

STATES OF JERSEY



DRAFT PHARMACISTS AND PHARMACY TECHNICIANS (REGISTRATION) (JERSEY) LAW 200-

**Lodged au Greffe on 8th December 2009
by the Minister for Health and Social Services**

STATES GREFFE



Jersey

DRAFT PHARMACISTS AND PHARMACY TECHNICIANS (REGISTRATION) (JERSEY) LAW 200-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Health and Social Services has made the following statement –

In the view of the Minister for Health and Social Services the provisions of the Draft Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Deputy A.E. Pryke of Trinity**

REPORT

Background

Registration of pharmacists is currently subject to the provisions of the Pharmacy and Poisons (Jersey) Law 1952. Registration is gained pursuant to an application to the Royal Court that satisfies the provisions of the Pharmacy and Poisons (Jersey) Law 1952. The basic requirement for registration is that the applicant must be registered as a pharmaceutical chemist in pursuance of the Pharmacy Act 1954 of the United Kingdom. This Act was repealed on 30th March 2007 and replaced by the Pharmacists and Pharmacy Technicians Order 2007. This Order introduced, for the first time, the registration of pharmacy technicians in Great Britain. This Order will in turn be replaced by the Pharmacy Order 2009, which will come into effect with the establishment of the General Pharmaceutical Council (GPhC) in 2010. The newly established GPhC will assume the regulatory role for pharmacists and pharmacy technicians from the Royal Pharmaceutical Society of Great Britain.

Changes to the provisions governing registration in the U.K. and the further changes to be introduced in 2010 require that the provisions for registration of pharmacists in Jersey be updated. There is also a requirement to introduce a registration scheme for pharmacy technicians.

The current Pharmacy and Poisons Law 1952 does not make provision for a registrant to apply for their name to be removed from the register and consequently, unless their registration is cancelled by the Royal Court on the motion of the Attorney General, they remain on the register indefinitely. There are also no provisions to temporarily suspend a person's registration, or to impose conditions on a person's registration, should this be necessary to protect members of the public, or because it is in the public interest, or in the interests of the person to do so.

The Draft Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 200-revises and updates the necessary requirements for registration of pharmacists and also introduces registration of pharmacy technicians.

The effect of the Law

The Draft Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 200-will –

1. Provide that the responsibility for registration of pharmacists is transferred from the Royal Court to the Minister for Health and Social Services.
2. Provide that the responsibility to keep a register of persons registered as a pharmacist is transferred from the Judicial Greffier to the Minister for Health and Social Services.
3. Introduce a registration requirement for pharmacy technicians.
4. Require the Minister to make available for inspection by the public a list of registered pharmacists and pharmacy technicians.
5. Provide that the Minister may, by Order, prescribe the requirements for registration as a pharmacist or pharmacy technician.

6. Provide that the Minister may determine a registration fee which must accompany any application for registration as a pharmacist or pharmacy technician.
7. Introduce the power for the Minister to impose conditions on a persons registration as a pharmacist or pharmacy technician.
8. Require the Minister to issue a certificate to a registered pharmacist or pharmacy technician.
9. Allow a registrant to apply for his or her name to be removed from the register.
10. Describe the circumstances in which a person's registration may be cancelled.
11. Introduce the power for the Minister to suspend the registration of a pharmacist or pharmacy technician in certain circumstances.
12. Introduce the requirement for registrants to submit an annual return to the Minister in order for their registration to be maintained

Financial and manpower implications

There will be limited manpower implications for Health and Social Services Department in relation to the processing of applications for initial registration as a pharmacist or pharmacy technician and also, on an ongoing basis, the maintenance of both registers. The receipt of application fees will meet the costs relating to initial registration.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 7th December 2009 the Minister for Health and Social Services made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Health and Social Services the provisions of the Draft Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

Part 1 – Introductory provisions

Article 1 is the interpretation provision.

Article 2 requires the Minister for Health and Social Services (the “Minister”) to keep a register of pharmacists and pharmacy technicians.

Article 3 requires the Minister to make a list of registered pharmacists and of registered pharmacy technicians available for inspection by the public.

Part 2 – Registration of Pharmacists

Article 4 makes it an offence for a person to hold himself or herself out as registered as a pharmacist under this draft Law unless he or she is so registered or to hold himself or herself out as having a qualification or authorization to practice as pharmacist where having the qualification or authorization is a requirement for registration under this Law, unless he or she in fact has that qualification or authorization. The penalty for the offence is a fine up to level 4 on the standard scale (£5,000).

Article 5 sets out how a person may apply for registration as a pharmacist. The applicant must provide proof that he or she satisfies the requirements for registration that the Minister has prescribed by Order. There is a fee payable for registration which is refundable if the person’s application is refused.

Article 6 requires the Minister to register the person if the Minister is satisfied that the person satisfies the prescribed requirements for registration and if the person has paid the registration fee. The Minister must refuse to register the person if the Minister is not so satisfied or if the fee is not paid. In addition, the Minister must not register a person whose registration has previously been cancelled and in respect of whom the Minister has directed that the person should not be restored to the register within a specified period, which has not yet expired.

Article 7 empowers the Minister to impose conditions on a person’s registration as a pharmacist. In addition, the Minister may prescribe by Order conditions that must be imposed in every case.

Article 8 requires the Minister to issue a certificate to a registered pharmacist.

Article 9 allows a registered pharmacist to apply for his or her name to be removed from the register.

Article 10 describes the circumstances in which a person’s registration as a pharmacist shall or may be cancelled. If a person’s registration is cancelled by virtue of having been obtained by fraudulent means, because he or she has not complied with a condition of his or her registration in Jersey or because he or she has been found to be unfit to be a pharmacist, the Minister has a discretion to direct that the person shall not be restored to the register for a specified period of up to 5 years. Ordinarily, cancellation of registration takes effect when the person is notified of it by the Minister. However if the person appeals against the cancellation, the Minister must restore the person to the register pending the determination of the appeal, unless the

grounds for cancellation are so serious that the person should not be restored to the register.

Article 11 provides for the suspension of a pharmacist's registration. The Minister must suspend registration whenever the person's registration by his or her governing body is suspended. The Minister also has a discretion to suspend registration, where there appear to be grounds for cancellation of registration, pending investigation of those grounds. Suspension may only be for a period of up to 3 months, which is renewable by further decision of the Minister. *Article 13* confers a right of appeal against a decision to suspend.

Article 12 provides that where the Minister has directed that the person should not be re-registered within a specified period, the person may apply to have the direction amended.

Article 13 describes a person's rights of appeal against any decision of the Minister under the Law in respect of the person's registration as a pharmacist and the powers of the Royal Court on the appeal.

Article 14 requires a pharmacist to make annual returns of information to the Minister.

Part 3 – Registration of pharmacy technicians

Article 15 creates an offence, in relation to pharmacy technicians, equating to that in *Article 4*.

Article 16 sets out a procedure for an application for registration as a pharmacy technician equating to that in *Article 5*.

Article 17 sets out the circumstances in which a Minister shall register a person as a pharmacy technician or refuse to register the person. The criteria and procedures equate to those in *Article 6*.

Article 18 provides for the conditions of registration as a pharmacy technician. The provisions equate to those in *Article 7*.

Article 19 requires the Minister to issue a certificate to a registered pharmacy technician.

Article 20 provides for voluntary deregistration. The provision equates to *Article 9*.

Article 21 sets out circumstances in which the registration of a pharmacy technician shall or may be cancelled, equating to those in *Article 10*.

Article 22 provides for suspension of a pharmacy technician's registration in circumstances equating to those in *Article 11*.

Article 23 makes provision for an application for restoration of a pharmacy technician equivalent to that in *Article 12*.

Article 24 sets out rights of appeal against decisions of the Minister concerning a person's registration as a pharmacy technician, and powers of the Royal Court on the appeal, equating to those in *Article 13*.

Article 25 empowers the Minister to require annual returns from pharmacy technicians.

Part 4 – Concluding provisions

Article 26 makes it an offence to make a false or misleading statement, provide false or misleading information, forge a document, use a forged document or use a false identity in connection with registration as a pharmacist or pharmacy technician. The offence is punishable with imprisonment for up to 2 years and/or an unlimited fine.

Article 27 enables notices to be served by post under the Law.

Article 28 provides for the consequential amendment of other enactments.

Article 29 empowers the Minister, by Order, to prescribe any matters for the purposes of the Law, to make provision as to proof of a person's qualifications or authorization in proceedings under the Law and to make transitional provisions in respect of the commencement of this Law and repeals and amendments made under *Article 28*.

Article 30 provides for the citation and commencement of this Law.



Jersey

DRAFT PHARMACISTS AND PHARMACY TECHNICIANS (REGISTRATION) (JERSEY) LAW 200-

Arrangement

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Jersey

DRAFT PHARMACISTS AND PHARMACY TECHNICIANS (REGISTRATION) (JERSEY) LAW 200-

A LAW to regulate the practice of pharmacy, to provide for the regulation of pharmacy technicians, and for connected purposes.

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

PART 1

INTRODUCTORY PROVISIONS

1 Interpretation

In this Law, unless the context otherwise requires –

“Minister” means the Minister for Health and Social Services;

“register” means the register kept under Article 2(1);

“registered” means registered as a pharmacist, or a pharmacy technician, under this Law;

“registration fee” means –

- (a) in relation to the registration of a person as a pharmacist, the registration fee determined under Article 5(3); and
- (b) in relation to the registration of a person as a pharmacy technician, the registration fee determined under Article 16(3).

2 Register

- (1) The Minister shall keep and maintain a register of persons registered as pharmacists or pharmacy technicians.
- (2) Upon registering a person as a pharmacist or pharmacy technician, the Minister shall enter in the register the prescribed information in respect of the person.
- (3) The Minister shall remove from the register the name of a person who has died, who has requested the cancellation of his or her registration under Article 9 or 20 or whose registration has been cancelled under Article 10 or 21.

3 List of registered pharmacists and pharmacy technicians to be kept

The Minister shall ensure that a list of the names of registered pharmacists and registered pharmacy technicians, showing such information regarding their qualification for registration as may be prescribed, shall be available for viewing at all reasonable times by members of the public, without charge, at a place determined by the Minister.

PART 2

REGISTRATION OF PHARMACISTS

4 Person not to falsely hold self out as being registered pharmacist etc.

- (1) A person shall not –
 - (a) represent himself or herself as being registered under this Law as a pharmacist unless he or she is so registered and his or her registration under this Law as a pharmacist is not suspended;
 - (b) represent himself or herself as having any qualification, or authority to practise as a pharmacist that is a qualification or authority prescribed under Article 6(1)(a) as a requirement for registration under this Law, unless he or she has such qualification or authority and, in the case of authority to practise, the authority is not suspended;
 - (c) use the title “registered pharmacist” unless he or she is registered as a pharmacist under this Law and his or her registration under this Law as a pharmacist is not suspended; or
 - (d) represent himself or herself as having a specialist title or specialisation unless he or she is permitted, by a qualification or authority to practise as a pharmacist conferred in another country or territory, that is a qualification or authority prescribed under Article 6(1)(a) as a requirement for registration under this Law, to hold himself or herself out, in that country or territory, as having that specialist title or specialisation, and the permission is not suspended in that country or territory.
- (2) A person who contravenes paragraph (1) commits an offence and shall be liable to a fine of level 4 on the standard scale.

5 Application for registration as a pharmacist

- (1) A person may apply to the Minister for registration under this Law as a pharmacist.
- (2) An application for registration as a pharmacist shall –
 - (a) contain the prescribed particulars; and
 - (b) be accompanied by –
 - (i) the prescribed proof that the applicant fulfils the requirements prescribed under Article 6(1)(a), and
 - (ii) the registration fee.
- (3) The Minister may determine a registration fee for the purposes of paragraph (2)(b)(ii).

6 Registration

- (1) The Minister shall, after receiving an application for registration that complies with the requirements of Article 5(2), register the applicant as a pharmacist if the Minister is satisfied that –
 - (a) the applicant fulfils the prescribed requirements for registration; and
 - (b) the application is not made within a period specified in a direction under Article 10(3) that is in force in relation to the applicant.
- (2) The Minister shall, before refusing to register an applicant as a pharmacist by reason of the application not complying with the requirements of Article 5(2), give the applicant an opportunity to make his or her application compliant with the requirements of that provision.
- (3) The Minister shall not register an applicant as a pharmacist if the Minister is not satisfied as to the matters described in sub-paragraph (a) and (b) of paragraph (1).
- (4) The Minister shall, upon refusing an application for registration –
 - (a) serve notice on the applicant of his or her decision and the reasons for it; and
 - (b) refund the registration fee paid by the applicant.

7 Conditions of registration

- (1) The Minister may, if he or she thinks it necessary to do so –
 - (a) to protect members of the public;
 - (b) because it is otherwise in the public interest; or
 - (c) in the interests of the person,impose a condition on the registration of a person as a pharmacist.
- (2) A condition may be imposed under paragraph (1) at the time of, or after, registration.

- (3) A condition imposed under paragraph (1) shall remain in force for the period specified in the registration of the person as the period for which the condition shall remain in force.
- (4) A period specified under paragraph (3) shall not exceed 18 months.
- (5) The Minister shall impose any mandatory condition of registration that is prescribed.

8 Certificate of registration

- (1) The Minister shall issue a certificate of registration to a person who is registered as a pharmacist.
- (2) The Minister may issue a further certificate of registration to a person who is registered as a pharmacist if the Minister is satisfied the certificate of registration formerly issued to the person has been lost, stolen or damaged.

9 Request for cancellation of registration

- (1) A person registered as a pharmacist may, at any time, request the Minister to cancel the person's registration.
- (2) A request under paragraph (1) shall be made in writing.
- (3) The Minister shall, upon receiving a request under paragraph (1), cancel the person's registration.

10 Cancellation of registration otherwise than on request

- (1) The Minister shall cancel a person's registration as a pharmacist if –
 - (a) the person ceases to fulfil the requirements for registration prescribed under Article 6(1)(a);
 - (b) the registration under this Law was obtained by fraudulent means;
or
 - (c) the person has not, within 60 days of having being requested to do so by the Minister by notice in writing, provided to the Minister the return required to be provided by Article 14.
- (2) The Minister may cancel a person's registration as a pharmacist if the person –
 - (a) is convicted (whether or not in Jersey) of an offence of a kind that, in the opinion of the Minister, makes the person unfit to be a pharmacist;
 - (b) has failed to comply with a condition imposed under Article 7(1) or (5) on his or her registration;
 - (c) is found by the Minister to have engaged in behaviour that constituted a contravention of, or a failure to comply with, any term or condition of any authority to practise as a pharmacist by virtue of which authority the person fulfils the requirements for registration prescribed under Article 6(1)(a); or

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- (d) is found by the Minister to have engaged in conduct (including a failure to adequately supervise an employee) of a kind that, in the opinion of the Minister, makes the person unfit to be a pharmacist.
 - (3) The Minister may, if he or she has cancelled a person's registration under paragraph (1)(b) or (2), direct that the person shall not be registered under Article 6 within a period, of less than 5 years, specified by the Minister in the direction.
 - (4) The Minister shall, before cancelling a person's registration under paragraph (1) or (2), give the person an opportunity to present evidence or other material to the Minister.
 - (5) The Minister shall serve on a person whose registration is cancelled under this Article notice of –
 - (a) the Minister's decision to cancel the person's registration;
 - (b) the Minister's reasons for the decision; and
 - (c) the period, if any, during which, in accordance with a direction under paragraph (3), the person shall not be registered under Article 6.
 - (6) The cancellation of a person's registration under this Article takes effect on the service on the person under paragraph (5) of the notice of the cancellation.
 - (7) If an appeal is lodged under Article 13 against the cancellation of a person's registration, the Minister shall restore the person's registration –
 - (a) until the determination of the appeal under Article 13(4)(a) or (c); or
 - (b) where the appeal is determined by referring the matter back to the Minister under Article 13(4)(b), until the Minister has dealt with the referred matter.
 - (8) Paragraph (7) does not apply if –
 - (a) in the opinion of the Minister, the grounds on which the registration was cancelled are so serious that the cancellation should continue in effect –
 - (i) until the appeal in relation to it is determined under Article 13(4)(a) or (c), or
 - (ii) where the appeal is determined by referring the matter back to the Minister under Article 13(4)(b), until the Minister has dealt with the referred matter; and
 - (b) the notice of cancellation under paragraph (5) specifies that sub-paragraph (a) of this paragraph applies in relation to the cancellation.

11 Suspension

- (1) The Minister shall –
 - (a) suspend a person's registration as a pharmacist upon becoming aware that the authority to practice by virtue of which the person

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- fulfils the requirements for registration prescribed under Article 6(1)(a) has been suspended; and
- (b) end a person's suspension upon becoming aware that the person's authority to practice, described in sub-paragraph (a), is no longer suspended.
- (2) If the Minister is satisfied that there may be grounds for cancellation of a person's registration as a pharmacist and that the circumstances are such that, while enquiries are conducted into those grounds, the person should not practise as a pharmacist, the Minister may suspend the person's registration for a period not exceeding 3 months.
 - (3) The Minister may extend a suspension under paragraph (2), on one or more occasions, for a period not exceeding 3 months.
 - (4) The Minister shall serve on a person whose registration is suspended, or whose suspension is extended, notice of –
 - (a) the Minister's decision to suspend, or extend the suspension of, the person's registration;
 - (b) the Minister's reasons for the decision; and
 - (c) the period for which the suspension has effect.
 - (5) A period of suspension shall commence on the service on the person, under paragraph (4), of the notice of suspension.

12 Application for amendment of direction

- (1) A person whose registration is cancelled under Article 10 may apply to the Minister to amend a direction given under Article 10(3) in relation to the person.
- (2) The Minister may, after receiving an application under paragraph (1) from a person, amend a direction given under Article 10(3) in relation to the person.
- (3) The Minister shall serve on a person notice of the Minister's decision in relation to an application by the person under paragraph (1) and the Minister's reasons for the decision.

13 Appeal

- (1) A person may appeal to the Royal Court against a decision of the Minister to –
 - (a) refuse under Article 6 to register the person;
 - (b) impose under Article 7(1) a condition on the registration of the person;
 - (c) cancel under Article 10 the person's registration;
 - (d) give a direction under Article 10(3);
 - (e) refuse to amend a direction given under Article 10(3);
 - (f) suspend, or continue the suspension of, the person's registration under Article 11; or

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- (g) refuse to amend a direction under Article 12.
 - (2) An appeal under this Article against a decision may only be made by a person within 28 days after notice of the decision is served on the person, unless the Royal Court determines that the period should be extended.
 - (3) If the Minister has not, within the 60 day period beginning the day after an application is made to the Minister under Article 6 or 12 by a person, served a notice under Article 6(4) or 12(3) in relation to the application, the Minister shall be taken for the purposes of this Article –
 - (a) to have decided to refuse the application; and
 - (b) to have served notice of the decision on the person on the day after the end of that period.
 - (4) The Royal Court may determine an appeal under this Article by –
 - (a) confirming the decision to which the appeal relates;
 - (b) quashing the decision to which the appeal relates and referring the matter back to the Minister for the Minister's decision in accordance with the law; or
 - (c) making any decision that the Minister could have made under Article 6, 7(1), 10, 11 or 12, as the case may be.
 - (5) The Royal Court may make the additional orders it thinks appropriate, including ancillary orders and orders as to costs.

14 Annual return

A pharmacist shall provide to the Minister, by 31st January in each year, a return in such form and containing such information as may be prescribed.

PART 3

REGISTRATION OF PHARMACY TECHNICIANS

15 Person not to falsely hold self out as being registered pharmacy technician etc.

- (1) A person shall not –
 - (a) represent himself or herself as being registered under this Law as a pharmacy technician unless he or she is so registered and his or her registration under this Law as a pharmacy technician is not suspended;
 - (b) represent himself or herself as having any qualification, or authority to practise as a pharmacy technician that is a qualification or authority prescribed under Article 17(1)(a) as a requirement for registration under this Law, unless he or she has such qualification or authority and, in the case of authority to practise, the authority is not suspended;
 - (c) use the title “registered pharmacy technician” unless he or she is registered as a pharmacy technician under this Law and his or her

registration under this Law as a pharmacy technician is not suspended; or

- (d) represent himself or herself as having a specialist title or specialisation unless he or she is permitted, by a qualification or authority to practise as a pharmacy technician in another country or territory, that is a qualification or authority prescribed under Article 17(1)(a) as a requirement for registration under this Law, to hold himself or herself out, in that country or territory, as having that specialist title or specialisation, and the permission is not suspended in that country or territory.
- (2) A person who contravenes paragraph (1) commits an offence and shall be liable to a fine of level 4 on the standard scale.

16 Application for registration as a pharmacy technician

- (1) A person may apply to the Minister for registration under this Law as a pharmacy technician.
- (2) An application under paragraph (1) shall –
 - (a) contain the prescribed particulars; and
 - (b) be accompanied by –
 - (i) the prescribed proof that the applicant fulfils the requirements for registration prescribed under Article 17(1)(a), and
 - (ii) the registration fee.
- (3) The Minister may determine a registration fee for the purposes of paragraph (2)(b)(ii).

17 Registration

- (1) The Minister shall, after receiving an application that complies with the requirements of Article 16(2), register the applicant as a pharmacy technician if the Minister is satisfied that –
 - (a) the applicant fulfils the prescribed requirements for registration; and
 - (b) the application is not made within a period specified in a direction under Article 21(3) that is in force in relation to the applicant.
- (2) The Minister shall, before refusing to register an applicant as a pharmacy technician by reason of the application not complying with the requirements of Article 16(2), give the applicant an opportunity to make his or her application compliant with the requirements of that provision.
- (3) The Minister shall not register an applicant as a pharmacy technician if the Minister is not satisfied as to the matters described in subparagraph (a) and (b) of paragraph (1).
- (4) The Minister shall, upon refusing an application for registration –
 - (a) serve notice on the applicant of his or her decision and the reasons for it; and

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- (b) refund the registration fee paid by the applicant.

18 Conditions of registration

- (1) The Minister may, if he or she thinks it necessary to do so –
- (a) to protect members of the public;
 - (b) because it is otherwise in the public interest; or
 - (c) in the interests of the person,
- impose a condition on the registration of a person as a pharmacy technician.
- (2) A condition may be imposed under paragraph (1) at the time of, or after, registration.
- (3) A condition imposed under paragraph (1) shall remain in force for the period specified in the registration of the person as the period for which the condition shall remain in force.
- (4) A period specified under paragraph (3) shall not exceed 18 months.
- (5) The Minister shall impose any mandatory condition of registration that is prescribed.

19 Certificate of registration

- (1) The Minister shall issue a certificate of registration to a person who is registered as a pharmacy technician.
- (2) The Minister may issue a further certificate of registration to a person who is registered as a pharmacy technician if the Minister is satisfied the certificate of registration formerly issued to the person has been lost, stolen or damaged.

20 Request for cancellation of registration

- (1) A person registered as a pharmacy technician may, at any time, request the Minister to cancel the person's registration.
- (2) A request under paragraph (1) shall be made in writing.
- (3) The Minister shall, upon receiving a request under paragraph (1), cancel the person's registration.

21 Cancellation of registration otherwise than on request

- (1) The Minister shall cancel a person's registration as a pharmacy technician if –
- (a) the person ceases to fulfil the requirements for registration prescribed under Article 17(1)(a);
 - (b) the registration under this Law was obtained by fraudulent means; or

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- (c) the person has not, within 60 days of having being requested to do so by the Minister by notice in writing, provided to the Minister the return required to be provided by Article 25.
- (2) The Minister may cancel a person's registration as a pharmacy technician if the person –
- (a) is convicted (whether or not in Jersey) of an offence of a kind that, in the opinion of the Minister, makes the person unfit to be a pharmacy technician;
- (b) has failed to comply with a condition imposed under Article 18(1) or (5) on his or her registration;
- (c) is found by the Minister to have engaged in behaviour that constituted a contravention of, or a failure to comply with, any term or condition of any authority to practise as a pharmacy technician in another country or territory by virtue of which authority the person fulfils the requirements for registration prescribed under Article 17(1)(a); or
- (d) is found by the Minister to have engaged in conduct (including a failure to adequately supervise an employee) of a kind that, in the opinion of the Minister, makes the person unfit to be a pharmacy technician.
- (3) The Minister may, if he or she has cancelled a person's registration under paragraph (1)(b) or (2), direct that the person shall not be registered under Article 17 within a period, of less than 5 years, specified by the Minister in the order.
- (4) The Minister shall, before cancelling a person's registration under paragraph (1) or (2), give the person an opportunity to present evidence or other material to the Minister.
- (5) The Minister shall serve on a person whose registration is cancelled under this Article notice of –
- (a) the Minister's decision to cancel the person's registration;
- (b) the Minister's reasons for the decision; and
- (c) the period, if any, in which, in accordance with a direction under paragraph (3), the person shall not be registered under Article 17.
- (6) The cancellation of a person's registration under this Article takes effect on the service on the person under paragraph (5) of the notice of the cancellation.
- (7) If an appeal is lodged under Article 24 against the cancellation of a person's registration, the Minister shall restore the person's registration –
- (a) until the determination of the appeal under Article 24(4)(a) or (c); or
- (b) where the appeal is determined by referring the matter back to the Minister under Article 24(4)(b), until the Minister has dealt with the referred matter.
- (8) Paragraph (7) does not apply if –

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- (a) in the opinion of the Minister, the grounds on which the registration was cancelled are so serious that the cancellation should continue in effect –
 - (i) until the appeal in relation to it is determined under Article 24(4)(a) or (c), or
 - (ii) where the appeal is determined by referring the matter back to the Minister under Article 24(4)(b), until the Minister has dealt with the referred matter; and
 - (b) the notice of cancellation under paragraph (5) specifies that sub-paragraph (a) of this paragraph applies in relation to the cancellation.

22 Suspension

- (1) The Minister shall –
 - (a) suspend a person's registration as a pharmacy technician upon becoming aware that the authority to practice by virtue of which the person fulfils the requirements for registration prescribed under Article 17(1)(a) is suspended; and
 - (b) end a person's suspension upon becoming aware that the person's authority to practice, described in sub-paragraph (a), is no longer suspended.
- (2) If the Minister is satisfied that there may be grounds for cancellation of a person's registration as a pharmacy technician and that the circumstances are such that, while enquiries are conducted into those grounds, the person should not practise as a pharmacy technician, the Minister may suspend the person's registration for a period not exceeding 3 months.
- (3) The Minister may extend a suspension under paragraph (2), on one or more occasions, for a period not exceeding 3 months.
- (4) The Minister shall serve on a person whose registration is suspended, or whose suspension is extended, notice of –
 - (a) the Minister's decision to suspend, or extend the suspension of, the person's registration;
 - (b) the Minister's reasons for the decision; and
 - (c) the period for which the suspension has effect.
- (5) A period of suspension shall commence on the service on the person, under paragraph (4), of the notice of suspension.

23 Application for amendment of direction

- (1) A person whose registration is cancelled under Article 21 may apply to the Minister to amend a direction given under Article 21(3) in relation to the person.
- (2) The Minister may, after receiving an application under paragraph (1) from a person, amend a direction given under Article 21(3) in relation to the person.

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- (3) The Minister shall serve on a person notice of the Minister's decision in relation to an application by the person under paragraph (1) and the Minister's reasons for the decision.

24 Appeal

- (1) A person may appeal to the Royal Court against a decision of the Minister to –
- (a) refuse under Article 17 to register the person;
 - (b) impose under Article 18(1) a condition on the registration of the person;
 - (c) cancel under Article 21 the person's registration;
 - (d) give a direction under Article 21(3);
 - (e) refuse to amend a direction given under Article 21(3);
 - (f) suspend, or continue the suspension of, the person's registration under Article 22; or
 - (g) refuse to amend a direction under Article 23.
- (2) An appeal under this Article against a decision may only be made by a person within 28 days after notice of the decision is served on the person, unless the Royal Court determines that the period should be extended.
- (3) If the Minister has not, within the 60 day period beginning the day after an application is made to the Minister under Article 16 or 23 by a person, served a notice under Article 17(4) or 23(3) in relation to the application, the Minister shall be taken for the purposes of this Article –
- (a) to have decided to refuse the application; and
 - (b) to have served notice of the decision on the person on the day after the end of that period.
- (4) The Royal Court may determine an appeal under this Article by –
- (a) confirming the decision to which the appeal relates;
 - (b) quashing the decision to which the appeal relates and referring the matter back to the Minister for the Minister's decision in accordance with the law; or
 - (c) making any decision that the Minister could have made under Article 17, 18(1), 21, 22 or 23, as the case may be.
- (5) The Royal Court may make the additional orders it thinks appropriate, including ancillary orders and orders as to costs.

25 Annual return

A pharmacy technician shall provide to the Minister, by 31st January in each year, a return in such form and containing such information as may be prescribed.

PART 4
CONCLUDING PROVISIONS

26 Fraudulent statements and abuse of certificates

- (1) A person shall not knowingly or recklessly –
 - (a) make a statement; or
 - (b) provide information,
that is false or misleading in a material particular –
 - (i) in relation to an application under this Law; or
 - (ii) in relation to the registration, or the cancellation of the registration, of a person under this Law.
- (2) A person shall not –
 - (a) forge with intent to deceive, or use with intent to deceive, a certificate issued under this Law or any proof prescribed under Article 5(2)(b)(i) or 16(2)(b)(i);
 - (b) lend to, or allow to be used by, another person, a certificate or proof referred to in sub-paragraph (a);
 - (c) make or have in the person's possession a document so closely resembling a certificate or proof referred to in sub-paragraph (a) that it ought reasonably be taken to be calculated to deceive; or
 - (d) obtain, or attempt to obtain, the registration of himself or herself under this Law by assuming the name or qualifications of another person.
- (3) A person who contravenes paragraph (1) or (2) commits an offence and shall be liable to imprisonment for a term of 2 years and to a fine.

27 Service of notices

Any notice to be served under this Law may be served by post.

28 Amendment of enactments

- (1) In the Pharmacy and Poisons (Jersey) Law 1952¹ –
 - (a) in the long title, the words “for regulating the practise of pharmacy and” shall be deleted;
 - (b) in Article 1(1), the definitions “certificate of registration” and “pharmacist” shall be deleted;
 - (c) Part 2 shall be deleted;
 - (d) in Article 18 the words “Pharmacy and” shall be deleted.
- (2) In Part 1 of the Schedule to the Interpretation (Jersey) Law 1954² for the definition “pharmacist” there shall be substituted the following definition –

“ ‘pharmacist’ shall mean a person registered as a pharmacist under the Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 200- or deemed, by an Order made under Article 29(c) of that Law, to be registered as a pharmacist under that Law;”.

- (3) In Article 91(b) of the Licensing (Jersey) Law 1974³ for the words “authorized sellers of poisons within the meaning of the Pharmacy and Poisons (Jersey) Law 1952” there shall be substituted the words “persons lawfully carrying on retail pharmacy businesses within the meaning of Article 68(3) of the Medicines (Jersey) Law 1995⁴”.
- (4) For Article 18(1)(b) of the Health Care (Registration) (Jersey) Law 1995⁵ there shall be substituted the following sub-paragraph –
- “ (b) Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 200-;”.
- (5) In the Medicines (Jersey) Law 1995⁶ –
- (a) in Article 1(1) –
- (i) the definition “pharmacist” shall be deleted;
- (ii) for the definition “Pharmacy and Poisons Law” there shall be substituted the following definition –
- “ ‘Poisons Law’ means the Poisons (Jersey) Law 1952;”;
- (b) for Article 69(3) there shall be substituted the following paragraph –
- “(3) In this Article and in Articles 70 and 71 “certificate of registration” means a certificate issued under Article 8 of the Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 200- or deemed, by an Order made under Article 29(c) of that Law, to have been issued under that Article.”;
- (c) for Article 73 there shall be substituted the following Article –

“73 Registered pharmacies

In this Law “registered pharmacy” means premises for the time being entered in the register required to be kept under Article 74.”;

- (d) in Articles 80(1)(a) and (4)(e) the words “Pharmacy and” shall be deleted.
- (6) For Regulation 5(2)(d) of the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002⁷ there shall be substituted the following sub-paragraph –
- “ (d) pharmacist, pursuant to the Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 200-;”.
- (7) In the Misuse of Drugs (General Provisions) (Jersey) Order 2009⁸ –
- (a) in Article 1(1) the definition “pharmacist” shall be deleted;
- (b) in Article 6(4)(i) for the words “Pharmacy and Poisons (Jersey) Law 1952” there shall be substituted the words “Poisons (Jersey) Law 1952”.

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- (8) In the following enactments, for the words “Pharmacy and Poisons (Jersey) Law 1952” there shall be substituted the words “Poisons (Jersey) Law 1952” –
- (a) Article 2(2)(b) of the Pesticides (General Provisions) (Jersey) Order 1991⁹;
 - (b) Article 8(2)(b)(ii) of the Places of Refreshment (Jersey) Law 1967¹⁰;
 - (c) Part 1 of Schedule 2 to the Medicines (Prescription Only) (Jersey) Order 1997¹¹;
 - (d) Article 1(1) of the Poisons (General Provisions) (Jersey) Order 1968¹², in the definition “Law”;
 - (e) Article 1 of the Poisons List (Jersey) Order 1986¹³.
- (9) In the following enactments, the definition “pharmacist” shall be deleted –
- (a) Article 1(1) of the Misuse of Drugs (Jersey) Law 1978¹⁴;
 - (b) Article 1(1) of the Health Insurance (Jersey) Law 1967¹⁵.

29 Orders

The Minister may, by Order –

- (a) prescribe any matter that shall or may be prescribed under this Law;
- (b) make provision as to the documents that may be admitted in proceedings under this Law as proof that a person –
 - (i) fulfils the prescribed requirements for registration under Article 6 or 17, or
 - (ii) is permitted to hold himself or herself out as having a specialist title or specialisation; and
- (c) make transitional provisions and savings for the purposes of the commencement of this Law and the repeal or amendment of any enactment under Article 28.

30 Citation and commencement

This Law may be cited as the Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 200- and shall come into force one month after it is registered.

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- 1 *chapter 20.775*
 - 2 *chapter 15.360*
 - 3 *chapter 11.450*
 - 4 *chapter 20.625*
 - 5 *chapter 20.300*
 - 6 *chapter 20.625*
 - 7 *chapter 08.840.50*
 - 8 *R&O.23/2009*
 - 9 *chapter 01.880.30*
 - 10 *chapter 11.600*
 - 11 *chapter 20.625.95*
 - 12 *chapter 20.775.30*
 - 13 *chapter 20.775.60*
 - 14 *chapter 08.680*
 - 15 *chapter 26.500*