

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^(a) 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^(b).

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;

“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;

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

^(b) 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

“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(a); 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(b); 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(c) (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(d) (powers of the Court of Session),from being concerned with the management or control of any body.
 - (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

(a) S.I. 1978/1908 (N.I.27).

(b) 1974 c.53.

(c) 1990 c.40; section 7 was repealed by the Charities and Trustee Investment (Scotland) Act 2005 (asp 10), Schedule 4, paragraph 7(b).

(d) 2005 asp 10.

- 1989(a) or Schedule 4A to the Insolvency Act 1986(b) (which relate to bankruptcy restrictions orders and undertakings) or sections 56A to 56K of the Bankruptcy (Scotland) Act 1985(c);
- (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)(d);
 - (h) is subject to—
 - (i) a disqualification order or a disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002(e),
 - (ii) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(f), or
 - (iii) an order made under section 429(2) of the Insolvency Act 1986(g) (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(h) or the Safeguarding Vulnerable Groups Act 2006(i), 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(j));
 - (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;
 - (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;

(a) S.I. 1989/2405 (N.I. 19); Schedule 2A was inserted by S.I. 2005/1455 (N.I. 10).

(b) 1986 c.45. Schedule 4A was inserted by section 257(2) of, and Schedule 20 to, the Enterprise Act 2002 (c.40).

(c) 1986 c.66. Sections 56A to 56K were inserted by section 2(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).

(d) 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.

(e) S.I. 2002/3150 (N.I.4). Relevant amendments were made by S.I.2005/1450 (N.I.9)

(f) 1986 c.46.

(g) Section 429(2) was amended by the Enterprise Act 2002 (c.40), Schedule 23, paragraph 15.

(h) S.I. 2007/1351 (N.I. 11).

(i) 2006 c.47.

(j) 2007 asp. 14.

- (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;
 - (f) in the case of a registered person, the member has become the subject of any investigation or proceedings relating to an allegation that the member's entry in the register was fraudulently procured or incorrectly made, the final outcome of which was the member's entry being struck off the register;
 - (g) the Department is satisfied that the member's level of attendance at meetings of the Council falls below a minimum level of attendance acceptable to the Department whether or not there has been reasonable cause for the member's non-attendance;
 - (h) the Department is satisfied that the member is no longer able to perform their duties as a member of the Council because of adverse physical or mental health;
 - (i) the Department is satisfied that the member's continued membership of the Council would be liable to undermine public confidence in the regulation of pharmaceutical chemists;
 - (j) the Department is of the opinion that it is not in the interests of, or conducive to the good management of the Society that the member should continue to hold office.

(2) A member of the Council who becomes, or may be about to become, a person to whom paragraph (1)(b) to (f) applies, must notify the Department and the Society in writing of that fact as soon as the person becomes aware of it.

(3) Any member of the Council or employee of the Society may notify the Department if they are of the view that the Department may need to exercise its functions under paragraph (1).

(4) The President must notify the Department if the President is aware that—

- (a) a member of the Council has become, or may be about to become, a person to whom paragraph (1)(b) to (f) applies; and
- (b) that member has not notified the Department in writing of that fact and the President is not satisfied that the member will do so immediately.

Suspension of members of the Council from office

4.—(1) The Department may suspend a member of the Council from office by a notice in writing served on that member—

- (a) if the Department has reasonable grounds for suspecting that the member has become a person to whom regulation 3(1)(b)(ii) to (d) applies, for the purposes of determining whether or not the member has become such a person;
- (b) while the Department is considering whether or not it is satisfied as to the matters set out in regulation 3(1)(g) to (i);
- (c) if the member is subject to any investigation or proceedings concerning the member's fitness to practise by—
 - (i) any licensing body,
 - (ii) the Statutory Committee, or
 - (iii) the Scrutiny Committee,

and the Department is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the Council while the investigation or proceedings concerning the member's fitness to practise is or are ongoing;

- (d) if the member is subject to any investigation or proceedings concerning whether the member's entry in the register was fraudulently procured or incorrectly made and the Department is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the Council while the investigation or proceedings concerning the member's entry in the register is or are ongoing; or
- (e) if the member is subject to any investigation or proceedings in the United Kingdom relating to an offence which, if committed in any part of the United Kingdom, would constitute a criminal offence, and—
 - (i) either—
 - (aa) the investigation or proceedings relate to an offence involving dishonesty or deception, or
 - (bb) the final outcome of the investigation or proceedings may be that the person is sentenced to a term of imprisonment or detention, and
 - (ii) the Department is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the Council while the investigation or proceedings are ongoing.

(2) The Department must suspend a member of the Council who is a registered person from office by a notice in writing served on the member if the member is the subject of an interim suspension order under paragraph 8 of Schedule 3 to the Order (Interim Orders).

(3) The notice in writing served under paragraph (1) or (2) must set out the reasons for the suspension and the duration of the period of suspension, which is (in the first instance) not to be for more than 6 months.

(4) The Department—

- (a) may at any time review a suspension of a member of the Council by it; and
 - (b) must review any suspension of a member of the Council by it after 3 months from the start of the period of suspension, if requested to do so by the suspended member.
- (5) Following a review, the Department may—
- (a) terminate the suspension;
 - (b) if that review is within 3 months of the end of the period of suspension, extend the suspension for a further period of up to 6 months from the date on which the suspension would otherwise come to an end.
- (6) The Department must notify the suspended member of the Council in writing of the outcome of any review and that notice must include the reasons for any decision taken.

PART 3

President and Vice-President

Appointment, term of office and cessation of office of the President and Vice-President

5.—(1) The Department must, as one of its functions relating to the appointment of members of the Council, appoint the President and the Vice-President.

(2) The Department may appoint a person to be President or Vice-President—

- (a) when it appoints that person to be a member of the Council; or
- (b) whom it has already appointed as a member of the Council.

(3) The term of office of a member of the Council as President or Vice-President is to be determined by the Department on appointment of the member as President or Vice-President but it is to be for a period that is no longer than the period between their date of appointment as President or Vice-President and the date on which their term of office as a member is due to expire (irrespective of whether or not they are thereafter reappointed as a member).

(4) A member of the Council serving as President or Vice-President must cease to be President or Vice-President—

- (a) on ceasing to be a member of the Council;
- (b) if the member resigns as President or Vice-President, which the member may do at any time by a notice in writing to the Department;
- (c) if the member's membership of the Council is suspended by the Department; or
- (d) if a majority of the Council, excluding the President or Vice-President (but not simply a majority at a quorate meeting) passes a vote of no confidence in the President or Vice-President.

Deputising arrangements in respect of the President

6.—(1) Subject to paragraph (2), if, for any reason, the President and the Vice-President are absent from a meeting of the Council, the members of the Council who are present at that meeting must nominate one of their number to serve as President at that meeting.

(2) If, for any reason—

- (a) the Council is on notice that the President is likely—
 - (i) to be absent for more than one meeting of the Council, or
 - (ii) to be unavailable to perform the duties of President of the Council for more than one month; or
- (b) the office of President is vacant,

the Vice-President shall serve as President during the absence or unavailability of the President or the vacancy.

PART 4
Proceedings of the Council

Quorum of the Council

7. The quorum of the Council is to be 8.

Effect of vacancies etc. on the validity of proceedings

8.—(1) The validity of any proceedings of the Council is not to be affected by—

- (a) any vacancy among the members of the Council;
- (b) any defect in the appointment of a member of the Council;
- (c) a member whom the Department must remove from the Council under regulation 3(1)(b) to (f) participating in the proceedings;
- (d) a member whom the Department has removed under regulation 3(1) having participated in the proceedings; or
- (e) a member who has been suspended by the Department under regulation 4(1) or (2) having participated in the proceedings.

(2) Notwithstanding paragraph (1)(c), a member who the Department must remove from the Council under regulation 3(1)(b) to (f) is not entitled to participate in proceedings of the Council, pending the member's removal from the Council by the Department.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on
7th August 2012



Diane Taylor
A senior officer of the
Department of Health, Social Services and Public Safety

EXPLANATORY NOTE

(This note is not part of the regulations)

These regulations make provision with regard to the constitution of the Council of the Pharmaceutical Society of Northern Ireland (“the Council”).

Certain categories of people, for example people who have been convicted of certain types of offences where the conviction is not spent, are disqualified from being members of the Council, and once members of the Council have been appointed, there are certain circumstances in which they may be removed from office (regulations 2 and 3). In some circumstances a member of the Council may also be suspended from office pending the taking effect of a decision by the Department to suspend or remove that member (regulation 4).

There are also provisions relating to the appointment of a President and Vice-President who are to be appointed by the Department. They will cease to hold office if they are suspended as a member of the Council or lose a vote of no confidence (regulation 5). There are provisions relating to the deputising arrangements for the President and Vice-President, and the Vice-President shall serve during the absence of a President that is likely to be for more than one month or one meeting, or the position of President is vacant (regulation 6).

There are also provisions relating to the proceedings of the Council. Its quorum is 8 and there are special provisions to prevent the Council’s proceedings being invalidated by matters such as a vacancy or a defect in the appointment of a member of the Council (regulations 7 and 8).

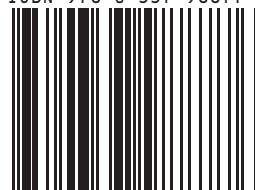
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