STATUTORY INSTRUMENTS

2015 No. 806

HEALTH CARE AND ASSOCIATED PROFESSIONS

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

Made - - - - 19th March 2015

Coming into force in accordance with article 1(2) to (4)

At the Court at Buckingham Palace, the 19th day of March 2015

Present,

The Queen's Most Excellent Majesty in Council

This Order in Council is made in exercise of the powers conferred by sections 60 and 62(4) and (4A) of, and Schedule 3 to, the Health Act 1999(**1**).

The Secretary of State and the Scottish Ministers published a draft Order and invited representations as required by paragraph 9(1) and (3) of Schedule 3 to that Act.

The period of three months mentioned in paragraph 9(4) of that Schedule expired before a draft of this Order in Council, together with a report about the consultation, was laid before Parliament and the Scottish Parliament.

A draft of this Order in Council has been approved by resolution of each House of Parliament and the Scottish Parliament, in accordance with section 62(10) of that Act.

Accordingly, Her Majesty is pleased, by and with the advice of Her Privy Council, to make the following Order in Council.

(**1**) 1999 c. 8. Section 60 has been amended by: the National Health Service Reform and Health Care Professions Act 2002 (c. 17) ("the 2002 Act"), section 26(9); the Health and Social Care Act 2008 (c. 14) ("the 2008 Act"), Schedule 8, paragraph 1, and Schedule 10, paragraph 10; the Health and Social Care Act 2012 (c. 7) ("the 2012 Act") sections 209, 210 and 213 and Schedule 15, Part 3 paragraphs 60 and 72, S.I. 2002/253, 2002/254, 2010/231 and 2012/1916. Section 62 has been amended by: the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraphs 194 and 197, and Schedule 4, paragraph 1; and the 2008 Act, Schedule 8, paragraph 2, and Schedule 10, paragraph 11. Schedule 3 has been amended by: the 2002 Act, section 26(10); the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedule 11, paragraph 67, and Schedule 14, Part 4; the Health Act 2006 (c. 28), section 33 and Schedule 9; the 2008 Act, Schedule 8, paragraphs 3 to 10; the 2012 Act, section 211and Schedule 15, Part 3, paragraph 61 and Part 4, paragraph 72(4) and S.I. 2002/254.

PART 1

General

Citation, commencement and extent

1.—(1) This Order may be cited as the Health Care and Associated Professions (Knowledge of English) Order 2015.

(2) This Part comes into force on the day after the day on which this Order is made.

(3) Except as provided for in paragraph (2), this Order comes into force on such days as the Privy Council may by order appoint.

(4) Different days may be appointed under paragraph (3) for different purposes.

(5) Where this Order amends other legislation, those amendments have the same extent as the legislation being amended.

Transitional, transitory and saving provisions

2.—(1) In connection with the commencement of any provision of this Order, the Privy Council may by order make such transitional, transitory or saving provisions as it considers appropriate.

(2) The power to make an order under paragraph (1) may be exercised—

(a) so as to make different provision—

(i) with respect to different cases or different classes of cases, or

(ii) in respect of the same case or class of case for different purposes;

(b) in relation to all cases to which the power extends or in relation to those cases subject to specified exceptions; or

(c) so as to make any supplementary, incidental or consequential provisions which the Privy Council considers necessary or expedient.

Privy Council procedures and legislative procedures

3.—(1) Any power vested in the Privy Council to make an order under this Part may be exercised by any two or more members of the Privy Council.

(2) Any power of the Privy Council to make an order under this Part is exercisable by statutory instrument, and for the purposes of section 1 of the Statutory Instruments Act 1946(**2**) (definition of "Statutory Instrument"), any power of the Privy Council to make an order under this Part is to be taken to be conferred by an Act of Parliament.

(3) An order made (wholly or partly) under article 1 is subject to annulment by resolution of either House of Parliament.

(4) Before making an order under article 1(3) that brings into force measures relating to the regulation of health care professionals, the Privy Council must, in so far as those measures apply in Northern Ireland, obtain the agreement of the Department for Health, Social Services and Public Safety to the making of the order.

(5) Before making an order under this Part that brings into force measures relating to the regulation of dental care professionals or pharmacy technicians, the Privy Council must, in so far as those measures apply in Scotland, consult the Scottish Ministers.

(**2**) 1946 c. 36. Section 1(1A) was inserted by the Government of Wales Act 1998 (c. 38), Schedule 12, paragraph 2, and substituted by the Government of Wales Act 2006 (c. 32), Schedule 10, paragraph 2.

(6) Any act of the Privy Council under this Part is sufficiently signified by an instrument signed by the Clerk of the Privy Council.

(7) Where an order of the Privy Council under this Part is signified by an instrument purporting to be signed by the Clerk of the Privy Council, that is evidence and in Scotland sufficient evidence of—

(a) the fact that the order was duly made; and

(b) the order's terms.

PART 2

The Pharmacy (Northern Ireland) Order 1976

4. The Pharmacy (Northern Ireland) Order 1976(**3**) is amended in accordance with articles 5 to 10.

Interpretation: "the necessary knowledge of English"

5. In article 2(2) (interpretation)(**4**), insert in the appropriate place—

""the necessary knowledge of English", in relation to a person registered, or desirous of being registered, in the register of pharmaceutical chemists, means a knowledge of English which is necessary for the safe and effective practice as a pharmaceutical chemist in Northern Ireland;".

Regulations

6.—(1) Article 5 (Regulations made by the Council: general) is amended as follows.

(2) In paragraph (1)(bb)(**5**), after "mental health", insert ", the necessary knowledge of English".

(3) After paragraph (1A)(**6**), insert—

"(1B) Regulations made by the Council under this Article must provide for a person desirous of being registered as a pharmaceutical chemist under this Order to satisfy the registrar that the person has the necessary knowledge of English.".

Qualifications for registration as a pharmaceutical chemist in Northern Ireland

7. In article 8(2A) (qualifications for registration)(**7**), after "mental health" insert ", the necessary knowledge of English".

Necessary knowledge of English: applicants for registration in the register of pharmaceutical chemists

8. After article 8A (registration by virtue of appropriate European diploma)(**8**) insert—

"**Supplementary provisions as to the necessary knowledge of English**

8AA.—(1) The Society must publish guidance about—

(**3**) S.I. 1976/1213 (N.I. 22).
(**4**) Amendments have been made to article 2(1) which are not relevant to this Order.
(**5**) Paragraph (1)(bb) of article 5 was inserted by S.I. 1994/429 (N.I. 2).
(**6**) Paragraph (1A) of article 5 was inserted by S.R. 2008/192.
(**7**) Paragraph (2A) was inserted by S.I. 1994/429 (N.I. 2).
(**8**) Article 8A was inserted by S.R. 1987/457.

(a) the evidence, information or documents to be provided by an applicant for the purpose of satisfying the registrar under regulations made under Article 5(1) by virtue of Article 5(1B) 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 sub-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 5(1B) 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 11ZA(2).

(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 Society must consult such persons, or representatives of such persons, as it considers appropriate including, as it sees fit—

(a) registered pharmaceutical chemists;

(b) employers of registered pharmaceutical chemists;

(c) users of services of registered pharmaceutical chemists; and

(d) the Regional Health and Social Care Board.

(10) In this article, references to an applicant are to a person desirous of being registered as a pharmaceutical chemist under this Order.".

Recognition of qualification of exempt persons

9. After article 11 (evidence of qualification to be registered)(**9**) insert—

"**Recognition of qualification of exempt persons**

11ZA.—(1) Paragraph (2) applies in relation to a person applying for registration as a pharmaceutical chemist under this Order ("A") if—

(a) A has paid the prescribed fee for registration; and

(**9**) Article 11 has been amended by S.R. 2008/192 and S.R. 2012/308.

(b) the registrar is satisfied that A falls within Article 8(2)(c); but

(c) the registrar decides to make a request under Article 8AA(4).

(2) The registrar must notify A that the registrar recognises that A, by virtue of falling within Article 8(2)(c), is entitled to be registered in the register of pharmaceutical chemists, subject to meeting any other requirements for registration.".

Fitness to practise of pharmaceutical chemists in Northern Ireland

10.—(1) Schedule 3 (fitness to practise)(**10**) is amended as follows.

(2) After paragraph 4(1)(c) (impairment of fitness to practise) insert—

"(ca) the person not having the necessary knowledge of English;".

(3) After paragraph 15(3)(i) (regulations in respect of proceedings), insert—

"(ia) enabling the Scrutiny Committee or the Statutory Committee during the course of proceedings, to direct the person concerned to undertake an examination or other assessment of the person's knowledge of English;".

PART 3

Dentists Act 1984

11. The Dentists Act 1984(**11**) is amended in accordance with articles 12 to 31.

Qualification for registration in the dentists register

12.—(1) Section 15 (qualification for registration in the dentists register)(**12**) is amended as follows.

(2) In subsection (3), after paragraph (b) insert—

"(ba) that he has the necessary knowledge of English;".

(3) In subsection (4), for paragraph (d) substitute—

"(d) that he has the necessary knowledge of English; and".

(4) Omit subsection (5).

Necessary knowledge of English: applicants for registration in dentists register

13. After section 15 insert—

"**Supplementary provisions as to the necessary knowledge of English**

15A.—(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 section 15(3)(ba) or (4)(d) 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).

(**10**) Schedule 3 was substituted by S.R. 2012/308.
(**11**) 1984 c. 24.
(**12**) Section 15 has been amended by S.I. 1996/1496, 1998/811 and 2007/3101.