*Draft Order in Council laid before Parliament under section 62(9) of the Health Act 1999, for approval by resolution of each House of Parliament.*

DRAFT STATUTORY INSTRUMENTS

# 2007 No.

# HEALTH CARE AND ASSOCIATED PROFESSIONS

## PHARMACISTS

## The Pharmacists and Pharmacy Technicians Order 2007

*Made - - - - 2007*
*Coming into force in accordance with article 1(2) and (3)*

At the Court at Buckingham Palace, the day of 2007

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) of, and Schedule 3 to, the Health Act 1999(**1**).

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

The period of three months mentioned in paragraph 9(2) of that Schedule expired before a draft of this Order in Council was laid before Parliament.

A draft of this Order in Council has been approved by resolution of each House of Parliament, in accordance with section 62(9) 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 62(4) applies section 126(4) and (5) of the National Health Service Act 1977 (c.49) in relation to powers to make Orders in Council conferred by the Health Act 1999. *See* therefore that section 126(4) and (5) (which have been amended by: the National Health Service and Community Care Act 1990 (c.19), section 65(2); the Health and Social Care Act 2001 (c.15), Schedule 5, paragraphs 5(1) and 13(b) and (d); the National Health Service Reform and Health Care Professions Act 2002 (c.17), section 6(3)(c) and Schedule 8, paragraph 10(a); and the Health and Social Care (Community Health and Standards) Act 2003 (c.43), Schedule 11, paragraphs 7 and 38, and Schedule 14, Part 4), which contain powers which are relevant to the powers being exercised in the making of this Order.

# PART 1

## Preliminary

### Citation and commencement

**1.**—(1) This Order may be cited as the Pharmacists and Pharmacy Technicians Order 2007.

(2) As regards commencement—

(a) this article, article 2 and article 68 shall come into force on the making of this Order;

(b) the provisions of this Order, other than article 68, which confer powers enabling—

(i) rules to be made by the Council, or

(ii) orders to be made by the Privy Council,

shall come into force on the making of this Order, but for the purpose only of the exercise of those powers; and

(c) otherwise, the provisions of this Order shall come into force on such days as the Secretary of State may specify.

(3) Different days may be specified under paragraph (2)(c) above for different purposes, and any day so specified shall be caused to be notified in the London, Edinburgh and Belfast Gazettes published not later than one week before that day.

### Extent

**2.**—(1) Subject to paragraphs (2) and (3), this Order extends to Great Britain.

(2) The following provisions—

(a) Part 3;

(b) Parts 4 to 6 in so far as they relate to registered pharmacy technicians or applicants for restoration to the Register of Pharmacy Technicians; and

(c) Part 2 of Schedule 2,

extend only to England and Wales.

(3) The extent of any amendment, revocation or repeal of any enactment or instrument set out in Schedule 1 is the same as that of the enactment or instrument amended, revoked or repealed.

### Interpretation

**3.**—(1) In this Order—

"the 1954 Act" means the Pharmacy Act 1954(**2**), as in force immediately before article 1 comes into force;

"annotation" means an annotation in one of the Society's registers;

"Appointments Commission" means the Appointments Commission established under section 57 of the Health Act 2006(**3**) (the Appointments Commission);

"assessment team" means a team of persons that has the functions of an assessment team by virtue of rules under article 53;

"the Charter" means the Charter granted to the Society on 7th December 2004, as amended from time to time;

(**2**) 1954 c.61.
(**3**) 2006 c.28.

"the Council" means the Council of the Society;

"enactment" includes an enactment comprised in, or an instrument made under, an Act of the Scottish Parliament;

"European mutual recognition area" means the territory of the EEA States and Switzerland;

"exempt person" means—

(a) a national of a relevant European State other than the United Kingdom;

(b) a national of the United Kingdom who is seeking access to the profession of pharmacists or pharmacy technicians by virtue of an enforceable Community right; or

(c) a person who is not a national of a relevant European State but who is, by virtue of an enforceable Community right, entitled to be treated, for the purposes of access to the profession of pharmacists or pharmacy technicians, no less favourably than a national of a relevant European State;

"fitness to practise committee" means the Investigating Committee, the Disciplinary Committee or the Health Committee;

"individual assessor" means a person who has the functions of an individual professional performance assessor by virtue of rules under article 53;

"the Pharmacy Acts" means the Pharmacy Act 1852(**4**), the Pharmacy Act 1868(**5**), the Poisons and Pharmacy Act 1908(**6**), the Pharmacy and Poisons Act 1933(**7**) and the 1954 Act;

"the Pharmacy Qualifications Directive" means Council Directive 85/433/EEC concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy(**8**), as amended(**9**);

"prescribed" means prescribed by the Council in rules under this Order, and "prescribes" shall be construed accordingly;

"the register" means, unless the context otherwise requires, as respects any registrant—

(a) the one of the Society's registers in which he is registered; or

(b) if he is registered in both of the Society's registers, both registers;

"the register of pharmaceutical chemists for Northern Ireland" means the register of pharmaceutical chemists maintained under Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976(**10**);

"registered pharmacist" means a person who is registered in the Register of Pharmacists;

"registered pharmacy technician" means a person who is registered in the Register of Pharmacy Technicians;

"registrant" means a registered pharmacist or a registered pharmacy technician;

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(**4**) 1852 c.56; repealed by the Pharmacy Act 1954.
(**5**) 1868 c.121; repealed by the Pharmacy Act 1954.
(**6**) 1908 c.55; repealed by the Pharmacy Act 1954.
(**7**) 1933 c.25; repealed by the Pharmacy Act 1954.
(**8**) OJ No. L 253, 24.9.1985, p.37.
(**9**) Council Directive 85/433/EEC has been amended by: Council Directive 85/584/EEC (OJ No. L 372, 31.12.1985, p.42); Council Directive 90/658/EEC (OJ No. L 353, 17.12.1990, p.73); the Act of Accession of Austria, Sweden and Finland (OJ No. L 1, 1.1.1995, p.1); Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1); the Agreement between the European Community and its Member States, of the one part, and the Swiss confederation, of the other, on the free movement of persons, signed at Luxembourg on 21st June 1999 (OJ No. L 114, 30.04.2002, p.36); and the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No. L 236, 23.9.2003, p.33). This Directive is repealed, prospectively, by Directive 2005/36/EC of the Parliament and of the Council on the recognition of professional qualifications (OJ No. L 255, 30.9.2005, p.22).
(**10**) S.I. 1976/1213 (N.I. 22).

"Registrar" shall, except where used in the expression "Registrar General", be construed in accordance with article 9(1) and (5);

"Registrar General" means—

(a) the Registrar General for England and Wales appointed under section 1 of the Registration Service Act 1953(**11**) (Registrar General); or

(b) the Registrar General for Scotland appointed under section 1(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(**12**) (the Registrar General);

"regulatory body" means a regulatory body which has the function of authorising persons to practise as a member of a health or social care profession;

"relevant European State" means an EEA State or Switzerland;

"the Second General System Directive" means Council Directive 92/51/EEC on a second general system for the recognition of professional education and training(**13**), as amended(**14**);

"the Second General System Regulations" means the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002(**15**);

"the Society" means the Royal Pharmaceutical Society of Great Britain;

"the Society's registers" means the Register of Pharmacists and the Register of Pharmacy Technicians; and

"statutory committees" means the committees listed in article 7(1)(a) to (f).

(2) For the purposes of this Order, a person practises as a pharmacist or a pharmacy technician if, whilst acting in the capacity of or holding himself out as a pharmacist or a pharmacy technician, he undertakes any work or gives any advice in relation to the dispensing or use of medicines, the science of medicines, the practice of pharmacy or the provision of health care.

### The Society's general duties

**4.**—(1) The main objective of the Society (including its Council, its staff and its committees) in exercising such of the Society's functions as affect the health and safety of members of the public is to protect, promote and maintain their health and safety.

(2) In exercising its functions, the Society (including its Council, its staff and its committees) shall—

(a) have proper regard to the interests of—

(i) persons using or needing the services of registered pharmacists in Great Britain,

(ii) persons using or needing the services of registered pharmacy technicians in England and Wales, and

(**11**) 1953 c.37.
(**12**) 1965 c.49; section 1(1) has been amended by the Scotland Act 1998 (c.46), section 125.
(**13**) OJ No. L 209, 24.7.1992, p.25.
(**14**) Council Directive 92/51/EEC has been amended by: Commission Directive 94/38/EC (OJ No. L 217, 23.8.1994, p.8); the Act of Accession of Austria, Sweden and Finland (OJ No. L 1, 1.1.1995, p.1); Commission Directive 95/43/EC (OJ No. L 184, 3.8.1995); Commission Directive 97/38/EC (OJ No. L 184, 12.7.1997, p.31); Commission Directive 2000/5/EC (OJ No. L 54, 26.2.2000, p.42); Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1); the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No. L 236, 23.9.2003, p.33); Regulation (EC) No. 1882/2003 (OJ No. L 284, 31.10.2003, p.1); and Commission Decision 2004/108/EC (OJ No. L 32, 5.2.2004, p.15). This Directive is repealed, prospectively, by Directive 2005/36/EC of the Parliament and of the Council on the recognition of professional qualifications (OJ No. L 255, 30.9.2005, p.22).
(**15**) S.I. 2002/2934; relevant amendments are made by paragraph 29 of Schedule 1 to this Order.

(iii) all registrants and prospective registrants, and to any differing interests of registered pharmacists and registered pharmacy technicians or groups within those professions; and

(b) co-operate, in so far as is appropriate and reasonably practicable, with public authorities or other bodies or persons concerned with—

(i) the employment (whether or not under a contract of service) of registrants,

(ii) the education or training of registrants, prospective registrants or other health care professionals,

(iii) the regulation of, or the co-ordination of the regulation of, other health or social care professions, and

(iv) the regulation of, or carrying out activities in connection with the regulation of, health services.

(3) In carrying out its duty to co-operate under paragraph (2)(b), the Society shall have regard to any differing considerations in relation to practising as—

(a) a pharmacist which apply in England, Scotland or Wales; or

(b) a pharmacy technician which apply in England or Wales.

**The Council**

**5.**—(1) The Privy Council may by order vary the size and composition of the Council (in addition to its powers to do so under the Charter(**16**)), provided that—

(a) the number of members of the Council who are registered pharmacists constitutes a majority of the total number of members of the Council; and

(b) the total number of members of the Council does not exceed 35.

(2) In exercising its function of appointing persons to the Council(**17**), the Privy Council shall ensure that, at any time, at least one of the persons on the Council appointed by it lives or works wholly or mainly in each of England, Scotland and Wales.

(3) The Council shall make regulations under the Charter(**18**) in respect of the suspension or removal from office of its members, and those regulations shall in particular provide for—

(a) a member of the Council who is a registered pharmacist to be removed from office forthwith if he ceases to be registered in Part 1 of the Register of Pharmacists; and

(b) a member of the Council who is a registered pharmacy technician to be removed from office forthwith if he ceases to be registered in Part 1 of the Register of Pharmacy Technicians.

(4) The Council shall—

(a) establish and maintain a system for the declaration and registration of private interests of its members; and

(b) publish in such manner as it sees fit entries recorded in the register of members' interests.

**The Council's duties in respect of publications**

**6.**—(1) The Council shall publish in such manner as it sees fit, at least once in each calendar year, by such date in each calendar year as the Privy Council shall determine—

(**16**) *See* paragraph 8 of the Charter.
(**17**) *See* paragraph 8(4) of the Charter.
(**18**) *See* paragraph 8 of the Charter.