

**2010 No. 1619**

**HEALTH CARE AND ASSOCIATED PROFESSIONS**

**The Pharmacy Order 2010 (Registration – Transitional Provisions) Order of Council 2010**

*Made* - - - - - *28th June 2010*

*Laid before Parliament* *5th July 2010*

*Laid before the Scottish Parliament* *5th July 2010*

*Coming into force* - - - *27th September 2010*

At the Council Chamber, Whitehall, the 28th day of June 2010

By the Lords of Her Majesty's Most Honourable Privy Council

Their Lordships make the following Order of Council, in connection with the commencement of paragraph 3 of Schedule 5 to the Pharmacy Order 2010(a), in exercise of the powers conferred by article 69(3) of that Order(b).

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Pharmacy Order 2010 (Registration – Transitional Provisions) Order of Council 2010 and comes into force on 27th September 2010.

(2) In this Order—

“the Act” means the Medicines Act 1968(c);

“the Order” means the Pharmacy Order 2010;

“application for renewal” means an application which falls within sub-paragraph (a) or (b) of article 2(2) of this Order;

“appointed day” means the day appointed for the coming into force of article 19 of the Order(d);

“made on line”, in relation to an application under this Order, means submitted to the Registrar in electronic format via the internet;

“prescribed fee” means any fee prescribed in rules under article 36(1) of the Order; and

“relevant date” means 31st December 2010.

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(a) S.I.2010/231.

(b) See article 1(2)(c) of the Pharmacy Order 2010 regarding the commencement of Schedule 5 to that Order.

(c) 1968 (c.67). Sections 74A to 74L were inserted into the Act by paragraph 1(8) of Schedule 4 to the Pharmacy Order 2010.

(d) See article 1(5) of the Pharmacy Order 2010 which makes provision for the Privy Council by order to appoint a day for the coming into force of article 19 of that Order. Such provision is made in S.I.2010/1621 (C.85).

## **Application**

2.—(1) This Order applies to an entry made in the Register with effect from the appointed day by virtue of paragraph 3(3) and (4) of Schedule 5 to the Order<sup>(a)</sup> which, under article 25 of the Order, will cease to be valid unless it is renewed by the Registrar before the end of the relevant date.

(2) The following articles of this Order apply, for transitional purposes—

- (a) to applications for the first renewal of an entry in Part 1, 2 or 3 of the Register to which paragraph (1) applies; and
- (b) to applications for the first renewal of an annotation in respect of a specialisation made to an entry in Part 1 of the Register to which paragraph (1) applies.

## **Applications for renewal: general**

3. The Council may make such provision as it considers appropriate for applications for renewal under this Order to be made on line to the Registrar.

## **Fees**

4.—(1) The Registrar may decide, at the Registrar's discretion—

- (a) not to charge any prescribed fee in connection with an application for renewal under this Order; or
- (b) to waive any prescribed fee in connection with such an application either in whole or in part.

(2) The Registrar may offer to any person who makes an application for renewal under this Order (“the applicant”) the option of paying any prescribed fee in connection with the application by way of direct debit in instalments or otherwise and the payment by direct debit of any such fee is to be subject to such terms and conditions as are agreed between the Registrar and the applicant.

## **Renewal of an entry in Part 1 or 2 of the Register: registrants**

5.—(1) Subject to the following paragraphs, applicants for the renewal of an entry in Part 1 or, as the case may be, Part 2 of the Register must apply to the Registrar using the relevant application form which must be in such form as the Council may from time to time determine.

(2) An application under this article must be made to the Registrar no later than one month before the relevant date.

(3) The Registrar must send to each registrant the relevant application form for the renewal of an entry in Part 1 or, as the case may be, Part 2 of the Register at least two months before the relevant date.

(4) The application form must, in particular—

- (a) require the registrant to—
  - (i) provide the registrant's full name, home address and contact details (including a telephone number and electronic mail address, where possible),
  - (ii) provide the number of the entry in Part 1 or, as the case may be, Part 2 of the Register to which the application relates,
  - (iii) declare that the registrant agrees to adhere to any standards set by the Council under article 43(1)(b) of the Order relating to the continuing professional development that

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(a) Paragraph 3(6) and (7) of Schedule 5 to the Pharmacy Order 2010 treats entries made in the Register pursuant to paragraph 3(3) and (4) of that Schedule as having been made on 1 January 2010 pursuant to an application under article 23 of that Order, in the case of entries in respect of registrants, and section 74A of the Medicines Act 1968 (c.67) in the case of entries in respect of registered pharmacies.

it is necessary for a registrant to maintain in order to have an entry in Part 1 or, as the case may be, Part 2 of the Register renewed,

(iv) declare the registrant's intention to adhere to the standards set by the Council under article 48(1)(a) of the Order relating to the conduct, ethics and performance expected of registrants, and

(v) specify—

(aa) whether any of the matters referred to in article 51(1)(e) to (n) of the Order exist in relation to the registrant which have not previously been notified to the Council, or

(bb) whether, in relation to the registrant, there have been any findings of impairment of the registrant's fitness to practise made by a regulatory body which have not previously been notified to the Council or, prior to 27 September 2010, to the Society;

(b) include a demand that the registrant pay any prescribed fee in respect of the application;

(c) inform the registrant that—

(i) if the declaration included in the application is not completed to the satisfaction of the Registrar, the Registrar may refuse to renew the applicant's entry in Part 1 or, as the case may be, Part 2 of the Register because the application does not comply with the requirements of this article, and

(ii) in the event that the registrant is found to have given false or misleading information in connection with the application, that may be treated as misconduct for the purposes of article 51(1)(a) of the Order which may result in the removal of the registrant's entry from the relevant part of the Register; and

(d) require the registrant to sign and date the application.

(5) The applicant must also provide such additional documents, information or evidence as the Registrar may reasonably require for the purposes of verifying the information in, or determining, the application.

(6) If a registrant has not received an application form for the renewal of the registrant's entry in Part 1 or, as the case may be, Part 2 of the Register by the beginning of the period of two months before the relevant date, the registrant must notify the Registrar accordingly.

(7) The Registrar must, within the period of one month beginning with the date of receipt of the application—

(a) acknowledge receipt of the application;

(b) inform the applicant of any missing document required for the purposes of the application; and

(c) notify the applicant of the result of the application.

(8) The Registrar may refuse to grant an application under this article if the applicant fails to comply, or if in respect of the applicant there is a failure to comply, with the requirements of this article and any such refusal by the Registrar is to be treated as a refusal to renew the applicant's entry in the Register under article 23(2)(b) of the Order.

(9) Any failure by the Registrar to notify the applicant of the result of the application as required by paragraph (7)(c)—

(a) is to constitute a decision by the Registrar to refuse the application which is to be taken as having been made at the end of the specified period; and

(b) is, for the purposes of article 40(2) of the Order, to be treated as a decision to which article 24(9) of the Order applies.

(10) In paragraph (9)(a), "the specified period" means the period of one month beginning with—

(a) the date on which the Registrar receives the application; or

(b) if any document required for the purposes of the application, or any prescribed fee which is payable in respect of the application, is missing when the Registrar first receives the

application, the date on which the Registrar first has all the documents required for those purposes together with any prescribed fee.

(11) Except as provided for by paragraph (11), the Registrar must refuse an application under this article—

- (a) if it is not received by the Registrar within the time limit specified in paragraph (2);
- (b) if it is not accompanied by the necessary supporting documents, information or evidence as mentioned in the application form or subsequently required by the Registrar; or
- (c) if the applicant has not paid, or has not made arrangements with the Registrar to pay by direct debit, any prescribed fee in respect of the application.

(12) If there is an ongoing fitness to practise investigation, or there are ongoing fitness to practise proceedings, in respect of a registrant who—

- (a) has not made an application under this article for the renewal of their entry in Part 1 or, as the case may be, Part 2 of the Register; or
- (b) has not paid, or has not made arrangements with the Registrar to pay by direct debit, any prescribed fee in respect of the application,

the Registrar may not remove the registrant's entry from the relevant part of the Register in accordance with article 25(3) of the Order except in cases where the Registrar considers that the public interest would be best served by so doing.

(13) Where the Registrar refuses an application under this article, the Registrar must send to the applicant a statement in writing giving the applicant notice of the reasons for the refusal and of any right of appeal that the applicant has to the Appeals Committee under article 40 of the Order.

(14) The notice under paragraph (12) must be sent to the applicant at the applicant's home address in the Register.

### **Renewal of annotations made to an entry in Part 1 of the Register: registrants**

6.—(1) Subject to the following paragraphs, applicants for the renewal of an annotation in respect of a specialisation made to an entry in Part 1 of the Register may apply to the Registrar.

(2) An application under this article must be made to the Registrar no later than one month before the relevant date using the relevant application form which must be in such form as the Council may from time to time determine.

(3) The Registrar must send to each registrant whose entry in Part 1 of the Register is subject to an annotation made in respect of a specialisation an application form for the renewal of that annotation at least two months before the relevant date.

(4) The application form must, in particular—

- (a) include a demand that the registrant pay any prescribed fee in respect of the application; and
- (b) require the applicant to—
  - (i) provide the applicant's full name, home address and contact details (including a telephone number and electronic mail address, where possible),
  - (ii) specify the number of the entry in the Register to which the application relates,
  - (iii) provide any other necessary supporting documents, information or evidence as mentioned in the application form, and
  - (iv) sign and date the application.

(5) The applicant must also provide such additional documents, information or evidence as the Registrar may reasonably require for the purposes of verifying the information in, or determining, the application.

(6) If a registrant with an annotation in respect of a specialisation made to an entry in Part 1 of the Register has not received an application form for the renewal of that annotation by the

beginning of the period of two months before the relevant date, the registrant must notify the Registrar accordingly.

- (7) The Registrar must refuse any application under this article—
  - (a) if it is not received by the Registrar within the time limit specified in paragraph (2);
  - (b) if it is not accompanied by the necessary supporting documents, information or evidence as mentioned in the application form or subsequently required by the Registrar; or
  - (c) if the applicant has not paid, or has not made arrangements with the Registrar to pay by direct debit, any prescribed fee in respect of the application.
- (8) Where the Registrar refuses an application under this article—
  - (a) the Registrar must send to the applicant a statement in writing giving the applicant notice of the reasons for the refusal and of any right of appeal that the applicant has to the Appeals Committee under article 40 of the Order; and
  - (b) the refusal is to be treated as a decision by the Registrar to refuse to renew an annotation in respect of a specialisation made in respect of an entry in Part 1 of the Register pursuant to rules under article 27(1) of the Order.
- (9) The notice under paragraph (8)(a) must be sent to the applicant at the applicant's home address in the Register.

### **Renewal of entries in Part 3 of the Register: registered pharmacies**

7.—(1) Subject to the following paragraphs, applicants for the renewal of an entry of premises entered in Part 3 of the Register may apply to the Registrar using the relevant application form which must be in such form as the Council may from time to time determine.

(2) An application under this article must be made to the Registrar by the person carrying on a retail pharmacy business at the premises at least one month before the relevant date.

(3) The Registrar must send to each person carrying on a retail pharmacy business at premises entered in Part 3 of the Register the relevant application form for the renewal of the entry of the premises in that part of the Register at least two months before the relevant date.

- (4) The application form must, in particular—
  - (a) require the applicant to specify—
    - (i) the applicant's full name, address and contact details (including a telephone number and electronic mail address, where possible),
    - (ii) the full postal address of the premises to which the application relates,
    - (iii) the number of the entry of the premises in Part 3 of the Register to which the application relates,
    - (iv) the name under which the retail pharmacy business carried on at the premises trades,
    - (v) whether the applicant is a person lawfully conducting a retail pharmacy business at the premises within the meaning of Part 4 of the Act,
    - (vi) the date of the commencement of the retail pharmacy business carried on at the premises,
    - (vii) where the applicant is a partner in a partnership, the names of all the partners in the partnership,
    - (viii) where the applicant is a body corporate—
      - (aa) the names of all of the directors of the body corporate, and
      - (bb) the name of the superintendent pharmacist, and
    - (ix) where the retail pharmacy business is carried on at the premises by a representative, the name of the responsible pharmacist;
  - (b) include a demand that the applicant pay any prescribed fee in respect of the application;
  - (c) require the applicant to provide—

- (i) a description of the premises to which the application relates,
  - (ii) details of the type of activities undertaken at the premises, and
  - (iii) a declaration providing details of any relevant offence or relevant investigation within the meaning of article 7(6)(a) and (b) of the Order;
- (d) inform the applicant that if the declaration included in the application is not completed to the satisfaction of the Registrar, the Registrar may refuse to renew the entry of the premises in Part 3 of the Register; and
- (e) require the applicant to sign and date the application.
- (5) For the purposes of paragraph (4)(a)(i), the address of the applicant is—
- (a) where the retail pharmacy business is carried on at the premises by an individual, that individual's home address in the Register;
  - (b) where the retail pharmacy business is carried on at the premises by a partnership, the address of the principal office of that partnership; or
  - (c) where the retail pharmacy business is carried on at the premises by a body corporate, the address of the registered or principal office of that body corporate.
- (6) The applicant must also provide such additional documents, information or evidence as the Registrar may reasonably require for the purposes of verifying the information in, or determining, the application.
- (7) The Registrar must refuse an application under this article—
- (a) if the application is not received by the Registrar within the time limit specified in paragraph (2);
  - (b) if the application is not accompanied by the necessary supporting documents, information or evidence as mentioned in the application form or subsequently required by the Registrar; or
  - (c) if the applicant has not paid, or has not made arrangements with the Registrar to pay by direct debit, any prescribed fee in respect of the application.
- (8) Where the Registrar refuses to grant an application under this article—
- (a) the Registrar must send to the applicant a statement in writing giving the applicant notice of the reasons for the refusal and of any right of appeal that the applicant has to the Appeals Committee under article 40 of the Order; and
  - (b) the refusal is to be treated as a decision by the Registrar under section 74A of the Act (registration of premises: Great Britain) to refuse to renew the entry of premises in Part 3 of the Register.
- (9) The notice under paragraph (8)(a) must be sent—
- (a) where the retail pharmacy business is carried on at the premises by an individual, to that individual's home address in the Register;
  - (b) where the retail pharmacy business is carried on at the premises by a partnership, to the address of the principal office of that partnership; or
  - (c) where the retail pharmacy business is carried on at the premises by a body corporate, to the address of the registered or principal office of that body corporate.

*Judith Simpson*  
Clerk to the Privy Council

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made under article 69(3) of the Pharmacy Order 2010 (S.I.2010/231) (“the Order”). It makes transitional provision in connection with the commencement of paragraph 3 of Schedule 5 to the Order.

This Order applies in respect of the renewal of entries in the register established and maintained under article 19 of the Order (“the Register”) with effect from the day appointed for the coming into force of article 19 of the Order. The relevant entries are those made in Parts 1, 2 and 3 of the Register by virtue of paragraph 3(3) and (4) of Schedule 5 to the Order in relation to registered pharmacists, registered pharmacy technicians and registered pharmacies. These entries are treated as having been made on 1st January 2010 by virtue of paragraph 3(6) and (7) of Schedule 5 to the Order. This Order provides for an abridged procedure to apply, for transitional purposes, in respect of the renewal of such entries in the Register in order to ensure that they can be renewed before they would otherwise cease to be valid by virtue of provision in article 25 of the Order.

Article 1 provides for citation, commencement and interpretation.

Article 2 makes provision for the application of the Order. It provides that the Order is to apply in respect of the first renewal of certain entries made in the Register.

Article 3 makes provision for applications for renewal to which the Order applies to be made on line to the Registrar.

Article 4 gives the Registrar the discretion to waive in whole or in part any fee prescribed in rules under article 36(1) of the Order in connection with an application for renewal under this Order. Article 4 also enables the Registrar to offer to any person making an application for renewal under this Order the facility to pay any prescribed fee in connection with that application by direct debit in instalments or otherwise subject to such terms and conditions as are agreed between the Registrar and the applicant.

Articles 5 and 7 set out the procedure under which applications for the renewal of an entry to which article 2(1) of this Order applies are to be made and considered by the Registrar.

Article 6 sets out the procedure under which applications for the renewal of an annotation in respect of a specialisation made to an entry in Part 1 of the Register to which article 2(1) of this Order applies are to be made and considered by the Registrar.

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STATUTORY INSTRUMENTS

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The Pharmacy Order 2010 (Registration – Transitional  
Provisions) Order of Council 2010

£5.75