STATUTORY RULES OF NORTHERN IRELAND

2012 No. 309

PHARMACY

The Council of the Pharmaceutical Society of Northern Ireland (Appointments and Procedure) Regulations (Northern Ireland) 2012

Made - - - -	*7th August 2012*
Coming into operation	*1st October 2012*

The Department of Health, Social Services and Public Safety(**1**) makes the following Regulations in exercise of the powers conferred on it by Article 4 (2) of, and paragraph 3 of Schedule 2 to the Pharmacy (Northern Ireland) Order 1976(**2**).

PART 1

Introductory

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Council of the Pharmaceutical Society of Northern Ireland (Appointments and Procedure) Regulations (Northern Ireland) 2012 and shall come into operation on 1st October 2012.

(2) In these Regulations—

"final outcome", in relation to any proceedings where there are rights of appeal, means the outcome of the proceedings—

(a) once the period for bringing an appeal has expired without an appeal being brought; or

(b) if an appeal is brought in accordance with those rights, once those rights have been exhausted;

"licensing body" means any body, other than the Society, anywhere in the world that licenses or regulates any profession;

(**1**) S.I. 1999/283 (N.I. 1) – Article 3 (6)

(**2**) S.I. 1976/1213 (N.I.22), as amended by 1981 c.45 & 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

"member" means a registered person or a lay member and includes the President and Vice-President;

"the Order" means the Pharmacy (Northern Ireland) Order 1976;

"President" means the President of the Council;

"public body" means a body established by a statutory provision;

"the register" means the register mentioned in Article 6 (1)(a) of the Order except in regulation 2 (j);

"spent conviction" means—

(c) in relation to a conviction by a court in Northern Ireland, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978(**3**); or

(d) in relation to a conviction by a court in Great Britain, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974(**4**); and

"Vice-President" means Vice-President of the Council.

PART 2

Membership of the Council

Disqualification from appointment as a member

2. A person is disqualified from appointment as a member of the Council if that person—

(a) has at any time been convicted of an offence involving dishonesty or deception in the United Kingdom and the conviction is not a spent conviction;

(b) has at any time been convicted of an offence in the United Kingdom, and—

(i) the final outcome of the proceedings was a sentence of imprisonment or detention, and

(ii) the conviction is not a spent conviction;

(c) has at any time been removed—

(i) from the office of charity trustee or trustee for a charity in Northern Ireland or by an order made by the Charity Commissioners or the High Court in England and Wales on the grounds of any misconduct or mismanagement in the administration of the charity for which that person was responsible or to which that person was privy, or which that person by his conduct contributed to or facilitated; or

(ii) under—

(aa) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(**5**) (powers of the Court of Session to deal with management of charities), or

(bb) section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005(**6**) (powers of the Court of Session),

from being concerned with the management or control of any body.

(**3**) S.I. 1978/1908 (N.I.27).
(**4**) 1974 c.53.
(**5**) 1990 c.40; section 7 was repealed by the Charities and Trustee Investment (Scotland) Act 2005 (asp 10), Schedule 4, paragraph 7(b).
(**6**) 2005 asp 10.

(d) has at any time been removed from office as the chair, or a member, convenor or director, of any public body on the grounds that it was not in the interests of, or conducive to the good management of, that body that the person should continue to hold that office;

(e) at any time been adjudged bankrupt or sequestration of the person's estate has been awarded, and

(i) the person has not been discharged, or

(ii) the person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 2A of the Insolvency (Northern Ireland) Order 1989(**7**) or Schedule 4A to the Insolvency Act 1986(**8**) (which relate to bankruptcy restrictions orders and undertakings) or sections 56A to 56K of the Bankruptcy (Scotland) Act 1985(**9**);

(f) has at any time made a composition or arrangement with, or granted a trust deed for, the person's creditors and the person has not been discharged in respect of it;

(g) is a person to whom a moratorium period under a debt relief order under Part V11A of the Insolvency Act 1986 (debt relief orders) applies, or is the subject of a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4ZB to that Act (debt relief restrictions order and undertaking)(**10**);

(h) is subject to—

(i) a disqualification order or a disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002(**11**),

(ii) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(**12**), or

(iii) an order made under section 429(2) of the Insolvency Act 1986(**13**) (disabilities on revocation of a county court administration order);

(i) has been included by—

(i) the Independent Safeguarding Authority in a barred list (within the meaning of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(**14**) or the Safeguarding Vulnerable Groups Act 2006(**15**), or

(ii) the Scottish Ministers in the children's list or the adult's list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007(**16**));

(j) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by any licensing body, the final outcome of which was—

(i) the person's entry in a register held by the licensing body is suspended,

(ii) the person's entry is removed from a register held by the licensing body or there has been a decision that had the effect of preventing the person from practising the profession licensed or regulated by the licensing body, or

(iii) a decision allowing the person to practise that profession subject to conditions and those conditions have not been lifted;

(**7**) S.I. 1989/2405 (N.I. 19); Schedule 2A was inserted by S.I. 2005/1455 (N.I. 10).
(**8**) 1986 c.45. Schedule 4A was inserted by section 257(2) of, and Schedule 20 to, the Enterprise Act 2002 (c.40).
(**9**) 1986 c.66. Sections 56A to 56K were inserted by section 2(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).
(**10**) 1986 c.45. Part VIIA was inserted by section 108(1) of, and Schedule 17 to, the Tribunals, Courts and Enforcement Act 2007 (c.15). Schedule 4ZB was inserted by section 108(2) of, and Schedule 19, to that Act.
(**11**) S.I. 2002/3150 (N.I.4). Relevant amendments were made by S.I.2005/1450 (N.I.9)
(**12**) 1986 c.46.
(**13**) Section 429(2) was amended by the Enterprise Act 2002 (c.40), Schedule 23, paragraph 15.
(**14**) S.I. 2007/1351 (N.I. 11).
(**15**) 2006 c.47.
(**16**) 2007 asp. 14.

(k) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by the Statutory Committee, in the course of which or where the final outcome was that—

(i) the person's entry in the register was suspended (including by an interim suspension order) and the order imposing that suspension has not been lifted,

(ii) the person's name was struck off the register (for a reason connected with the person's fitness to practise), or

(iii) the person's entry in the register was made subject to an order imposing conditions with which the person must comply (including by an order for interim conditional entry) and that order has not been lifted;

(l) has at any time been subject to any investigation or proceedings relating to an allegation that the person's entry in the register was fraudulently procured or incorrectly made, the final outcome of which was the person's entry being struck off the register;

(m) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by—

(i) any licensing body,

(ii) the Statutory Committee, or

(iii) the Scrutiny Committee,

and the Department is satisfied that the person's membership of the Council would be liable to undermine public confidence in the regulation of pharmaceutical chemists; or

(n) has at any time been convicted of an offence elsewhere than in the United Kingdom and the Department is satisfied that the person's membership of the Council would be liable to undermine public confidence in the regulation of pharmaceutical chemists.

Removal of members of the Council from office

3.—(1) A member of the Council must be removed from office by the Department, if—

(a) the member resigns, which a member may do at any time by a notice in writing to the Department;

(b) in the case of—

(i) a member who is a registered person, he ceases to be registered, or

(ii) a lay member, that member becomes a person who no longer satisfies the criteria for being a lay member in Article 2(2) of the Order (Interpretation);

(c) the member becomes a person of the type mentioned in regulation 2(a), (b) or (e) to (j) (irrespective of whether or not they subsequently cease to be a person of the type mentioned in those provisions);

(d) the member becomes a person of the type mentioned in regulation 2(c) or (d);

(e) in the case of a registered person, the member has become the subject of any investigation or proceedings concerning the member's fitness to practise by the Statutory Committee, as a result of which—

(i) the member's entry in the register, is suspended,

(ii) the member's name is struck off the register,

(iii) the member's entry in the register is made subject to an order imposing conditions with which the member must comply,

and the proceedings relating to that particular sanction have reached their final outcome;