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DRAFT STATUTORY INSTRUMENTS

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**2015 No.**

**The Health Care and Associated Professions  
(Knowledge of English) Order 2015**

**PART 5**

**Pharmacy Order 2010**

**44.** The Pharmacy Order 2010(1) is amended in accordance with articles [45](#) to [57](#).

**Interpretation**

**45.** In article 3(1) (interpretation)(2), insert in the appropriate place—

““the necessary knowledge of English”—

- (a) in relation to a person registered, or applying to be registered, as a pharmacist means a knowledge of English which is necessary for the safe and effective practice as a pharmacist in Great Britain;
- (b) in relation to a person registered, or applying to be registered, as a pharmacy technician means a knowledge of English which is necessary for the safe and effective practice as a pharmacy technician in Great Britain;”.

**Entitlement to entry in Part 1 or 2 of the Register: pharmacists and pharmacy technicians**

**46.** In article 20(1)(a) and (2)(a) (entitlement to entry in Part 1 or 2 of the Register: pharmacists and pharmacy technicians)—

- (a) in paragraph (ii), omit “and”; and
- (b) after paragraph (ii) insert—

“(ia) P has the necessary knowledge of English; and”.

**Pre-entry requirements in respect of qualifications and additional education, training or experience: pharmacists**

**47.** In article 21 (pre-entry requirements in respect of qualifications and additional education, training or experience: pharmacists), omit paragraph (6).

**Pre-entry requirements in respect of qualifications and additional education, training or experience: pharmacy technicians**

**48.** In article 22 (pre-entry requirements in respect of qualifications and additional education, training or experience: pharmacy technicians), omit paragraph (4).

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(1) [S.I. 2010/231](#).

(2) Article 3 has been previously amended by [S.I. 2011/1043](#).

**Necessary knowledge of English: applicants for registration in the register of pharmacists and pharmacy technicians**

49. After article 23, insert—

**“Supplementary provisions as to necessary knowledge of English**

**23A.**—(1) The Council must publish guidance about—

- (a) the evidence, information or documents to be provided by an applicant for the purpose of satisfying the Registrar under article 20(1)(a)(iia) or (2)(a)(iia) that the applicant has the necessary knowledge of English; and
- (b) the process by which the Registrar is to determine whether the Registrar is satisfied as mentioned in paragraph (a).

(2) The Registrar must have regard to the guidance published under paragraph (1) in determining whether the Registrar is satisfied as mentioned in paragraph (1)(a).

(3) Paragraphs (4) and (6) apply if, having considered any evidence, information or documents provided by the applicant in support of the applicant’s application, the Registrar is not satisfied under article 20(1)(a)(iia) or (2)(a)(iia) that the applicant has the necessary knowledge of English.

(4) The Registrar may request the applicant to provide further evidence, information or documents within such period as the Registrar may specify.

(5) The Registrar may not exercise any power under paragraph (4) unless the Registrar has complied with any duty under article 24(2B).

(6) The Registrar may require the applicant—

- (a) to undergo an examination or other assessment; and
- (b) to provide information in respect of that examination or assessment,

within such period as the Registrar may specify.

(7) In the case of an applicant who is an exempt person, the Registrar may not exercise the power under paragraph (6) without having first—

- (a) exercised the power under paragraph (4); and
- (b) considered any further evidence, information or documents provided by the applicant.

(8) Guidance published under paragraph (1) may make different provision in relation to different cases or classes of case.

(9) Before issuing such guidance, or varying or withdrawing it, the Council must consult such persons or organisations as it considers appropriate, including, where it considers appropriate, persons appearing to it to represent the organisations specified in article 5(1) (a) to (g).

(10) In this article, references to an applicant are references to a person applying under article 23 for entry or renewal of entry in Part 1 of the Register as a pharmacist, or in Part 2 of the Register as a pharmacy technician.”.

**Notification by the Registrar: entry and renewal**

**50.**—(1) Article 24 (notification by the Registrar: entry and renewal) is amended as follows.

(2) After paragraph (2) insert—

“(2A) Paragraph (2B) applies if—

- (a) A has paid any fee prescribed under article 36(1)(a); and
- (b) the Registrar is satisfied that A falls within article 21(1)(b) or (c) or article 22(1)(b); but
- (c) the Registrar decides to make a request under article 23A(4).

(2B) The Registrar must notify A that the registrar recognises that A, by virtue of falling within article 21(1)(b) or (c) or 22(1)(b), is entitled to be registered in Part 1 of the Register as a pharmacist or in Part 2 of the Register as a pharmacy technician (as the case may be), subject to meeting any other requirements for registration.”.

- (3) For paragraph (4) substitute—

“(4) Any failure by the Registrar to inform A of—

- (a) a decision by the Registrar for the purposes of article 24(2B) that article 24(2A)(b) does not apply in relation to the person; or
- (b) the result of the application as required by paragraph (3)(a),

is to constitute a decision by the Registrar for the purposes of article 24(2B) that article 24(2A)(b) does not apply in relation to the person, or a decision by the Registrar to refuse the application (as the case may be) which is to be taken as having been made at the end of the specified period.”.

- (4) At the beginning of paragraph (5) insert “Subject to paragraph (5A),”.

- (5) After paragraph (5) insert—

“(5A) In calculating any period of time for the purposes of paragraph (5), the following are to be disregarded—

- (a) any period which begins on the date on which the Registrar makes a request under article 23A(4) and ends on the date on which A complies with the request; or
- (b) any period which begins on the date on which the Registrar requires the applicant to undergo an examination or other assessment under article 23A(6)(a) and ends on the date on which the applicant complies with the requirement under article 23A(6)(b).”.

- (6) After paragraph (11) insert—

“(12) A document that is requested or required under article 23A(4) or (6)(b) is not to be treated as missing for the purposes of this article.”.

### **Appealable decisions**

**51.**—(1) Article 39 (appealable decisions) is amended as follows.

- (2) After paragraph (1)(c) insert—

“(ca) a decision by the Registrar to require a person to undergo an examination or other assessment under article 23A(6)(a);

(cb) a decision by the Registrar for the purposes of article 24(2B) that article 24(2A)(b) does not apply in relation to the person;”.

- (3) At the end, insert—

“(3) The reference in paragraph (1)(1) to a person’s fitness to practise does not include a reference to a person’s fitness to practise where the only allegation made in relation to the person is an allegation under article 51(1)(ca).”.

### Appeals to the Appeals Committee

52. In article 40(2) (appeals to the Appeals Committee), for “the application is, by virtue of that paragraph,” to the end substitute—

“by virtue of that paragraph—

- (a) the application is taken to have been refused by the Registrar; or
- (b) the Registrar is taken to have made a decision for the purposes of article 24(2B) that article 24(2A)(b) does not apply in relation to the person.”.

### Impairment of fitness to practise

53. In article 51(1) (impairment of fitness to practise)(3), after sub-paragraph (c) insert—

“(ca) not having the necessary knowledge of English;”.

### Professional performance assessments

54. After article 55(1) (professional performance assessments), insert—

“(1A) In this article, a reference to the standard of a registrant’s professional performance includes the standard of the registrant’s knowledge of English and, in particular, whether the registrant has the necessary knowledge of English.

(1B) But an assessment carried out by virtue of this article must not be limited to an assessment of whether a registrant has the necessary knowledge of English.

(1C) Where an assessment is required to be undertaken by virtue of article 55A, that assessment must not be carried out by an assessment team.”.

### Assessment of necessary knowledge of English

55. After article 55, insert—

#### “Knowledge of English assessments

55A.—(1) The Council may make rules authorising the giving of directions by any of—

- (a) the Investigating Committee;
- (b) the Fitness to Practise Committee;
- (c) such other persons as may be specified in the rules,

requiring a registrant to undertake an examination or other assessment of that registrant’s knowledge of English.

(2) An examination or other assessment under paragraph (1) must be made in accordance with rules.

(3) The rules must, in particular, provide for—

- (a) the procedures to be followed by such persons when directing the person concerned to undertake such an examination or other assessment;
- (b) the person concerned who is required to undertake such an examination or other assessment to provide information in respect of that examination or assessment to such persons as may be prescribed under the rules;
- (c) the information provided by virtue of sub-paragraph (b) to be disclosed to such persons as may be prescribed under the rules.”.

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(3) Article 51 has been previously amended by [S.I. 2012/3006](#).

**Rules in respect of proceedings**

56. In article 61(3)(h)(i) (rules in respect of proceedings), for “or article 55” substitute “, article 55 or article 55A, or to provide the information required by virtue of rules made under article 55A(3) (b)”.

**The Directive: designation of competent authority etc.**

57. In Schedule 3 (the Directive: designation of competent authority etc.), in the table insert in the appropriate place—

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“Article 53	Ensuring that any language controls imposed on a pharmacist or pharmacy technician are compliant with article 53 of the Directive.”
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