STATUTORY RULES OF NORTHERN IRELAND

2013 No. 147

PHARMACY

The Council of the Pharmaceutical Society of Northern Ireland (Continuing Professional Development) (Amendment) Regulations (Northern Ireland) 2013

Made - - - -	*30th May 2013*
Coming into operation	*31st May 2013*

The Council of the Pharmaceutical Society of Northern Ireland makes the following regulations in exercise of the powers conferred on it by Articles 4A(9) and (10), 5(1)(ff), (fff) and (ffg) of, and paragraphs 5(1) and (2)(b), and 15(1)(b), (2) and (3) of Schedule 3 to, the Pharmacy (Northern Ireland) Order 1976(**1**). The Department of Health, Social Services and Public Safety(**2**) has approved these regulations in accordance with Article 25A(2) of that Order(**3**).

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Council of the Pharmaceutical Society of Northern Ireland (Continuing Professional Development) (Amendment) Regulations (Northern Ireland) 2013 and shall come into operation on 31st May 2013.

(2) In these regulations "the principal regulations" means the Council of the Pharmaceutical Society of Northern Ireland (Continuing Professional Development) Regulations (Northern Ireland) 2012(**4**).

Amendment of regulation 1 of the principal regulations

2. In regulation 1 of the principal regulations (*Citation, commencement and interpretation*), in the appropriate place, insert the following—

""the chair" means the chair of the Statutory Committee;"

""the secretary" means the secretary of the Statutory Committee;".

(**1**) S.I. 1976/1213 (N.I. 22) as amended by 1981 c.45 and c.55; 1983 c.54; S.I. 1984/703 (N.I. 3); S.R. 1987 No. 457; S.I. 1994/429 (N.I. 2); S.R. 1996 No. 393; 2004 c.33; S.R. 2004 No. 78; S.R. 2008 No. 192 and S.R. 2012 No. 308
(**2**) See S.I. 1999/283 (N.I. 1) Article 3(6)
(**3**) Article 25A is inserted by Article 9 of S.R. 2012 No. 308
(**4**) S.R. 2012 No. 312

Amendment of regulation 5 of the principal regulations

3. In regulation 5 of the principal regulations (*Notice of intention to remove: stage 1*), in paragraph (5) omit sub-paragraphs (e) and (f).

Amendment of regulation 6 of the principal regulations

4. In regulation 6 of the principal regulations (*Subsequent action by the registrar: stage 2*)—

(a) in paragraph (1)(b) omit ", (f)";

(b) in paragraph (5)(b)—

(i) omit the words "if the registered person has not already requested a hearing, ";

(ii) after head (i) insert the word " and";

(iii) in head (ii) for the word "notice;" substitute "notice."; and

(iv) omit heads (iii) and (iv).

Amendment of regulation 7 of the principal regulations

5. In regulation 7 of the principal regulations (*Decisions in contested cases: stage 3*)—

(a) in paragraph (1) for the words "Where the registered person does not request a hearing or is not entitled to one" substitute "Where regulation 6(7) applies"; and

(b) omit paragraph (2).

Amendment of regulation 8 of the principal regulations

6. For regulation 8 of the principal regulations substitute—

"**Notification of removal of the name of a registered person or the annotation recorded against the registered person's name under regulation 6 or 7.**

8. Where the registrar has decided to remove the name of a registered person, or the annotation recorded against the registered person's name, the registrar must send the registered person a written statement giving notice of—

(a) the decision to remove the registered person's name or the annotation recorded against the registered person's name;

(b) the reasons for it; and

(c) the registered person's right of appeal under Article 4A(13) of the Order (in accordance with regulations 13 and 14) to the Statutory Committee."

Amendment of regulation 9 of the principal regulations

7. In regulation 9 of the principal regulations (*Suspension from the register pending appeal*), in paragraph (1)(b) for the words "Article 4A(12) of the Order" substitute "Article 4A(13) of the Order (in accordance with regulations 13 and 14)".

Amendment to regulation 11 of the principal regulations

8. In regulation 11 of the principal regulations (*Restoration of an annotation to be recorded against a registered person's name in the register*), after paragraph (8) insert—

"(9) Where the registrar has refused an application for the restoration of an annotation to be recorded against a registered person's name in the register, the applicant may appeal to the

Statutory Committee under Article 4A(13) of the Order (in accordance with regulations 13 and 14) against the refusal of the application.

(10) The registrar must send a written statement to the applicant giving notice of—

(a) the refusal of the application;

(b) the reasons for it; and

(c) the applicant's right of appeal to the Statutory Committee".

Appeals

9. After regulation 11 of the principal regulations (*Restoration of an annotation to be recorded against a registered person's name in the register*) insert—

"**Appeals**

12. Where a decision has been taken to remove the name of a registered person or the annotation recorded against the registered person's name from the register under regulation 6 or 7, the decision does not take effect—

(a) until the time for serving a Notice of Appeal on the secretary in respect of the decision has expired, and

(b) where a Notice of Appeal is served within time, until the date on which the appeal is finally disposed of, or is abandoned or fails by reason of its non-prosecution.

Time for serving Notice of Appeal

13.—(1) Subject to paragraph (2), on receipt of the written statement sent by the registrar under Article 4A(of the Order or regulations 8 or 11(10), the registered person or applicant as the case may be, (hereafter referred to as "the appellant") must serve a Notice of Appeal on the secretary in accordance with regulation 14, within 28 days beginning with, and including, the date on which the written statement was sent.

(2) Where the secretary considers that it was not reasonably practicable for the Notice of Appeal to be served within 28 days, the secretary may by authorisation in writing extend the time limit for serving the Notice of Appeal.

Notice of Appeal

14.—(1) Subject to paragraph (3), a Notice of Appeal will only be valid if it is in the format described in paragraph (2).

(2) The Notice of Appeal must—

(a) state that it is a Notice of Appeal;

(b) provide the full name and address of the appellant;

(c) provide a daytime telephone number at which the appellant can be contacted;

(d) state the appellant's registration number, or former registration number;

(e) state whether the appellant is to be represented in the course of proceedings, and if so, provide contact details for the representative;

(f) state the date of the decision being appealed against;

(g) set out the decision being appealed against;

(h) set out the grounds on which the appeal is being brought;

(i) be accompanied by copies of any material—

(i) submitted by the appellant to the registrar prior to the appealable decision being taken, and

(ii) not so submitted, but on which the appellant intends to rely in the course of the appeal proceedings;

(j) be accompanied by a skeleton argument containing the submissions of the appellant;

(k) state whether the appellant wishes the appeal to be considered on the papers or at a hearing; and

(l) in a case where the appellant wishes a hearing to be held, state whether the appellant wishes to have a case management meeting, and if so, the issues that the appellant wishes to be considered at that meeting.

(3) At a case management meeting, the chair may—

(a) extend the time for the delivery of the skeleton argument and any additional material necessary to determine the appeal; and

(b) allow the appellant to amend the details regarding representation provided under paragraph (2)(e).

Action following receipt of Notice of Appeal

15. Following receipt of the Notice of Appeal, the secretary must—

(a) acknowledge receipt of the Notice of Appeal and the accompanying material submitted by the appellant;

(b) send copies of the Notice of Appeal and the accompanying material to the Society;

(c) require the Society to provide the secretary with copies of all documents on which they intend to rely in defending the appeal;

(d) send copies of any documents provided by the Society under paragraph (c) to the appellant or (where applicable) the appellant's representative;

(e) as soon as possible, inform the parties of the date—

(i) of any case management meeting (if the chair decides that one should be held), and

(ii) on which the Statutory Committee will consider the appeal (which, in the case of a hearing, unless the parties agree otherwise, must be no less than 28 days after the date on which the secretary serves the Notice of Hearing); and

(f) where the appellant has stated that the appellant wishes the Statutory Committee to consider the appeal at a hearing, send a Notice of Hearing to any person to whom the proceedings relate, which must be in the format described in regulation 16.

Notice of Hearing

16. The Notice of Hearing must—

(a) state the date, time and venue of the hearing;

(b) inform the appellant of the appellant's right to attend the hearing and to be represented or accompanied at the hearing in accordance with regulation 23(2) or (3)**;**

(c) inform the appellant of the provisions relating to—

(i) evidence set out in regulation 18,

(ii) procedure at hearings set out in regulation 22,

(iii) witness evidence set out in regulation 24;

(d) require the appellant to inform the secretary, within 14 days beginning with, and including, the day on which the Notice is served, whether the appellant intends to—

(i) attend the hearing,

(ii) be represented at the hearing, and if so, by whom, and

(iii) seek to call any witnesses at the hearing, and if so, whom, and

(e) inform the appellant that, if the appellant fails to attend the hearing, the Statutory Committee may proceed with the hearing in the appellant's absence.

Case management meetings

17.—(1) Where a hearing is to be held a case management meeting(**5**) may be convened by the chair of the chair's own motion or at the written request of one or both of the parties.

(2) Where a case management meeting is to be convened the secretary must give the parties such notice of it as is reasonable (in the opinion of the chair) in all the circumstances of the case.

(3) A case management meeting may be conducted be teleconference or such other method as is determined by the chair, in consultation with the parties.

(4) A case management meeting must be held in private.

(5) At a case management meeting, the chair (in addition to the matters mentioned in regulation 14(3)) may issue such directions as the chair considers necessary for the just and expeditious management of the case and may give preliminary rulings for the purpose of resolving questions of law and admissibility of evidence.

(6) Any preliminary rulings mentioned in paragraph (5) are binding on the Committee hearing the appeal.

Evidence

18.—(1) All questions of admissibility of evidence and law before the Statutory Committee must be decided by the Statutory Committee.

(2) Subject only to the requirements of relevance and fairness, the Statutory Committee may receive—

(a) subject to paragraph (3), any documentary evidence; and

(b) where a hearing is held, any oral evidence,

whether or not such evidence would be admissible in any civil proceedings.

(3) Where a party wishes to adduce a witness statement in evidence, the Statutory Committee may only receive such evidence if the statement—

(a) contains an attestation, in a format acceptable to the Statutory Committee, that the statement is true; and

(**5**) By virtue of regulation 15(2) of the Council of the Pharmaceutical Society of Northern Ireland (Statutory Committee, Scrutiny Committee and Advisers) Regulations (Northern Ireland) 2012, S.R. 2012/310, a case management meeting must be conducted by the chair. By virtue of regulation 18(4) of those regulations, if the chair is not legally qualified a legal adviser must also be present a case management meeting.