### Power of registrar to require information

**10.—(1)** The registrar may—

(a) serve notice in writing on any registered person requiring him, within two months from the service of the notice, to state in writing whether he has ceased to carry on business or

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has changed his residence, and, where that person fails to comply with that notice, serve a second such notice;

- (b) where, within four months from the service of the first notice under sub-paragraph ( a), a registered person has failed to comply with either of the notices mentioned in that sub-paragraph, strike the name of that person off the register, but subject to the restoration of that name by the direction of the Council if it thinks fit to make an order to that effect.

(2) The registrar may at any time serve notice in writing on the occupier of any premises where a retail pharmacy business is carried on requiring the occupier, within seventeen days from the service of the notice to furnish in writing to the registrar a statement of the name and address of the bona fide proprietor of the business, and, if such proprietor does not personally manage and conduct the business, the name of the duly qualified manager or assistant managing or conducting the business and the description of his qualification.

(3) Where a person on whom a notice has been served under paragraph (2), fails to comply with the notice, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>[F7]</sup> level 2 on the standard scale].

(4) Where a person is convicted under paragraph (3) in respect of a failure to comply with a notice and the failure continues after conviction he shall be guilty of a further offence under paragraph (3) and shall be liable on summary conviction, in addition to the fine specified in that paragraph, to a fine not exceeding<sup>[F7]</sup> level 1 on the standard scale] for every day subsequent to the day on which he is first convicted of an offence under that paragraph on which the failure continues.

(5) Where a person on whom a notice has been served under paragraph (2), fails to comply with the notice, a retail pharmacy business shall not be carried on the premises and any person carrying on such a business in contravention of this paragraph shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>[F7]</sup> level 2 on the standard scale], unless he proves to the satisfaction of the court that he did not know of the failure to comply with the notice.

F7 1984 NI 3

### **Evidence of qualification to be registered**

**11.**—(1) A name shall not be entered in any register kept under this Order unless the registrar is satisfied by the proper evidence that the person applying for the registration is entitled by virtue of this Order to be registered; and the registrar shall notify the secretary of the Society before entering a name in any of those registers.

(2) The secretary of the Society or a person aggrieved by any decision of the registrar may appeal from that decision to the Council which may decide the appeal; and any entry which is proved to the satisfaction of the Council to have been fraudulently or incorrectly made may be struck off, or amended in, the register under an order made by the Council in writing.

### **Annual publication of registers**

**12.**—(1) The registrar shall, each year, publish copies of the various registers authorised by this Order, in alphabetical order according to the surnames.

(2) Copies of the registers published under paragraph (1), or any extract therefrom or from the original registers certified under the hand of the registrar and countersigned by the President or two members of the Council, shall be evidence in all courts and proceedings that the persons specified therein are registered according to the provisions of this Order, and the absence of the name of any person from any such copy of any register shall be evidence, until the contrary is made to appear, that such person is not registered in the appropriate register according to the provisions of this Order.

(3) An extract from a register or from a copy of a register certified and countersigned as provided by paragraph (2) is in this Order referred to as a “certificate of registration”.

### **Copies of registers to be sent to Pharmacy Inspector, etc.**

13. Each year the registrar shall send copies of the registers kept under this Order to the Pharmacy Inspector, the Poisons Inspector appointed under Article 16(1) of the Poisons (Northern Ireland) Order 1976 and the Society, and also to the divisional commander of each police division, and each such commander shall report to the Pharmacy Inspector any offence against the provisions of this Order committed within his division.

### **Issue of certificates of registration and penalties for failure to surrender, or abuse of, certificates**

14.—(1) Subject to paragraph (2), the Council shall, on the demand of a registered pharmaceutical chemist, druggist or student, cause a certificate of registration in the appropriate register under Article 6 to be issued to such a person without any fee.

(2) Where a certificate of registration has already been issued to the person making the demand, there shall not be any obligation upon the Council to cause a further certificate to be issued to him unless he satisfies the secretary of the Society that the original certificate has been lost or destroyed and pays such fee (if any) in respect of the issue of the further certificate as may be prescribed.

[<sup>F8</sup>(2A) Any certificate of registration issued to any person under this Article shall reproduce any indication entered in the register against that person's name in pursuance of Article 8A(1) or (5)(a).]

[<sup>F9</sup>(2B) Any certificate of registration issued to any person under this Article shall reproduce any annotation entered in the register against that person's name in pursuance of Article 8(5).]

(3) If a person to whom a certificate of registration has been issued ceases to be registered as a pharmaceutical chemist, druggist or student, he shall, within fourteen days after so ceasing, transmit the certificate to the secretary of the Society for cancellation by the registrar, and, if such a person fails to do so, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding[<sup>F10</sup> level 3 on the standard scale].

(4) Where a person is convicted under paragraph (3) in respect of a failure to transmit a certificate and the failure continues after the conviction he shall be guilty of a further offence under paragraph (3) and shall be liable on summary conviction, in addition to the fine specified in that paragraph, to a fine not exceeding[<sup>F10</sup> level 1 on the standard scale] for every day subsequent to the day on which he is first convicted of the offence under that paragraph on which the failure continues.

(5) If, with intent to deceive, a person—

- (a) <sup>F11</sup> . . . uses, or lends to or allows to be used by any other person, a certificate of registration issued under this Article; or
- (b) makes or has in his possession a document so closely resembling any such certificate as to be calculated to deceive;

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding[<sup>F10</sup> level 3 on the standard scale] and where this paragraph is again contravened within one year after the conviction to a further fine not exceeding £10 for every day subsequent to the day on which he is first convicted of an offence under this paragraph on which it is so contravened.

*Para. (6) rep. by 1981 c. 45*

**F8** SR 1987/457

**F9** SR 2004/78

**F10** 1984 NI 3

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**F11** 1981 c. 45

### **Retention fees**

**15.**—(1) Subject to paragraph (2), every member, associate or student of the Society shall, in addition to the fees payable on his registration in the appropriate register, pay to the Society in respect of each year such fee (a “retention fee”) as may be prescribed, in respect of the retention of his name in the appropriate register in that year.

(2) A retention fee shall not be payable by any person in respect of the year in which he first becomes a member or, as the case may be, an associate or student of the Society.

(3) If a person on whom a demand has been made in the prescribed manner for payment of a retention fee payable by him under this Article fails to pay the fee within two months after the date on which the demand therefor was made, the Council may direct the removal of his name from the appropriate register; but, if, either within the year in respect of which the fee is payable or within such longer period as the Council may allow, the person whose name has been removed from the register pays to the Society the retention fee, together with such additional sum (if any) by way of penalty for the default as may be prescribed, his name shall be restored to the appropriate register and, if the Council so directs, the restoration shall have effect as from the date on which his name was removed from that register.

(4) In this Article, “year” means a period of twelve months beginning on such date as the Council may determine or, where the Council varies that date, such period (whether greater or less than twelve months) immediately following the variation as the Council may determine.

(5) Nothing in this Article shall apply to honorary members of the Society.

### **Penalty for falsification of registers**

**16.** If the registrar wilfully makes or causes to be made any falsification in any matter relating to any register under this Order, he shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding<sup>F12</sup> level 3 on the standard scale];
- (b) on conviction on indictment, to imprisonment for any term not exceeding twelve months or to a fine, or to both.

**F12** 1984 NI 3

### **Duty of registrar of deaths to give notice of deaths of registered persons**

**17.** Every registrar of deaths, on registering the death of any person registered under this Order as a pharmaceutical chemist or druggist, shall forthwith transmit by post to the registrar a copy, certified under his hand, of the entry of such death; and, on receipt of such certified copy, the registrar shall strike the name of such deceased person off the appropriate register, and shall pay to the registrar of deaths the fee chargeable by law for such certified copy, together with the cost of its transmission, and may charge those payments as an expense of his office.

### **Disqualification of persons suffering from disability**

**18.**—(1) The Head of the Department may, after consultation with the Council, direct the name of any person who is suffering from any physical or mental disability which, in the opinion of the Head of the Department, renders such person unfit to have his name on any register under this Order to be struck off such register, and the registrar shall strike off the name accordingly.

(2) Where, on a direction of the Head of the Department under paragraph (1), the name of any person is struck off any register, then, where the Head of the Department so directs, the registrar shall remove from the register required to be kept under section 75 of the Medicines Act all premises entered in that register in respect of a business carried on by any body corporate of which that person is a director.

(3) The Head of the Department may, after consultation with the Council, direct the name of any such person as is mentioned in paragraph (1) to be restored to the register from which it was struck off, and the registrar shall then restore it accordingly.

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