

2023 No. 0000

PHARMACY

**The Council of the Pharmaceutical Society of Northern Ireland
(General) (Fitness to Practise and Disqualification) and
(Continuing Professional Development) (Amendment)
Regulations (Northern Ireland) 2023**

Made - - - - - ***

Coming into operation ***

The Council of the Pharmaceutical Society of Northern Ireland, with the approval of the Department of Health(a) in accordance with Article 25A(2) of the Pharmacy (Northern Ireland) Order 1976(b), makes the following Regulations in exercise of the powers conferred by Articles 4A(9) and (10), 5(1) and (1B) and 8(2A) of, and paragraphs 4(5), 5(1) and (2), 9(3) and 15(1) to (3) and (5) of Schedule 3 to, the Pharmacy (Northern Ireland) Order 1976(c).

PART 1

Preliminary matters

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Council of the Pharmaceutical Society of Northern Ireland (General) (Fitness to Practise and Disqualification) and (Continuing Professional Development) (Amendment) Regulations (Northern Ireland) 2023 and shall come into operation on *** 2023.

(2) In these Regulations—

“the Continuing Professional Development Regulations” means the Council of the Pharmaceutical Society of Northern Ireland (Continuing Professional Development) Regulations (Northern Ireland) 2012(d);

“the Fitness to Practise Regulations” means the Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012(e);

(a) The Department of Health was formerly the Department of Health, Social Services and Public Safety; see 2016 c.5 (N.I.), section 1(5), and formerly the Department of Health and Social Services; see S.I. 1999/283 (N.I.1), Article 3(6)

(b) Article 25A was inserted by Article 9 of S.R. 2012 No. 308

(c) 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, S.R. 2012 No. 308, S.I. 2012/1916, S.R. 2013 No. 258, S.I. 2013/3036, S.I. 2015/806, S.I. 2016/372, S.I. 2019/585 and 2022 c.3 (N.I.)

(d) S.R. 2012 No. 312 as amended by S.R. 2013 No. 147 and S.I. 2019/585

(e) S.R. 2012 No. 311

“the General Regulations” means the Pharmaceutical Society of Northern Ireland (General) Regulations (Northern Ireland) 1994(a).

PART 2

Amendment of the Pharmaceutical Society of Northern Ireland (General) Regulations (Northern Ireland) 1994

Amendment of the General Regulations

2. After regulation 11 of the General Regulations insert—

“Knowledge of English

11A.—(1) An applicant must satisfy the conditions as to the necessary knowledge of English set out in paragraph (2), by virtue of Article 5(1B) of the Order.

(2) The conditions referred to in paragraph (1) are that—

- (a) an applicant must, at the time of the application to enter their name in the register of pharmaceutical chemists, provide to the registrar evidence, information or documents to satisfy the registrar that the applicant has the necessary knowledge of English;
- (b) an applicant must, at the time of the application to retain their name in the register of pharmaceutical chemists, provide to the registrar—
 - (i) a written declaration as to whether the applicant holds evidence, information or documents to satisfy the registrar that the applicant has the necessary knowledge of English; and
 - (ii) such additional documents, information or evidence as the registrar may reasonably require, to satisfy the registrar that the applicant has the necessary knowledge of English;
- (c) an applicant must, at the time of the application to restore their name to the register of pharmaceutical chemists, provide to the registrar—
 - (i) a written declaration as to whether the applicant holds evidence, information or documents to satisfy the registrar that the applicant has the necessary knowledge of English; and
 - (ii) such additional documents, information or evidence as the registrar may reasonably require, to satisfy the registrar that the applicant has the necessary knowledge of English.

(3) In this regulation, references to “an applicant” are to a person desirous of being registered as pharmaceutical chemist under the Order.”.

(a) S.R. 1994 No. 202 as amended by S.R. 1996 No. 187, S.R. 1999 No 217, S.R. 2002 No. 206, S.R. 2003 No. 356, S.R. 2004 No. 236, S.R. 2005 No. 63, S.R. 2006 Nos. 207 and 240, S.R. 2007 No. 287, S.R. 2008 No. 222, S.R. 2009 No. 166, S.R. 2016 No. 170 and S.R. 2017 No. 188

PART 3

Amendment of the Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012

Amendment of regulation 2 of the Fitness to Practise Regulations

3. In regulation 2 (interpretation) of the Fitness to Practise Regulations, in paragraph (1)—

- (a) for the definition of “allegation” substitute, ““allegation” means a disqualification allegation, a fitness to practise allegation, a health allegation or a knowledge of English allegation;”;
- (b) after the definition of “interim order hearing” insert, ““knowledge of English allegation” means a complaint to, or concern of, the Society which gives rise to, or may give rise to, an inquiry that a person’s fitness to practise is impaired by reason of paragraph 4(1)(ca) of Schedule 3 to the Order;”(a).

Amendment of regulation 5 of the Fitness to Practise Regulations

4. In regulation 5 (initial action in respect of allegations) of the Fitness to Practise Regulations, paragraph (4) is amended as follows—

- (a) omit “or” at the end of sub-paragraph (c); and
- (b) for the full stop at the end of sub-paragraph (d), substitute—
“; or
- (e) in relation to a knowledge of English allegation, requiring the person concerned—
 - (i) to agree to undergo an examination or other assessment of that person’s knowledge of English commissioned by the Society, and
 - (ii) to provide to the registrar information in respect of that examination or assessment, including evidence of the result of that examination or assessment.”.

Amendment of regulation 6 of the Fitness to Practise Regulations

5.—(1) Regulation 6 (notices of referral and documents to be supplied to persons concerned) of the Fitness to Practise Regulations is amended as follows.

(2) In paragraph (1)(b)—

- (a) omit “and” at the end of head (i); and
- (b) for the full stop at the end of head (ii) substitute—

“; and

- (iii) where the person is the subject of a knowledge of English allegation, a copy of the guidance published by the Society under Article 8AA of the Order.”(b).

(3) In paragraph 2(d), after head (ii) insert—

- “(iia) in relation to a knowledge of English allegation, to direct the person concerned to undertake an examination or other assessment of that person’s knowledge of English,”.

(a) Paragraph 4(1)(ca) of Schedule 3 was inserted by Article 10 of S.I. 2015/806

(b) Article 8AA was inserted by Article 8 of S.I. 2015/806

Amendments of regulation 9 of the Fitness to Practise Regulations

6. In regulation 9 (applications for restoration) of the Fitness to Practise Regulations, paragraph (3) is amended as follows—

(a) after sub-paragraph (a) insert—

“(aa) a written declaration as to whether they hold evidence, information or documents to satisfy the registrar that the person has the necessary knowledge of English;” and

(b) after sub-paragraph (b)(i) insert—

“(ia) evidence, information or documents to satisfy the registrar that the person has the necessary knowledge of English.”.

Amendment of regulation 10 of the Fitness to Practise Regulations

7. In regulation 10 (procedures of the Scrutiny Committee) of the Fitness to Practise Regulations, after paragraph (6) insert—

“(6A) In relation to a knowledge of English allegation—

(a) the Scrutiny Committee may direct the person concerned to undertake an examination or other assessment of that person’s knowledge of English commissioned by the Society; and

(b) the person concerned may be required to provide to the registrar information in respect of that examination or assessment, including evidence of the result of that examination or assessment.

(6B) Where the Scrutiny Committee receives information that the person concerned has failed to comply with any direction or requirement under paragraph (6A), it may—

(a) refer the knowledge of English allegation to the Statutory Committee and treat the failure to comply with the direction or requirement under paragraph (6A) as a separate allegation of misconduct and refer that allegation to the Statutory Committee, or

(b) determine not to refer the knowledge of English allegation to the Statutory Committee but treat the failure to comply with the direction or requirement under paragraph (6A) as a separate allegation of misconduct and refer that allegation to the Statutory Committee.”.

Amendment of regulation 15 of the Fitness to Practise Regulations

8. In regulation 15 (action upon referral of an allegation) of the Fitness to Practise Regulations, after paragraph (1)(a) insert—

“(aa) in the case of a knowledge of English allegation—

(i) the Statutory Committee may direct the person concerned to undertake an examination or other assessment of that person’s knowledge of English commissioned by the Society; and

(ii) the person concerned may be required to provide to the registrar information in respect of that examination or assessment, including evidence of the result of that examination or assessment;”.

Amendment of regulation 26 of the Fitness to Practise Regulations

9. In regulation 26 (evidence) of the Fitness to Practise Regulations, after paragraph (11) insert—

“(12) In determining whether a registered person’s fitness to practise is impaired by reason of not having the necessary knowledge of English, the Statutory Committee may take into account, amongst other matters—

- (a) a failure by the person concerned to comply with a requirement or a direction given under these regulations to undertake an examination or other assessment of that person's knowledge of English;
- (b) a failure by the person concerned to provide to the registrar information in respect of any such examination or assessment, including evidence of the result of that examination or assessment.”.

PART 4

Amendment of the Council of the Pharmaceutical Society of Northern Ireland (Continuing Professional Development) Regulations (Northern Ireland) 2012

Amendment of regulation 10 of the Continuing Professional Development Regulations

10. In regulation 10 (restoration of a name to the register) of the Continuing Professional Development Regulations, paragraph (3) is amended as follows—

(a) after sub-paragraph (a)(ii) insert—

“(ia) provide a written declaration as to whether A holds evidence, information or documents to satisfy the registrar that A has the necessary knowledge of English,”;

(b) at the end of sub-paragraph (a)(iii)(bb) delete “and”; and

(c) after sub-paragraph (a)(iv) insert—

“and

(v) provide evidence, information or documents to satisfy the registrar that A has the necessary knowledge of English;”.

Sealed with the Common Seal of the Pharmaceutical Society of Northern Ireland on ***



Geraldine O'Hare
President of the Council of the Pharmaceutical Society of Northern Ireland

Michaela McAleer
Chief Executive of the Pharmaceutical Society of Northern Ireland

The Department of Health approves the Regulations.

Sealed with the Official Seal of the Department of Health on ***



Name
A senior officer of the Department of Health

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Pharmaceutical Society of Northern Ireland (General) Regulations (Northern Ireland) 1994 (“the General Regulations”), the Council of the Pharmaceutical Society of Northern Ireland (Fitness to Practise and Disqualification) Regulations (Northern Ireland) 2012 (“the Fitness to Practise Regulations”) and the Council of the Pharmaceutical of Northern Ireland (Continuing Professional Development) Regulations (Northern Ireland) 2012 (“the Continuing Professional Development Regulations”). The Regulations set out matters relating to the requirements or conditions as to the necessary knowledge of English to be satisfied by persons for the purpose of being registered as pharmaceutical chemists under the Pharmacy (Northern Ireland) Order 1976 (“the Order”). The Regulations also make provision for concerns about the knowledge of English of a pharmacist to be dealt with as a fitness to practise matter.

Regulation 2 inserts a new regulation 11A into the General Regulations setting out the conditions as to the necessary knowledge of English which must be satisfied by applicants for registration, retention and restoration to the register. Regulation 11A(2)(a) requires persons applying to join the register to provide evidence, information or documents to satisfy the registrar that they have the necessary knowledge of English. Regulation 11A(2)(b) and (c) requires persons applying to be retained on the register and persons applying to be restored to the register to provide a written declaration as to whether they hold evidence, information or documents to satisfy the registrar that they have the necessary knowledge of English. Applicants for retention and restoration must also provide such additional document, information or evidence as the registrar may reasonably require for the purpose of verifying the information in, or determining, the application.

Regulation 3 substitutes the definition of “allegation” and inserts a definition of “knowledge of English allegation” into regulation 2 of the Fitness to Practise Regulations. Regulation 4 amends regulation 5 of the Fitness to Practise Regulations to permit the registrar to require a person subject to such an allegation to agree to undergo an examination or other assessment as to their knowledge of English and to provide the registrar with information in relation to that examination or assessment, including evidence of the result. Regulation 5 amends regulation 6 of the Fitness to Practise Regulations to require the registrar, once the registrar has taken a decision to refer a knowledge of English allegation to the Scrutiny Committee, to provide the person who is the subject of the allegation with a copy of the knowledge of English guidance published by the Pharmaceutical Society of Northern Ireland under Article 8AA of the Order. This Regulation further amends regulation 6 of the Fitness to Practise Regulations to require the notice of referral sent by the registrar when referring a knowledge of English allegation to the Scrutiny Committee to inform the person of the Scrutiny Committee’s power to direct the person to undertake an examination or other assessment of that person’s knowledge of English.

Regulation 6 amends regulation 9 of the Fitness to Practise Regulations which deals with applications for restoration to the register under paragraph 9 of Schedule 3 to the Order following removal for fitness to practise reasons. Regulation 9 of the Fitness to Practise Regulations is amended by regulation 6 to provide that evidence that the person has the necessary knowledge of English may be required as part of the evidence which the person must provide to the registrar to demonstrate that they are fit to return to practise. Regulation 7 inserts new paragraphs into regulation 10 of the Fitness to Practise Regulations which enables the Scrutiny Committee to direct a person subject to a knowledge of English allegation to undertake an examination or other assessment as to their knowledge of English. Where the person fails to comply with such a direction, it also enables the Scrutiny Committee to refer that failure as a separate allegation to the Statutory Committee.

Regulation 8 amends regulation 15 of the Fitness to Practise Regulations conferring equivalent powers on the Statutory Committee to direct a person subject to a knowledge of English allegation to undertake an examination or other assessment as to their knowledge of English. Regulation 9 amends regulation 26 of the Fitness to Practise Regulations to allow the Statutory Committee to take account of a person’s failure to comply with a direction requiring the person to undertake a

knowledge of English assessment when that Committee is determining whether a person's fitness to practise is impaired.

Regulation 10 amends regulation 10 of the Continuing Professional Development Regulations to require applicants for restoration following continuing professional development removal from the register to provide a written declaration that they hold evidence to satisfy the registrar that they have the necessary knowledge of English and may require such applicants to provide evidence to satisfy the registrar that they have the necessary knowledge of English.