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STATUTORY INSTRUMENTS

2007 No. 289

HEALTH CARE AND ASSOCIATED PROFESSIONS

PHARMACISTS

The Pharmacists and Pharmacy Technicians Order 2007

Made - - - - 7th February 2007
Coming into force in accordance with article 1(2) and (3)

At the Court at Buckingham Palace, the 7th day of February 2007

Present,

The Queen's Most Excellent Majesty in Council

This Order in Council is made in exercise of the powers conferred by sections 60 and 62(4) of, and Schedule 3 to, the Health Act 1999(**1**).

The Secretary of State published a draft Order and invited representations as required by paragraph 9(1) of Schedule 3 to that Act.

The period of three months mentioned in paragraph 9(2) of that Schedule expired before a draft of this Order in Council was laid before Parliament.

A draft of this Order in Council has been approved by resolution of each House of Parliament, in accordance with section 62(9) of that Act.

Accordingly, Her Majesty is pleased, by and with the advice of Her Privy Council, to make the following Order in Council:

(**1**) 1999 c.8. Section 62(4) applies section 126(4) and (5) of the National Health Service Act 1977 (c.49) in relation to powers to make Orders in Council conferred by the Health Act 1999. *See* therefore that section 126(4) and (5) (which have been amended by: the National Health Service and Community Care Act 1990 (c.19), section 65(2); the Health and Social Care Act 2001 (c.15), Schedule 5, paragraphs 5(1) and 13(b) and (d); the National Health Service Reform and Health Care Professions Act 2002 (c.17), section 6(3)(c) and Schedule 8, paragraph 10(a); and the Health and Social Care (Community Health and Standards) Act 2003 (c.43), Schedule 11, paragraphs 7 and 38, and Schedule 14, Part 4), which contain powers which are relevant to the powers being exercised in the making of this Order.

PART 1

Preliminary

Citation and commencement

1.—(1) This Order may be cited as the Pharmacists and Pharmacy Technicians Order 2007.

(2) As regards commencement—

(a) this article, article 2 and article 68 shall come into force on the making of this Order;

(b) the provisions of this Order, other than article 68, which confer powers enabling—

(i) rules to be made by the Council, or

(ii) orders to be made by the Privy Council,

shall come into force on the making of this Order, but for the purpose only of the exercise of those powers; and

(c) otherwise, the provisions of this Order shall come into force on such days as the Secretary of State may specify.

(3) Different days may be specified under paragraph (2)(c) above for different purposes, and any day so specified shall be caused to be notified in the London, Edinburgh and Belfast Gazettes published not later than one week before that day.

Extent

2.—(1) Subject to paragraphs (2) and (3), this Order extends to Great Britain.

(2) The following provisions—

(a) Part 3;

(b) Parts 4 to 6 in so far as they relate to registered pharmacy technicians or applicants for restoration to the Register of Pharmacy Technicians; and

(c) Part 2 of Schedule 2,

extend only to England and Wales.

(3) The extent of any amendment, revocation or repeal of any enactment or instrument set out in Schedule 1 is the same as that of the enactment or instrument amended, revoked or repealed.

Interpretation

3.—(1) In this Order—

"the 1954 Act" means the Pharmacy Act 1954(**2**), as in force immediately before article 1 comes into force;

"annotation" means an annotation in one of the Society's registers;

"Appointments Commission" means the Appointments Commission established under section 57 of the Health Act 2006(**3**) (the Appointments Commission);

"assessment team" means a team of persons that has the functions of an assessment team by virtue of rules under article 53;

"the Charter" means the Charter granted to the Society on 7th December 2004, as amended from time to time;

(**2**) 1954 c.61.
(**3**) 2006 c.28.

"the Council" means the Council of the Society;

"enactment" includes an enactment comprised in, or an instrument made under, an Act of the Scottish Parliament;

"European mutual recognition area" means the territory of the EEA States and Switzerland;

"exempt person" means—

(a) a national of a relevant European State other than the United Kingdom;

(b) a national of the United Kingdom who is seeking access to the profession of pharmacists or pharmacy technicians by virtue of an enforceable Community right; or

(c) a person who is not a national of a relevant European State but who is, by virtue of an enforceable Community right, entitled to be treated, for the purposes of access to the profession of pharmacists or pharmacy technicians, no less favourably than a national of a relevant European State;

"fitness to practise committee" means the Investigating Committee, the Disciplinary Committee or the Health Committee;

"individual assessor" means a person who has the functions of an individual professional performance assessor by virtue of rules under article 53;

"the Pharmacy Acts" means the Pharmacy Act 1852(**4**), the Pharmacy Act 1868(**5**), the Poisons and Pharmacy Act 1908(**6**), the Pharmacy and Poisons Act 1933(**7**) and the 1954 Act;

"the Pharmacy Qualifications Directive" means Council Directive 85/433/EEC concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy(**8**), as amended(**9**);

"prescribed" means prescribed by the Council in rules under this Order, and "prescribes" shall be construed accordingly;

"the register" means, unless the context otherwise requires, as respects any registrant—

(a) the one of the Society's registers in which he is registered; or

(b) if he is registered in both of the Society's registers, both registers;

"the register of pharmaceutical chemists for Northern Ireland" means the register of pharmaceutical chemists maintained under Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976(**10**);

"registered pharmacist" means a person who is registered in the Register of Pharmacists;

"registered pharmacy technician" means a person who is registered in the Register of Pharmacy Technicians;

"registrant" means a registered pharmacist or a registered pharmacy technician;

(**4**) 1852 c.56; repealed by the Pharmacy Act 1954.
(**5**) 1868 c.121; repealed by the Pharmacy Act 1954.
(**6**) 1908 c.55; repealed by the Pharmacy Act 1954.
(**7**) 1933 c.25; repealed by the Pharmacy Act 1954.
(**8**) OJ No. L 253, 24.9.1985, p.37.
(**9**) Council Directive 85/433/EEC has been amended by: Council Directive 85/584/EEC (OJ No. L 372, 31.12.1985, p.42); Council Directive 90/658/EEC (OJ No. L 353, 17.12.1990, p.73); the Act of Accession of Austria, Sweden and Finland (OJ No. L 1, 1.1.1995, p.1); Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1); the Agreement between the European Community and its Member States, of the one part, and the Swiss confederation, of the other, on the free movement of persons, signed at Luxembourg on 21st June 1999 (OJ No. L 114, 30.04.2002, p.36); and the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No. L 236, 23.9.2003, p.33). This Directive is repealed, prospectively, by Directive 2005/36/EC of the Parliament and of the Council on the recognition of professional qualifications (OJ No. L 255, 30.9.2005, p.22).
(**10**) S.I. 1976/1213 (N.I. 22).

"Registrar" shall, except where used in the expression "Registrar General", be construed in accordance with article 9(1) and (5);

"Registrar General" means—

(a) the Registrar General for England and Wales appointed under section 1 of the Registration Service Act 1953(**11**) (Registrar General); or

(b) the Registrar General for Scotland appointed under section 1(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(**12**) (the Registrar General);

"regulatory body" means a regulatory body which has the function of authorising persons to practise as a member of a health or social care profession;

"relevant European State" means an EEA State or Switzerland;

"the Second General System Directive" means Council Directive 92/51/EEC on a second general system for the recognition of professional education and training(**13**), as amended(**14**);

"the Second General System Regulations" means the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002(**15**);

"the Society" means the Royal Pharmaceutical Society of Great Britain;

"the Society's registers" means the Register of Pharmacists and the Register of Pharmacy Technicians; and

"statutory committees" means the committees listed in article 7(1)(a) to (f).

(2) For the purposes of this Order, a person practises as a pharmacist or a pharmacy technician if, whilst acting in the capacity of or holding himself out as a pharmacist or a pharmacy technician, he undertakes any work or gives any advice in relation to the dispensing or use of medicines, the science of medicines, the practice of pharmacy or the provision of health care.

The Society's general duties

4.—(1) The main objective of the Society (including its Council, its staff and its committees) in exercising such of the Society's functions as affect the health and safety of members of the public is to protect, promote and maintain their health and safety.

(2) In exercising its functions, the Society (including its Council, its staff and its committees) shall—

(a) have proper regard to the interests of—

(i) persons using or needing the services of registered pharmacists in Great Britain,

(ii) persons using or needing the services of registered pharmacy technicians in England and Wales, and

(**11**) 1953 c.37.
(**12**) 1965 c.49; section 1(1) has been amended by the Scotland Act 1998 (c.46), section 125.
(**13**) OJ No. L 209, 24.7.1992, p.25.
(**14**) Council Directive 92/51/EEC has been amended by: Commission Directive 94/38/EC (OJ No. L 217, 23.8.1994, p.8); the Act of Accession of Austria, Sweden and Finland (OJ No. L 1, 1.1.1995, p.1); Commission Directive 95/43/EC (OJ No. L 184, 3.8.1995); Commission Directive 97/38/EC (OJ No. L 184, 12.7.1997, p.31); Commission Directive 2000/5/EC (OJ No. L 54, 26.2.2000, p.42); Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1); the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No. L 236, 23.9.2003, p.33); Regulation (EC) No. 1882/2003 (OJ No. L 284, 31.10.2003, p.1); and Commission Decision 2004/108/EC (OJ No. L 32, 5.2.2004, p.15). This Directive is repealed, prospectively, by Directive 2005/36/EC of the Parliament and of the Council on the recognition of professional qualifications (OJ No. L 255, 30.9.2005, p.22).
(**15**) S.I. 2002/2934; relevant amendments are made by paragraph 29 of Schedule 1 to this Order.

(iii) all registrants and prospective registrants, and to any differing interests of registered pharmacists and registered pharmacy technicians or groups within those professions; and

(b) co-operate, in so far as is appropriate and reasonably practicable, with public authorities or other bodies or persons concerned with—

(i) the employment (whether or not under a contract of service) of registrants,

(ii) the education or training of registrants, prospective registrants or other health care professionals,

(iii) the regulation of, or the co-ordination of the regulation of, other health or social care professions, and

(iv) the regulation of, or carrying out activities in connection with the regulation of, health services.

(3) In carrying out its duty to co-operate under paragraph (2)(b), the Society shall have regard to any differing considerations in relation to practising as—

(a) a pharmacist which apply in England, Scotland or Wales; or

(b) a pharmacy technician which apply in England or Wales.

The Council

5.—(1) The Privy Council may by order vary the size and composition of the Council (in addition to its powers to do so under the Charter(**16**)), provided that—

(a) the number of members of the Council who are registered pharmacists constitutes a majority of the total number of members of the Council; and

(b) the total number of members of the Council does not exceed 35.

(2) In exercising its function of appointing persons to the Council(**17**), the Privy Council shall ensure that, at any time, at least one of the persons on the Council appointed by it lives or works wholly or mainly in each of England, Scotland and Wales.

(3) The Council shall make regulations under the Charter(**18**) in respect of the suspension or removal from office of its members, and those regulations shall in particular provide for—

(a) a member of the Council who is a registered pharmacist to be removed from office forthwith if he ceases to be registered in Part 1 of the Register of Pharmacists; and

(b) a member of the Council who is a registered pharmacy technician to be removed from office forthwith if he ceases to be registered in Part 1 of the Register of Pharmacy Technicians.

(4) The Council shall—

(a) establish and maintain a system for the declaration and registration of private interests of its members; and

(b) publish in such manner as it sees fit entries recorded in the register of members' interests.

The Council's duties in respect of publications

6.—(1) The Council shall publish in such manner as it sees fit, at least once in each calendar year, by such date in each calendar year as the Privy Council shall determine—

(**16**) *See* paragraph 8 of the Charter.
(**17**) *See* paragraph 8(4) of the Charter.
(**18**) *See* paragraph 8 of the Charter.

(a) a statistical report in respect of, and which includes a description of, the procedures which the Society has in place to protect members of the public from registrants whose fitness to practise is impaired, together with the Council's observations on the report; and

(b) a report, submitted to the Privy Council, on the Society's exercise of its functions, and the Privy Council shall lay before each House of Parliament a copy of the report submitted by the Council under this sub-paragraph.

(2) The Council shall be responsible for ensuring that the Society—

(a) keeps accounts, which shall be in such form as the Privy Council may determine; and

(b) prepares annual accounts in respect of each calendar year, which shall be in such form and shall be prepared by such date as the Privy Council may determine.

(3) Those annual accounts shall be audited by auditors appointed by the Council, but no person may be appointed as an auditor under this paragraph unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989(**19**) (eligibility for appointment).

(4) As soon as is reasonably practicable after those annual accounts have been prepared, the Council shall—

(a) cause them to be published together with any report on them made by the auditors appointed under paragraph (3); and

(b) send a copy of those annual accounts and of any such report to the Privy Council,

and the Privy Council shall lay before each House of Parliament a copy of those annual accounts and any report on the accounts made by the auditors appointed under paragraph (3).

(5) The Society shall from time to time publish or provide in such a manner as it sees fit information about the regulation of pharmacists and pharmacy technicians.

(6) The Society may from time to time publish or provide in such manner as it sees fit guidance to registrants, employers and such other persons it considers appropriate in respect of the standards for the education, training, supervision and performance of persons who are not registrants but who provide services in connection with those provided by registrants.

The statutory committees

7.—(1) The Society shall have the following committees (in addition to any other committees established under the Charter(**20**))—

(a) the Continuing Professional Development Committee;

(b) the Disciplinary Committee;

(c) the Education Committee;

(d) the Health Committee;

(e) the Investigating Committee; and

(f) the Registration Appeals Committee,

each having the functions assigned to them by or under this Order, any other enactment or the Charter.

(2) Subject to paragraph (6), as regards each of the statutory committees, the Council shall by rules make provision with regard to—

(a) its size and composition (which may vary according to the functions the committee is performing), but the number of members of a fitness to practise committee or the

(**19**) 1989 c.40.
(**20**) *See* paragraphs 3 and 9 of the Charter.

Registration Appeals Committee who are registrants shall not exceed the number of other members on the committee by more than one;

(b) the appointment, performance, suspension and removal from office of its members;

(c) the quorum at its meetings; and

(d) its procedures, including deputising arrangements with regard to its chair.

(3) The provisions with regard to the size, composition and procedures of the Health and Disciplinary Committees may provide for the chair of the Committee to have the power to determine a particular size and composition for the Committee for a particular hearing or inquiry before the Committee, and in particular to determine—

(a) that only specified members of the full Committee are entitled to sit at the hearing or inquiry and decide the matter to which the hearing or inquiry relates (but he or a deputy chair must be one of the specified members); and

(b) a different quorum for the hearing or inquiry and the related meetings of the Committee than would otherwise be the case (which must not be less than three),

but where the chair does determine a particular size and composition of the Committee for a particular hearing or inquiry, he must nevertheless ensure that the number of registrants who are members of that formation of the Committee does not exceed the number of other members by more than one.

(4) Rules under this article may in addition include provision with regard to—

(a) the education and training of members of statutory committees, and the rules may provide that members are to meet competencies that the Council may determine from time to time;

(b) the attendance of members of statutory committees;

(c) requiring statutory committees to—

(i) establish and maintain a system for the declaration and registration of private interests of their members, and

(ii) publish in such manner as they see fit entries recorded in their register of members' interests; and

(d) what functions a statutory committee is to perform (including functions of the Society under this Order) and how it is to perform those functions.

(5) Rules under this article shall provide that—

(a) no person shall be a member of more than one fitness to practise committee;

(b) no person shall be both a member of the Council and of the Continuing Professional Development Committee, the Disciplinary Committee, the Health Committee or the Registration Appeals Committee;

(c) no person who is a member of a Disciplinary Committee or Health Committee that has made an interim order under article 54 in proceedings in any case shall sit as a member of the Committee in subsequent proceedings in that case, unless the subsequent proceedings relate solely to interim measures under article 54; and

(d) the appointment, suspension or removal of the members, chairs and deputy chairs of the statutory committees, apart from the chairs and deputy chairs of the Disciplinary and Health Committees, shall be by the Council, except that the rules may provide for the Council to enter into arrangements with another person, body or group (including a committee established under the Charter) for that person, body or group to carry out all or any of these functions on the Council's behalf.

(6) The appointment, suspension or removal of the chairs and deputy chairs of the Disciplinary and Health Committees shall be by the Privy Council, but the first chair of the Disciplinary

Committee shall be the person who, immediately before the coming into force of this article, is the chairman of the Statutory Committee of the Society.

(7) The Privy Council may enter into arrangements with the Appointments Commission (and the Appointments Commission may enter into arrangements with the Privy Council) providing for the Appointments Commission to assist the Privy Council in connection with the exercise of the Privy Council's functions under paragraph (6).

(8) Rules under this article may provide for a statutory committee to—

(a) have more than one deputy chair;

(b) co-opt members onto the committee in such circumstances as may be specified in the rules; and

(c) discharge, in such circumstances and subject to such conditions as may be specified in the rules, functions of the Society.

(9) The powers of a statutory committee may be exercised even though there is a vacancy on it.

Remuneration and allowances of Council members, committee members and specialist advisers

8. The Council may pay to—

(a) its members;

(b) members of the statutory committees (including co-opted members); and

(c) advisers advising the Council or one of the Society's committees on issues falling within an adviser's speciality which are under consideration by it, including legal advisers appointed under article 61 and clinical and other specialist advisers appointed under article 62,

such remuneration and allowances as the Council may reasonably determine.

Appointment etc. of the Registrar and any Deputy Registrar

9.—(1) The Council shall appoint a fit and proper person to be Registrar who shall perform the functions of the Registrar conferred on him by this Order, by rules under this Order, by any other enactment or by, or by virtue of, the Charter.

(2) The Council may also appoint a Deputy Registrar.

(3) The Council may pay, or make provision for the payment of, such remuneration, allowances, pension or gratuities as it determines to the Registrar or any Deputy Registrar.

(4) The Council may terminate the appointment of the Registrar or any Deputy Registrar.

(5) The Registrar may authorise a Deputy Registrar or any employee of the Society to act for him in any matter, and where he does so, a reference in this Order, in rules under this Order, in any other enactment or in the Charter or any instrument under the Charter to the Registrar, if it relates to that matter, shall include reference to the person so authorised.

PART 2

Registration of pharmacists

The Register of Pharmacists

10.—(1) The Registrar shall maintain in accordance with the provisions of and rules under this Order the register established in pursuance of the Pharmacy Act 1852(**21**) and maintained in accordance with section 2 of the 1954 Act (the registers and registration).

(2) The register maintained under paragraph (1)—

(a) formerly known as the Register of Pharmaceutical Chemists, shall be known as the Register of Pharmacists; and

(b) shall be divided into two parts, and—

(i) the first part shall be known as "Part 1 – Practising Pharmacists", and

(ii) the second part shall be known as "Part 2 – Non-practising Pharmacists".

Entitlement to registration in the Register of Pharmacists

11.—(1) Subject to the provisions of and rules under this Order, a person shall be entitled to be registered in the Register of Pharmacists if—

(a) he satisfies the Registrar that—

(i) he is appropriately qualified within the meaning given in article 12(1),

(ii) his fitness to practise is not impaired,

(iii) before registration, where necessary, he has met such requirements as to additional education, training or experience as are appropriate to his case, and

(iv) after registration, he meets such requirements as to continuing professional development as are appropriate to his case; and

(b) he has paid any fee prescribed under article 40(1)(a) or (b) that relates to his registration in that register.

(2) A person who is entitled to be registered in the Register of Pharmacists is to be registered in Part 1 of that register unless he has given to the Society, in the form determined by the Registrar (which may be varied from time to time), an undertaking not to practise in Great Britain, the Channel Islands or the Isle of Man, in which case he is to be registered in Part 2 of that register.

(3) The Registrar shall treat a person who—

(a) is an exempt person who has qualified as a pharmacist in a relevant European State other than the United Kingdom;

(b) applies to be registered in the Register of Pharmacists; and

(c) is registered in the register of pharmaceutical chemists for Northern Ireland,

as meeting the requirements of paragraph (1)(a)(i).

Preregistration requirements for pharmacists in respect of qualifications and additional education, training or experience

12.—(1) For the purposes of article 11(1)(a)(i), a person is "appropriately qualified" if—

(**21**) 1852 c.56.

(a) he has a qualification awarded in Great Britain which has been approved by the Society as attesting to a standard of proficiency which, in the Society's opinion, indicates that he has reached an adequate level of understanding for practising as a pharmacist (and so is also a recognised pharmacy qualification within other relevant European States);

(b) he is an exempt person and he has a qualification which the Privy Council has by order designated as being an approved qualification for the purpose of registration in the Register of Pharmacists; or

(c) he has, elsewhere than in Great Britain, undergone training as a pharmacist, and—

(i) he holds a qualification which has been approved by the Society as attesting to a standard of proficiency which, in the Society's opinion, indicates that the person has reached an adequate level of understanding for practising as a pharmacist, or

(ii) he holds a qualification which—

(aa) in the case of an exempt person who does not have a qualification referred to in sub-paragraph (b), taken together with his additional education, training or experience acquired elsewhere than in Great Britain (but at least in part within the European mutual recognition area) indicates, in the Society's opinion, that he has reached an adequate level of understanding for practising as a pharmacist, or

(bb) whether or not he is an exempt person, taken together with the additional education, training or experience that the Society requires him to undertake pursuant to article 11(1)(a)(iii), indicates, in the Society's opinion, that he has reached an adequate level of understanding for practising as a pharmacist.

(2) An order under paragraph (1)(b) may provide that a qualification is only to be considered an approved qualification in such circumstances, or subject to such conditions, as are specified in the order.

(3) For the purposes of an application for entry in the Register of Pharmacists, the Registrar shall not require any exempt person to whom paragraph (1)(b) or (c)(ii)(aa) applies to meet any requirements as to additional education, training or experience, unless—

(a) the application is for restoration to that register; and

(b) in so doing the Registrar is acting in a manner that is consistent with the requirements of the Treaties and the Pharmacy Qualifications Directive.

(4) In formulating its opinion under paragraph (1)(c)(ii) in relation to an exempt person, the Society shall take into account—

(a) if the person holds a qualification granted outside the European mutual recognition area which has been accepted by another relevant European State as qualifying him to practise as a pharmacist in that State, the acceptance of that qualification; and

(b) all of the person's relevant qualifications, knowledge and experience, wherever acquired.

(5) As regards any person to whom paragraph (1)(a) or (c)(i) or (ii)(bb) applies, for the purposes of meeting the requirements of article 11(1)(a)(iii), the Registrar may require him to meet requirements as to additional education which comprise or include reaching an adequate standard of proficiency in the knowledge and use of English, unless he is an exempt person.

General functions of the Society in respect of pharmacists' and prospective pharmacists' education, training and the acquisition of experience

13. The Society shall have the general functions of—

(a) promoting high standards of education and training, and in respect of the acquisition of experience, for pharmacists and prospective pharmacists; and

(b) overseeing all stages of the education, training and acquisition of experience of pharmacists and prospective pharmacists in Great Britain, including—

(i) preregistration education, training and acquisition of experience, including both undergraduate and postgraduate education and training of prospective pharmacists,

(ii) post-registration education, training and acquisition of experience required for continuing professional development or required for education, training and acquisition of experience in respect of specialisations, and

(iii) education, training and acquisition of experience for persons seeking restoration to the Register of Pharmacists.

Specific obligations of the Society in respect of pharmacists' and prospective pharmacists' education, training and the acquisition of experience

14. In connection with discharging the functions mentioned in article 13, the Society shall—

(a) determine—

(i) the nature of the knowledge and skills, and

(ii) the nature, extent and content of, and method of assessment for, the education, training and experience,

required for a person qualifying in Great Britain to be considered appropriately qualified for the purposes of article 11(1)(a)(i);

(b) approve qualifications under article 12(1)(a);

(c) accredit degree courses for prospective pharmacists (including degree courses in Northern Ireland) and approve providers of such courses;

(d) approve providers, including tutors, of postgraduate education and training for prospective pharmacists which leads to an approved qualification, and approval under this paragraph may be limited to the provision of education and training at specified premises;

(e) determine, as regards the tutors mentioned in paragraph (d)—

(i) the nature of the education, training or experience required of them,

(ii) any assessment arrangements in respect of them, and

(iii) their role and function;

(f) determine the arrangements for determining, in accordance with article 12(1)(c)(ii), that a person has reached an adequate level of understanding for practising as a pharmacist;

(g) determine assessment arrangements for—

(i) postgraduate education and training for prospective pharmacists which leads to an approved qualification, or

(ii) any additional education, training or experience required for the purposes of article 11(1)(a)(iii); and

(h) determine the nature, extent and content of the education, training, experience and continuing professional development required for the purposes of article 11(1)(a)(iii) and (iv), or for the purposes of obtaining annotations in respect of specialisations, including—

(i) preregistration programmes or courses in respect of, or any combination of, education, training or acquiring experience,

(ii) the amount and type of continuing professional development that registrants are required to undertake,

(iii) they amount and type of education, training and experience required in order to obtain annotations in respect of specialisations,

(iv) education and training to address fitness to practise matters, and

(v) education, training and acquisition of experience in respect of persons seeking restoration to the Register of Pharmacists or to move from Part 2 to Part 1 of that register.

Specific powers of the Society in respect of pharmacists' and prospective pharmacists' education, training and the acquisition of experience

15. In connection with discharging the functions mentioned in article 13, the Society may—

(a) approve premises as being suitable for postgraduate education and training of prospective pharmacists;

(b) approve qualifications for the purposes of article 12(1)(c)(i);

(c) approve providers of particular types of education, training, experience or continuing professional development required for the purposes of article 11(1)(a)(iii) or (iv), or in respect of specialisations, and approval under this paragraph may be limited to activities at specified premises;

(d) approve programmes or courses in respect of particular types of education, training or continuing professional development required for the purposes of article 11(1)(a)(iii) or (iv), or in respect of specialisations;

(e) determine the arrangements (including, where appropriate, the minimum qualifications of candidates) under which a person may participate in assessment programmes or courses for prospective pharmacists;

(f) hold or cause to be held assessments in respect of—

(i) approved qualifications, or any education, training or experience leading to an approved qualification,

(ii) additional education, training or experience required for the purposes of article 11(1)(a)(iii), and

(iii) becoming and acting as the tutors referred to in article 14(d),

and determine the arrangements under which those assessments are to be held (including arrangements for dealing with disciplinary matters with regard to candidates and prospective candidates);

(g) appoint or arrange for the appointment of persons ("examiners") to carry out or oversee assessments of the types mentioned in article 14(g), or paragraph (f) of this article, and pay them or arrange for payment to them of appropriate remuneration and allowances (equally, the Society may determine arrangements under which assessments are to be held which do not involve examiners);

(h) charge fees in respect of—

(i) commencing preregistration education or training, other than undergraduate education or training, which is co-ordinated by the Society, and

(ii) assessments of the types mentioned in paragraph (f) that the Society holds or causes to be held; and

(i) determine—

(i) subject to any exceptional arrangements under sub-paragraph (iii), the maximum number of times that a candidate may attempt any assessment arrangements in respect of any education, training or experience leading to an approved qualification,

(ii) subject to any exceptional arrangements under sub-paragraph (iii), the shortest and longest periods for successful completion of approved qualifications or particular types of additional education, training or experience (including accredited courses or programmes), and

(iii) in individual cases, exceptional arrangements for the successful completion of approved qualifications or particular types of additional education, training or experience by a candidate or prospective candidate for whom the Society considers it appropriate to make adjustments to the standard arrangements.

Supplemental matters in connection with articles 14 and 15

16.—(1) The Society may enter into arrangements with another body for that body to assist the Society in carrying out its functions under articles 14 and 15.

(2) Approval or accreditation may be granted under articles 14 and 15 in respect of a programme or course of education or training that only provides part of the education or training needed for an approved or accredited course or programme, or for an approved qualification, where the Society is satisfied that there are appropriate arrangements in place for persons participating in the education or training to receive the remainder of the education or training necessary for the approved or accredited course or programme, or for the approved qualification, elsewhere.

(3) The Council may make such provision in rules in connection with—

(a) authorising the Registrar to perform any of the Society's functions under articles 14 and 15;

(b) the making, varying, suspending or revoking of any determination under articles14 and 15;

(c) as regards approvals or accreditations under articles 14 and 15—

(i) granting (including provisionally granting) or refusing any approval or accreditation,

(ii) probationary arrangements (including action plans for providers of new courses) or the imposition of remedial measures, and

(iii) appeals related to paragraphs (i) and (ii); and

(d) appeals by candidates and prospective candidates in relation to the assessment arrangements determined under articles 14 and 15,

as it considers appropriate.

(4) The Council shall provide in rules for the procedure to be followed (including, where appropriate, the appeals procedure) for withdrawing or suspending any approval or accreditation that the Society has granted under articles 14 and 15.

(5) In making, varying, suspending or revoking any determination mentioned in this article, or granting, refusing, suspending or withdrawing any accreditation or approval mentioned in this article, the Society shall ensure that the relevant requirements of—

(a) the Treaties;

(b) the Pharmacy Qualifications Directive; and

(c) the Council Directive 85/432/EEC concerning the co-ordination of provisions laid down by law, regulation or administrative action in respect of certain activities in the field of pharmacy(**22**), as amended(**23**),

are met, and shall act in a manner which is consistent with those requirements.

(6) Determinations, approvals and accreditations mentioned in this article shall be published by the Society in such manner as it sees fit.

(**22**) OJ No. L 253, 24.9.1985, p.34.
(**23**) Council Directive 85/432/EEC has been amended by Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1).

Form, manner and content of applications for registration in the Register of Pharmacists or retention in that register

17.—(1) The Council may make such provision in rules in connection with applications for registration in the Register of Pharmacists, or for retention in that register, as it considers appropriate, and may in particular make provision with regard to—

(a) the form and manner in which applications are to be made (and the rules may provide that applicants shall apply using application forms and presenting certificates that are in such form as the Council may determine from time to time);

(b) the information to be provided by or in respect of the applicant, including—

(i) the name under which he practises or intends to practise, or in the case of a person who does not intend to practise, the name by which he is generally known,

(ii) his home address, and

(iii) the information to be provided for the purposes of determining whether the applicant's fitness to practise is impaired; and

(c) consultation, as regards the application, with a fitness to practise committee.

(2) The Registrar may—

(a) refuse to register an applicant for entry in the Register of Pharmacists; or

(b) refuse to retain in that register a person who wishes to be retained in that register, and so remove him from it,

if he fails to comply with, or if in respect of him there is a failure to comply with, rules made under paragraph (1).

(3) If a person who is registered in the Register of Pharmacists fails to comply with rules made under paragraph (1) in respect of applications for retention in that register, or there is a failure to comply with such rules in respect of him, the failure may be treated as misconduct for the purposes of article 48(1)(a) and the Registrar shall consider, in accordance with article 49(1), whether or not to refer the matter to the relevant fitness to practise committee.

(4) As regards an exempt person ("E") who is making an application for entry in the Register of Pharmacists, the Registrar shall accept as sufficient evidence that his fitness to practise is not impaired a document—

(a) to which paragraph (5) applies, as regards his physical or mental health; and

(b) to which paragraph (6) applies, as regards his good character or repute,

if it is presented to the Registrar within the period of three months beginning with its date of issue.

(5) This paragraph applies to a document that attests to E's good physical and mental health, and—

(a) which is required in E's relevant European State of origin or the relevant European State from which he comes ("E's attesting State"), if he wishes to start practising as a pharmacist there; or

(b) if—

(i) no such document as mentioned in sub-paragraph (a) is required in E's attesting State, and

(ii) rules under paragraph (1) require the presentation of a certificate attesting to an applicant's good physical and mental health in a particular form,

which is issued by a competent authority in E's attesting State and which is in a form that corresponds to that particular form.

(6) This paragraph applies to a document that attests to E's good character or repute—

(a) which is required in E's attesting State, if he wishes to start practising as a pharmacist there; or

(b) if no such document as mentioned in sub-paragraph (a) is required in E's attesting State—

(i) containing an extract from the judicial record issued by a competent authority in E's attesting State, or

(ii) which is a certificate issued by a competent authority in E's attesting State and which is equivalent to an extract from that State's judicial record,

unless that document may be or has been revised or rescinded as a consequence of an approach made by the Society to the competent authority which issued it, in accordance with article 8(3) of the Pharmacy Qualifications Directive.

Notification of decisions on applications for entry in the Register of Pharmacists

18.—(1) Where a person applies to have his name registered in the Register of Pharmacists, the Registrar shall, within the specified period, give the applicant notice—

(a) of his decision on the application; and

(b) if he refuses the application, of any right of appeal the applicant has to the Registration Appeals Committee.

(2) In this article, "the specified period" means—

(a) the period of three months beginning with the date on which the Registrar receives the application with full supporting documentation and the relevant fee; or

(b) in the case of an exempt person, such longer period as is permitted by article 12 of the Pharmacy Qualifications Directive.

Relationship between registration in the Register of Pharmacists and membership of the Society

19. If a person is registered in the Register of Pharmacists, he is a member of the Society, but if he ceases (whether permanently or because his registration is suspended) to be so registered, he also ceases to be a member of the Society.

Offences relating to the Register of Pharmacists

20.—(1) A person commits an offence if—

(a) he falsely represents that—

(i) he is registered in the Register of Pharmacists,

(ii) he is registered in a particular part of the Register of Pharmacists, or

(iii) his registration in the Register of Pharmacists has a particular annotation; or

(b) he uses—

(i) the title "registered pharmacist" without being registered in the Register of Pharmacists, or

(ii) a title in respect of a particular annotation, which is a prescribed specialist title, where he does not have an entry in the Register of Pharmacists with that particular annotation.

(2) For the purposes of paragraph (1)(b)(ii), "prescribed specialist title" means a title for a pharmacist which the Council prescribes as being a title that is only to be used by a registrant with a particular annotation.

(3) A person commits an offence if he practises as a pharmacist whilst being registered in Part 2 of the Register of Pharmacists.

(4) A person who exhibits any certificate purporting to be a certificate of registration issued under—

(a) article 32 in respect of a registered pharmacist but which is not a certificate of registration issued under that article in respect of a registered pharmacist; or

(b) one of the Pharmacy Acts in respect of a pharmaceutical chemist but which is not a certificate of registration issued under one of those Acts in respect of a pharmaceutical chemist,

commits an offence.

(5) If a person—

(a) uses, or lends to or allows to be used by any other person, a certificate of registration in respect of a pharmacist or pharmaceutical chemist (whether issued under article 32 or one of the Pharmacy Acts); or

(b) makes or has in his possession any document closely resembling such a certificate,

for fraudulent purposes, he commits an offence.

(6) Any person who commits an offence under—

(a) paragraph (1) or (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale; or

(b) paragraph (4) or (5) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART 3

Registration of pharmacy technicians

The Register of Pharmacy Technicians

21.—(1) The Registrar shall establish and maintain in accordance with the provisions of and rules under this Order a register of pharmacy technicians.

(2) The register established and maintained under paragraph (1)—

(a) shall be known as the Register of Pharmacy Technicians; and

(b) shall be divided into two parts, and—

(i) the first part shall be known as “Part 1 – Practising Pharmacy Technicians”, and

(ii) the second part shall be known as “Part 2 – Non-practising Pharmacy Technicians”.

Entitlement to registration in the Register of Pharmacy Technicians

22.—(1) Subject to the provisions of and rules under this Order, a person shall be entitled to be registered in the Register of Pharmacy Technicians if—

(a) he satisfies the Registrar that—

(i) he is appropriately qualified within the meaning given in article 23(1),

(ii) his fitness to practise is not impaired,

(iii) before registration, where necessary, he has met such requirements as to additional education, training or experience as are appropriate to his case, and

(iv) after registration, he meets such requirements as to continuing professional development as are appropriate to his case; and

(b) he has paid any fee prescribed under article 40(1)(a) or (b) that relates to his registration in that register.

(2) A person who is entitled to be registered in the Register of Pharmacy Technicians is to be registered in Part 1 of that register unless he has given to the Society, in the form determined by the Registrar (which may be varied from time to time), an undertaking not to practise in England, Wales, the Channel Islands or the Isle of Man, in which case he is to be registered in Part 2 of that register.

Preregistration requirements for pharmacy technicians in respect of qualifications and additional education, training or experience

23.—(1) For the purposes of article 22(1)(a)(i), a person is "appropriately qualified" if—

(a) he has a qualification awarded in England or Wales which has been approved by the Society as attesting to a standard of proficiency which, in the Society's opinion, indicates that he has reached an adequate level of understanding for practising as a pharmacy technician;

(b) he is an exempt person and he has a right to practise as a pharmacy technician by virtue of the Second General System Regulations (having successfully completed any adaptation period or aptitude test that he may be required to complete pursuant to those Regulations); or

(c) he has, elsewhere than in England or Wales, undergone training as a pharmacy technician, and—

(i) he holds a qualification which has been approved by the Society as attesting to a standard of proficiency which, in the Society's opinion, indicates that the person has reached an adequate level of understanding for practising as a pharmacy technician, or

(ii) he holds a qualification which—

(aa) in the case of an exempt person who does not have the right to practise referred to in sub-paragraph (b), taken together with his additional education, training or experience acquired elsewhere than in England or Wales (but at least in part within the European mutual recognition area) indicates, in the Society's opinion, that he has reached an adequate level of understanding for practising as a pharmacy technician, or

(bb) whether or not he is an exempt person, taken together with his additional education, training or experience that the Society requires him to undertake pursuant to article 22(1)(a)(iii), indicates, in the Society's opinion, that he has reached an adequate level of understanding for practising as a pharmacy technician,

having successfully completed any adaptation period or aptitude test that he may be required to complete pursuant to the Second General System Regulations.

(2) For the purposes of an application for entry in the Register of Pharmacy Technicians, the Registrar shall not require any exempt person to whom paragraph (1)(b) applies to meet any requirements as to additional education, training or experience, unless—

(a) the application is for restoration to the Register of Pharmacy Technicians; and

(b) in so doing the Registrar is acting in a manner that is consistent with the requirements of the Treaties and the Second General Systems Directive.

(3) In formulating its opinion under paragraph (1)(c) in relation to an exempt person, the Society shall take into account—

(a) if the person holds a qualification granted outside the European mutual recognition area which has been accepted by another relevant European State as qualifying him to practise as a pharmacy technician in that State, the acceptance of that qualification; and

(b) all other qualifications, knowledge and experience, wherever acquired, which are relevant to the determination of the application.

(4) As regards any person to whom paragraph (1)(a) or (c)(i) or (ii)(bb) applies, for the purposes of meeting the requirements of article 22(1)(a)(iii), the Registrar may require him to meet requirements as to additional education which comprise or include reaching an adequate standard of proficiency in the knowledge and use of English, unless he is an exempt person.

General functions of the Society in respect of pharmacy technicians' and prospective pharmacy technicians' education, training and the acquisition of experience

24. The Society shall have the general functions of—

(a) promoting high standards of education and training, and in respect of the acquisition of experience, for pharmacy technicians and prospective pharmacy technicians; and

(b) overseeing all stages of the education, training and acquisition of experience of pharmacy technicians and prospective pharmacy technicians in England and Wales, including—

(i) preregistration education, training and acquisition of experience,

(ii) post-registration education, training and acquisition of experience required for continuing professional development or required for education, training and acquisition of experience in respect of specialisations, and

(iii) education, training and acquisition of experience for persons seeking restoration to the Register of Pharmacy Technicians.

Specific obligations of the Society in respect of pharmacy technicians' and prospective pharmacy technicians' education, training and the acquisition of experience

25. In connection with discharging the functions mentioned in article 24, the Society shall—

(a) determine—

(i) the nature of the knowledge and skills, and

(ii) the nature, extent and content of, and method of assessment for, the education, training and experience,

required for a person qualifying in England and Wales to be considered appropriately qualified for the purposes of article 22(1)(a)(i);

(b) approve qualifications under article 23(1)(a);

(c) approve or accredit programmes or courses of education and training for prospective pharmacy technicians;

(d) determine the arrangements for determining, in accordance with article 23(1)(c)(ii), that a person has reached an adequate level of understanding for practising as a pharmacy technician;

(e) determine assessment arrangements for any additional education, training or experience required for the purposes of article 22(1)(a)(iii); and

(f) determine the nature, extent and content of the education, training, experience and continuing professional development required for the purposes of article 22(1)(a)(iii) and (iv), or for the purposes of obtaining annotations in respect of specialisations, including—

(i) preregistration programmes or courses in respect of, or any combination of, education, training or acquiring experience,

(ii) the amount and type of continuing professional development that registrants are required to undertake,

(iii) they amount and type of education, training and experience required in order to obtain annotations in respect of specialisations,

(iv) education and training to address fitness to practise matters, and

(v) education, training and acquisition of experience in respect of persons seeking restoration to the Register of Pharmacy Technicians or to move from Part 2 to Part 1 of that register.

Specific powers of the Society in respect of pharmacy technicians' and prospective pharmacy technicians' education, training and the acquisition of experience

26. In connection with discharging the functions mentioned in article 24, the Society may—

(a) approve providers of the programmes or courses mentioned in article 25(c), and approval under this paragraph may be limited to the provision of programmes or courses at specified premises;

(b) approve premises as being suitable for education and training of prospective pharmacy technicians;

(c) approve qualifications for the purposes of article 23(1)(c)(i);

(d) approve providers of particular types of education, training, experience or continuing professional development required for the purposes of article 22(1)(a)(iii) or (iv), or in respect of specialisations, and approval under this paragraph may be limited to activities at specified premises;

(e) approve programmes or courses in respect of particular types of education, training or continuing professional development required for the purposes of article 22(1)(a)(iii) or (iv), or in respect of specialisations;

(f) determine the arrangements (including, where appropriate, the minimum qualifications of candidates) under which a person may participate in assessment programmes or courses for prospective pharmacy technicians;

(g) hold or cause to be held assessments in respect of—

(i) approved qualifications, or any education, training or experience leading to an approved qualification, and

(ii) additional education, training or experience required for the purposes of article 22(1)(a)(iii),

and determine the arrangements under which those assessments are to be held (including arrangements for dealing with disciplinary matters with regard to candidates and prospective candidates);

(h) appoint or arrange for the appointment of persons ("examiners") to carry out or oversee assessments of the types mentioned in article 25(e), or paragraph (g) of this article, and pay them or arrange for payment to them of appropriate remuneration and allowances (equally, the Society may determine arrangements under which assessments are to be held which do not involve examiners);

(i) charge fees in respect of —

(i) commencing preregistration education or training which is co-ordinated by the Society, and

(ii) assessments of the types mentioned in paragraph (g) that the Society holds or causes to be held; and

(j) determine—

(i) subject to any exceptional arrangements under sub-paragraph (iii), the maximum number of times that a candidate may attempt any assessment arrangements in respect of any education, training or experience leading to an approved qualification,

(ii) subject to any exceptional arrangements under sub-paragraph (iii), the shortest and longest periods for successful completion of approved qualifications or particular types of additional education, training or experience (including accredited courses or programmes), and

(iii) in individual cases, exceptional arrangements for the successful completion of approved qualifications or particular types of additional education, training or experience by a candidate or prospective candidate for whom the Society considers it appropriate to make adjustments to the standard arrangements.

Supplemental matters in connection with articles 25 and 26

27.—(1) The Society may enter into arrangements with another body for that body to assist the Society in carrying out its functions under articles 25 and 26.

(2) Approval or accreditation may be granted under articles 25 and 26 in respect of a programme or course of education or training that only provides part of the education or training needed for an approved or accredited course or programme, or for an approved qualification, where the Society is satisfied that there are appropriate arrangements in place for persons participating in the education or training to receive the remainder of the education or training necessary for the approved or accredited course or programme, or for the approved qualification, elsewhere.

(3) The Council may make such provision in rules in connection with—

(a) authorising the Registrar to perform any of the Society's functions under articles 25 and 26;

(b) the making, varying, suspending or revoking of any determination under articles 25 and 26;

(c) as regards approvals or accreditations under articles 25 and 26—

(i) granting (including provisionally granting) or refusing any approval or accreditation,

(ii) probationary arrangements (including action plans for new courses) or the imposition of remedial measures, and

(iii) appeals related to paragraphs (i) and (ii); and

(d) appeals by candidates and prospective candidates in relation to the assessment arrangements determined under articles 25 and 26,

as it considers appropriate.

(4) The Council shall provide in rules for the procedure to be followed (including, where appropriate, the appeals procedure) for suspending or withdrawing any approval or accreditation that the Society has granted under articles 25 and 26.

(5) In making, varying, suspending or revoking any determination mentioned in this article, or granting, refusing, suspending or withdrawing any accreditation or approval mentioned in this article, the Society shall ensure that the relevant requirements of—

(a) the Treaties and;

(b) the Second General System Directive,

are met, and shall act in a manner which is consistent with those requirements.

(6) The determinations, approvals and accreditations mentioned in this article shall be published by the Society in such manner as it sees fit.

Form, manner and content of applications for registration in the Register of Pharmacy Technicians or retention in that register

28.—(1) The Council may make such provision in rules in connection with applications for registration in the Register of Pharmacy Technicians, or for retention in that register, as it considers appropriate, and may in particular make provision with regard to—

(a) the form and manner in which applications are to be made (and the rules may provide that applicants shall apply using application forms and presenting certificates that are in such form as the Council may determine from time to time);

(b) the information to be provided by or in respect of the applicant, including—

(i) the name under which he practises or intends to practise, or in the case of a person who does not intend to practise, the name by which he is generally known,

(ii) his home address, and

(iii) the information to be provided for the purposes of determining whether the applicant's fitness to practise is impaired; and

(c) consultation, as regards the application, with a fitness to practise committee.

(2) The Registrar may—

(a) refuse to register an applicant for entry in the Register of Pharmacy Technicians; or

(b) refuse to retain in that register a person who wishes to be retained in that register, and so remove him from it,

if he fails to comply with, or if in respect of him there is a failure to comply with, rules made under paragraph (1).

(3) If a person who is registered in the Register of Pharmacy Technicians fails to comply with rules made under paragraph (1) in respect of applications for retention in that register, or there is a failure to comply with such rules in respect of him, the failure may be treated as misconduct for the purposes of article 48(1)(a) and the Registrar shall consider, in accordance with article 49(1), whether or not to refer the matter to the relevant fitness to practise committee.

Offences relating to the Register of Pharmacy Technicians

29.—(1) A person commits an offence if—

(a) he falsely represents that—

(i) he is registered in the Register of Pharmacy Technicians,

(ii) he is registered in a particular part of the Register of Pharmacy Technicians, or

(iii) his registration in the Register of Pharmacy Technicians has a particular annotation; or

(b) he uses—

(i) subject to paragraph (3), the title "pharmacy technician" or "registered pharmacy technician" without being registered in the Register of Pharmacy Technicians, or

(ii) a title in respect of a particular annotation, which is a prescribed specialist title, where he does not have an entry in the Register of Pharmacy Technicians with that particular annotation.

(2) For the purposes of paragraph (1)(b)(ii), "prescribed specialist title" means a title for a pharmacy technician which the Council prescribes as being a title that is only to be used by a registrant with a particular annotation.

(3) A person may use the title "pharmacy technician" without committing an offence under paragraph (1)(b)(i) until—

(a) the end of a period of two years beginning on the day this article comes into force; or

(b) if—

(i) he has applied to be registered in the Register of Pharmacy Technicians during that two year period, and

(ii) his application (including any appeal) has not been disposed of during that two year period,

his application (including any appeal) has been disposed of.

(4) A person commits an offence if he practises as a pharmacy technician whilst being registered in Part 2 of the Register of Pharmacy Technicians.

(5) A person who exhibits any certificate purporting to be a certificate of registration issued under article 32 in respect of a registered pharmacy technician but which is not a certificate of registration issued under that article in respect of a registered pharmacy technician commits an offence.

(6) If a person—

(a) uses, or lends to or allows to be used by any other person, a certificate of registration in respect of a pharmacy technician issued under article 32; or

(b) makes or has in his possession any document closely resembling such a certificate,

for fraudulent purposes, he commits an offence.

(7) Any person who commits an offence under—

(a) paragraph (1) or (4) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale; or

(b) paragraph (5) or (6) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART 4

Matters common to both of the Society's registers

The Society's registers

30.—(1) The Council may make such provision in rules in connection with the Society's registers as it considers appropriate, and may in particular make provision with regard to—

(a) the form and keeping of the Society's registers and the making of entries, alterations and corrections to them;

(b) the entry or entries for persons using more than one name;

(c) the recording of the date of a person's registration;

(d) the recording of addresses (including home addresses);

(e) the recording of titles, qualifications and specialisations (including the recording of those titles, qualifications or specialisations in Welsh, where appropriate);

(f) the recording of continuing professional development matters; and

(g) the recording of fitness to practise matters, including warnings issued by a fitness to practise committee.

(2) The Registrar shall cause to be published from time to time in such manner as he sees fit lists comprising information in or derived from entries in the Society's registers, but the lists published in accordance with this paragraph shall not include information in or derived from entries in respect of a person whose registration, at the time of publication, is suspended.

(3) The Council shall determine the form of the publication of the lists mentioned in paragraph (2) and the information that the lists are to contain, which may include—

(a) a note specifying in which part of the Society's registers a person is registered;

(b) a person's registration number;

(c) the area (by reference to a city, town or district) in which a person lives and contact details, but a person's home address shall not be published without his consent;

(d) a note in respect of fitness to practise matters, including in respect of—

(i) any conditions to which a person's registration is subject, and

(ii) any warnings regarding his future conduct or performance; and

(e) a note in respect of a person's specialisations which are the subject of annotations.

(4) Except—

(a) for the purposes of articles 33 to 35, 37 and 39 and Part 5 (and rules under or that relate to those provisions); and

(b) in such circumstances or for such other purposes as the Council may prescribe,

if a person's registration in one of the Society's registers is suspended, he shall be treated as not being registered in it, notwithstanding that his name still appears in it.

(5) Accordingly, a pharmacist whose registration in the Register of Pharmacists is suspended is not a registered pharmacist for the purposes of other legislation or the Charter.

Specialisations

31.—(1) The Council may make such provision in rules in connection with annotations to entries in the Society's registers to denote specialisations as it considers appropriate, and may in particular make provision with regard to—

(a) the types of specialisations that are to be subject to annotations;

(b) the form and manner in which applications for entering or restoring annotations in respect of specialisations are to be made (and the rules may provide that applicants shall apply using application forms that are in such form as the Council may determine from time to time); and

(c) the circumstances in which annotations in respect of specialisations are to be entered, retained, removed or restored by the Registrar.

(2) Where the Registrar refuses to enter or removes an annotation in respect of a specialisation, he shall send the person making the application for entering an annotation, or in respect of whom an annotation was removed, at his last known home address a statement in writing notifying him of—

(a) the reasons for the decision; and

(b) any right of appeal he has to the Registration Appeals Committee under article 43.

Certificates of registration

32.—(1) Subject to paragraph (3), the Registrar shall, where requested to do so by a registrant or when an application for registration is granted, issue to the registrant free of charge a certificate of registration.

(2) Certificates of registration issued under this article shall be in such form as the Council shall determine from time to time.

(3) The Registrar is not under a duty to issue a further certificate of registration to a person to whom a certificate has already been issued, whether under this article or one of the Pharmacy Acts (even if, in the case of a registrant registered in Part 1 of one of the Society's registers, the certificate which he has does not state the part of the register in which he is registered), unless the person—

(a) satisfies the Registrar that the original certificate, and any further certificate already issued by him, has been lost or destroyed;

(b) changes the name under which he practises, or if he does not practise, the name by which he is generally known; or

(c) has moved to a different part of a register,

and pays to the Society such fee (if any) in respect of the further certificate as is prescribed under article 40(1)(g).

(4) The Council may make such provision in rules as it considers appropriate in connection with the return of certificates of registration which—

(a) incorrectly state the part of the register in which the registrant is registered; or

(b) incorrectly state the name under which a person practises, or if he does not practise, the name by which he is generally known.

Registrants' duties with regard to their registration entries

33.—(1) The Council may make such provision in rules in connection with the information to be provided by registrants with regard to their entries in the register as it considers appropriate (provided the rules are consistent with paragraph (2)), and may in particular make provision with regard to a registrant's obligations to inform the Registrar of—

(a) the name under which he practises, or if he does not practise, the name by which he is generally known, and of any changes to that name; and

(b) his home address and of any changes to it.

(2) If the Registrar—

(a) sends by post to any registrant a notice addressed to him at his home address on the register enquiring whether he has—

(i) ceased to practise as a pharmacist or, as the case may be, a pharmacy technician, or

(ii) has changed his address,

and receives no reply within a period of one month beginning on the day of posting the notice; and

(b) upon the expiration of that period sends to the registrant a second similar notice and receives no reply within one month beginning on the day of posting the notice,

the Registrar may remove the registrant from the register.

(3) If a registrant fails to comply with rules made under paragraph (1), the Registrar may remove him from the register.

(4) Where the Registrar removes a person from the register pursuant to paragraph (2) or (3), he shall send to the person at his last known home address a statement in writing notifying him of—

(a) the reasons for removing him from the register; and

(b) his right of appeal to the Registration Appeals Committee under article 43.

Corrections of the register

34.—(1) The Registrar shall keep the Society's registers correct and up-to-date, and in so doing—

(a) shall remove from the Society's registers any registrant who has died; and

(b) from time to time, shall make any necessary alterations to any of the particulars in a registrant's entry.

(2) The Registrar General shall, on registering the death of a pharmacist or a pharmacy technician, forthwith notify the Registrar of the death.

(3) If the Registrar determines that a person's entry in the register has been fraudulently procured or incorrectly made, he may remove that person from the register.

(4) The Council may make such provision in rules in connection with determinations by the Registrar under paragraph (3) as it considers appropriate.

(5) Where the Registrar removes a person from the register pursuant to paragraph (3), he shall send to the person at his last known home address a statement in writing notifying him of—

(a) the reasons for removing him from the register; and

(b) his right of appeal to the Registration Appeals Committee under article 43.

Fitness to practise matters before registration

35.—(1) If it is shown to the satisfaction of the Registrar that—

(a) the fitness to practise of a registrant was impaired at the time of his registration because of his involvement in a serious matter or a problem with his physical or mental health; and

(b) he had not informed the Registrar of that matter or problem before his registration,

the Registrar may remove him from the register.

(2) The Council may make such provision in rules as it considers appropriate in connection with the information to be provided to the Registrar by or in respect of a registrant for the purposes of determining whether his fitness to practise was impaired at the time of his registration because of his involvement in a serious matter or a problem with his physical or mental health.

(3) If a registrant fails to comply, or if in respect of him there is a failure to comply, with rules made under paragraph (2), the Registrar may remove him from the register.

(4) The Council may make such provision in rules as it considers appropriate in connection with the procedure to be followed by the Registrar prior to removal of a person from the register pursuant to paragraph (1) or (3).

(5) Where the Registrar removes a person from a register pursuant to paragraph (1) or (3), he shall send to the person at his last known home address a statement in writing notifying him of the reasons for removing him from the register and his right of appeal to the Registration Appeals Committee under article 43.

Moving between different parts of a register

36.—(1) The Council may make such provision in rules in connection with applications for moving to a different part of one of the Society's registers as it considers appropriate, and may in particular make provision with regard to—

(a) the form and manner in which applications are to be made (and the rules may provide that applicants shall apply using application forms that are in such form as the Council may determine from time to time);

(b) the information to be provided by the applicant;

(c) whether any, and if so what, additional education or training is required before a person may move from Part 2 to Part 1 of one of the Society's registers (and the rules may make provision for these issues to be determined by the Continuing Professional Development Committee);

(d) fitness to practise matters; and

(e) refusal of applications, in such cases and circumstances as may be prescribed in the rules (including where the applicant has not paid the fee prescribed under article 40(1)(e)).

(2) Where the Registrar refuses an application for moving to a different part of one of the Society's registers, he shall send to the applicant at his last known home address a statement in writing notifying him of—

(a) the reasons for the decision; and

(b) any right of appeal he has to the Registration Appeals Committee under article 43.

Voluntary removal from the registers

37.—(1) The Council may make such provision in rules in connection with applications for voluntary removal from one of the Society's registers as it considers appropriate, and may in particular make provision with regard to—

(a) the form and manner in which applications are to be made (and the rules may provide that applicants shall apply using application forms that are in such form as the Council may determine from time to time);

(b) the information to be provided by the applicant;

(c) fitness to practise matters; and

(d) refusal of applications, in such cases and circumstances as may be prescribed in the rules (including where the applicant has not paid any fee prescribed under article 40(1)(f) or where there is in respect of him an outstanding fitness to practise matter).

(2) Where the Registrar refuses an application for voluntary removal from one of the Society's registers, he shall send to the applicant at his last known home address a statement in writing notifying him of the reasons for the decision.

Indemnity arrangements

38.—(1) A registrant who is registered in Part 1 of one of the Society's registers must have in force in relation to him an adequate and appropriate indemnity arrangement which provides cover in respect of liabilities which may be incurred in carrying out work as a pharmacist or pharmacy technician.

(2) For the purposes of this article, an "indemnity arrangement" may comprise—

(a) a policy of insurance;

(b) an arrangement made for the purposes of indemnifying a person; or

(c) a combination of a policy of insurance and an arrangement made for the purposes of indemnifying a person.

(3) The Council may make rules about what is an adequate and appropriate indemnity arrangement for the purposes of this article.

(4) The Council may make such provision in rules as it considers appropriate in connection with the information to be provided to the Registrar—

(a) by or in respect of any person seeking to be registered in Part 1 of one of the Society's registers (including applications for restoration) for the purposes of determining whether, if he is so registered, there will be in force in relation to him an adequate and appropriate indemnity arrangement which commences, at the latest, on the date on which he is registered;

(b) by or in respect of a person who is registered in Part 1 of one of the Society's registers for the purposes of determining whether there is in force in relation to him an adequate and appropriate indemnity arrangement.

(5) Rules under paragraph (4)(b) may require the information mentioned there to be provided—

(a) at the request of the Registrar; or

(b) on such dates or at such intervals as the Registrar may determine, either generally or in relation to individual registrants or registrants of a particular description.

(6) The Council may also make rules requiring a person who is registered in Part 1 of one of the Society's registers to inform the Registrar if there ceases to be in force in relation to him an adequate and appropriate indemnity arrangement.

(7) The Registrar may refuse to register any person who fails to comply, or in respect of whom there is a failure to comply, with rules made under paragraph (4)(a) above.

(8) If a person who is registered in Part 1 of one of the Society's registers is in breach of paragraph (1), or fails to comply with rules made under paragraph (4)(b) or (6), or there is a failure to comply with rules made under paragraph (4)(b) in respect of him—

(a) the Registrar may remove him from the register; or

(b) the breach or failure may be treated as misconduct for the purposes of article 48(1)(a) and the Registrar shall consider, in accordance with article 49(1), whether or not to refer the matter to the relevant fitness to practise committee.

(9) Where the Registrar—

(a) refuses to register a person pursuant to paragraph (7); or

(b) removes a person from a register pursuant to paragraph (8)(a),

he shall send to the person at his last known home address a statement in writing notifying him of the reasons for the decision and his right of appeal to the Registration Appeals Committee under article 43.

Continuing professional development

39.—(1) The Council shall make such provision in rules in connection with requiring registrants who are registered in Part 1 of one of the Society's registers to undertake such continuing professional development as it considers appropriate.

(2) Rules under paragraph (1) may make provision with regard to—

(a) the amount and type of continuing professional development that a registrant is required to undertake (as determined in accordance with article 14(h)(ii) or 25(f)(ii));

(b) the information to be provided by a registrant in respect of the continuing professional development that he has undertaken, and the form and manner in which that information is

provided (and the rules may provide that a registrant or class of registrant shall provide the information using forms that are in such form as the Continuing Professional Development Committee may determine from time to time);

(c) the removal of a registrant from the register where the registrant has breached rules under paragraph (1) or such other remedial measures as may be prescribed (and the rules may provide for those measures to be determined, and for decisions on removal to be made, by the Continuing Professional Development Committee); and

(d) suspending a person's registration pending the outcome of any appeal against a decision to remove the person from one of the Society's registers (and the rules may provide that decisions to suspend are to be made by the Continuing Professional Development Committee).

(3) Where the Registrar removes a person from one of the Society's registers pursuant to rules made under paragraph (1), he shall send to the person at his last known home address a statement in writing notifying him of—

(a) the reasons for the decision; and

(b) any right of appeal he has to the relevant court under paragraph (4).

(4) Where—

(a) the Continuing Professional Development Committee has decided to remove a person from one of the Society's registers pursuant to rules under this article; and

(b) prior to that decision being taken, the person had provided a return in respect of his continuing professional development that, in its form and manner and as regards the information to be provided with it, complied with the requirements of rules under this article,

that person may appeal against that decision to the relevant court, provided that he does so (subject to any rules of the relevant court in respect of the admissibility of applications to it) within 28 days beginning with the date on which the written notice of the reasons for the decision was sent to him under paragraph (3).

(5) In this article, "the relevant court" means—

(a) the High Court; or

(b) as regards an application relating to registration in the Register of Pharmacists, if the person making the appeal is domiciled in Scotland, the Court of Session.

(6) Having considered the appeal, the relevant court may—

(a) dismiss the appeal;

(b) allow the appeal and quash the decision appealed against;

(c) substitute for the decision appealed against any other decision that the Continuing Professional Committee could have taken; or

(d) remit the case to the Continuing Professional Development Committee for it to dispose of the matter in accordance with directions from the relevant court,

and may make such order as to costs or, in Scotland, expenses as the relevant court thinks fit.

(7) Where the Continuing Professional Development Committee has decided to remove a person from one of the Society's registers pursuant to rules under this article, and that decision is appealable to the relevant court by virtue of paragraph (4), that decision shall not take effect—

(a) until the period for bringing an appeal against the decision has expired; or

(b) where an appeal is brought within the period for bringing an appeal, until the date on which the appeal is finally disposed of, or is abandoned or fails by reasons of its non- prosecution.

Fees in connection with registration

40.—(1) The Council may make rules with respect to the charging of fees in connection with registration, and in particular in connection with—

(a) applications for registration in one of the Society's registers, including applications for restoration to the register pursuant to article 41 or 55;

(b) retention in one of the Society's registers;

(c) applications for entering annotations in, or restoring annotations to, one of the Society's registers;

(d) retention of annotations in one of the Society's registers;

(e) applications in respect of moving to a different part of the one of the Society's registers;

(f) applications in respect of voluntary removal from one of the Society's registers; and

(g) issuing further certificates of registration pursuant to article 32(3),

and shall publish any such rules in such manner as it sees fit.

(2) Rules under paragraph (1) may—

(a) provide for a fee not to be charged, or to be waived in whole or in part, in prescribed cases or circumstances (including at the discretion of the Registrar);

(b) provide for the removal of registrants from the Society's registers where a prescribed fee in respect of their retention in one of the Society's registers has not been paid, after such warnings as may be prescribed; and

(c) provide for removing annotations where a prescribed fee in respect of retaining an annotation has not been paid, after such warnings as may be prescribed.

(3) Where the Registrar removes a person from a register pursuant to rules under paragraph (1), he shall send to the person at his last known home address a statement in writing notifying him of the reasons for the decision.

(4) Before making rules under paragraph (1), the Council shall consult such registrants or classes of registrants as it considers appropriate.

Restoration to the Society's registers of persons removed under Parts 2 to 4

41.—(1) Where a person has been removed from a register pursuant to—

(a) article 17(2)(b) (refusal to retain in the Register of Pharmacists);

(b) article 28(2)(b) (refusal to retain in the Register of Pharmacy Technicians);

(c) article 33(2) or (3) (failures to provide information with regard to registration entries);

(d) article 34(3) (entries fraudulently procured or incorrectly made);

(e) article 35(1) or (3) (fitness to practise matters before registration);

(f) rules made under article 37(1) (voluntary removal from the registers);

(g) article 38(8)(a) (failures to comply with requirements relating to indemnity arrangements);

(h) rules made under article 39(1) (failures to comply with requirements relating to continuing professional development); or

(i) rules made under article 40(1) (non-payment of fees),

the Registrar may restore him to the register in such circumstances as may be prescribed.

(2) The Council may make such provision in rules in connection with applications for restoration by the Registrar pursuant to paragraph (1) as it considers appropriate, and may in particular make provision with regard to—

(a) the form and manner in which applications for restoration are to be made (and the rules may provide that applicants shall apply using application forms that are in such form as the Council may determine from time to time);

(b) the information to be provided by the applicant;

(c) whether any, and if so what, additional education, training or experience is required before restoration, and the rules may make provision for these issues to be determined in individual cases by the Continuing Professional Development Committee;

(d) whether, and if so what, continuing professional development is required after restoration, and the rules may make provision—

(i) for these issues to be determined in individual cases by the Continuing Professional Development Committee, and

(ii) enabling the Continuing Professional Development Committee to determine that the application for restoration is to be granted subject to the applicant agreeing to comply with such undertakings with regard to continuing professional development as the Committee considers appropriate;

(e) fitness to practise matters; and

(f) refusal of applications (including where the applicant has not paid the fee prescribed under article 40(1)(a)).

(3) Where a person who has agreed to comply with an undertaking pursuant to rules under paragraph (2)(d)(ii) breaches that undertaking, that breach may be treated as misconduct for the purposes of article 48(1)(a) and the Registrar shall consider, in accordance with article 49(1), whether or not to refer the matter to the relevant fitness to practise committee.

(4) Where the Registrar refuses an application for restoration to one of the Society's registers, he shall send to the applicant at his last known home address a statement in writing notifying him of—

(a) the reasons for the decision; and

(b) any right of appeal he has to the Registration Appeals Committee under article 43 or to a relevant court under article 56.

Appealable registration decisions

42.—(1) Subject to paragraph (2), the following are appealable registration decisions for the purposes of article 43—

(a) a decision to refuse to register a person in the Register of Pharmacists (excluding restoration cases), but only if the person's application for registration, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 17(1);

(b) a decision to refuse to retain a person in the Register of Pharmacists, and so to remove him from it, pursuant to article 17(2)(b), but only if the person's application for retention in the register, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 17(1);

(c) a failure to give any notice required by article 18(1) within the specified period;

(d) a decision to require an exempt person to undergo an aptitude test or a period of adaptation before deciding whether he is "appropriately qualified" for the purposes of article 22(1)(a)(i);

(e) a decision to refuse to register a person in the Register of Pharmacy Technicians (excluding restoration cases), but only if the person's application for registration, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 28(1);

(f) a decision to refuse to retain a person in the Register of Pharmacy Technicians, and so to remove him from it, pursuant to article 28(2)(b), but only if the person's application for retention in the register, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 28(1);

(g) a decision to refuse to enter or restore an annotation in respect of a specialisation, but only if the registrant's application for the annotation, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 31(1);

(h) a decision to remove an annotation in respect of a specialisation pursuant to rules under article 31(1);

(i) a decision to remove a registrant from one of the Society's registers pursuant to article 33(2) or (3) (failures to provide information with regard to registration entries);

(j) a decision to remove a registrant from one of the Society's registers pursuant to article 34(3) (entries fraudulently procured or incorrectly made);

(k) a decision to remove a person from one of the Society's registers pursuant to article 35(1) or (3) (fitness to practise matters before registration);

(l) a decision to refuse an application for moving to a different part of one of the Society's registers, but only if the application, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 36(1);

(m) a decision to refuse to register a person pursuant to article 38(7) or to remove a person from one of the Society's registers pursuant to article 38(8)(a) (failures to comply with requirements relating to indemnity arrangements);

(n) a decision to refuse an application for restoration of a person to one of the Society's registers, but only if—

(i) the application, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 41, and

(ii) the decision is for a reason that does not relate to the person's fitness to practise;

(o) a decision of the Registrar to refuse to register a person under paragraph 6(2) of Schedule 2 on the grounds that the person does not have the requisite experience for practising as a registered pharmacy technician in England and Wales; and

(p) a decision which, by virtue of rules under this Order or regulations under the Charter, may be appealed to the Registration Appeals Committee.

(2) A decision is not an appealable registration decision if it was taken because—

(a) of a failure to pay any fee prescribed under article 40(1); or

(b) the applicant is not appropriately qualified, in circumstances where the applicant contends, in effect, that the qualifications he has should be approved by the Society pursuant to article 12(1)(c)(i) or 23(1)(c)(i).

Appeals to the Registration Appeals Committee

43.—(1) A person in respect of whom an appealable registration decision has been made may appeal against it to the Registration Appeals Committee, provided that he gives notice of the appeal to the Registrar within 28 days—

(a) beginning with the date on which he is sent the written statement of the reasons for the decision; or

(b) in the case of an appeal relating to a failure to give notice under article 18(1), beginning with the date on which the specified period expires.

(2) Where the Registrar is satisfied, on an application from a person in respect of whom an appealable registration decision to which paragraph (1)(a) relates has been made, that the person did not receive the written statement of the reasons for the decision within 14 days of the statement being sent, the Registrar may by authorisation in writing extend the time for giving notice of appeal under paragraph (1)(a).

(3) Where an appealable registration decision to remove a person from one of the Society's registers, or to remove an annotation, has been taken, the decision shall not take effect—

(a) until the period for bringing an appeal in respect of the decision has expired, but if the period for bringing an appeal has been extended under paragraph (2), that extended period shall for the purposes of this paragraph be treated as the period for bringing an appeal (notwithstanding that this may require reversal of action taken); and

(b) where an appeal is brought within the period for bringing an appeal, until the date on which the appeal is finally disposed of, or is abandoned or fails by reason of its non- prosecution.

(4) Having considered the appeal, the Registration Appeals Committee may—

(a) dismiss the appeal;

(b) allow the appeal and quash the decision appealed against;

(c) substitute for the decision appealed against any other decision that the person taking the decision could have taken; or

(d) remit or refer the case to the Registrar for him to dispose of the matter in accordance with the Registration Appeals Committee's directions.

(5) The Registration Appeals Committee shall, as soon as is reasonably practicable, give the person bringing the appeal a written notice of—

(a) the Committee's decision and its reasons for its decision; and

(b) any right of appeal that the person has under article 44(1).

(6) Subject to paragraph (7), the Registration Appeals Committee shall, as soon as reasonably practicable, publish in such manner as it sees fit its decision and the reasons for it.

(7) If the Registration Appeals Committee has allowed the appeal, or taken a decision or issued a direction that has the effect of allowing the appeal, it is not required to publish its decision and the reasons for it unless the person making the appeal so requests.

Appeals from the Registration Appeals Committee

44.—(1) Except where the Registration Appeals Committee has allowed an appeal or has taken a decision or issued a direction that has the effect of allowing the appeal, a person in respect of whom a decision of the Registration Appeals Committee has been taken may appeal against that decision to the relevant court, provided that he does so (subject to any rules of the relevant court in respect of the admissibility of applications to it) within 28 days beginning with the date on which the written notice of the reasons for the decision was sent to him.

(2) In this article, "the relevant court" means—

(a) the county court (the central London county court if the person making the appeal is not domiciled in England or Wales); or

(b) if—

(i) the person making the appeal is domiciled in Scotland, and

(ii) the appeal relates to registration in the Register of Pharmacists,

the sheriff in whose sheriffdom the person making the appeal is domiciled.

(3) Having considered an appeal under this article, the relevant court may—

(a) dismiss the appeal;

(b) allow the appeal and quash the decision appealed against;

(c) substitute for the decision appealed against any other decision that the Registration Appeals Committee could have taken; or

(d) remit or refer the case to the Registrar for him to dispose of the matter in accordance with directions from the relevant court,

and may make such order as to costs or, in Scotland, expenses as the relevant court thinks fit.

PART 5

Fitness to practise

Guidance in respect of standards of conduct, practice and performance

45.—(1) The Council shall prepare and from time to time publish in such manner as it sees fit guidance as to the standards of conduct, practice and performance expected of registrants.

(2) The Council shall keep guidance published under this article under review and may vary or withdraw its provisions whenever it considers it appropriate to do so.

(3) Before issuing, varying or withdrawing guidance published under this article, the Council shall consult such registrants or classes of registrants as it considers appropriate.

(4) The Society may charge reasonable fees for copies of guidance published under this article.

Disclosure of information: general

46.—(1) For the purpose of assisting the Society (including its Council, its staff and its committees) in carrying out functions in respect of the fitness to practise of—

(a) a registered pharmacist, a person authorised by the Society may require—

(i) any registered pharmacist (except the registered pharmacist against whom the information or document is sought), or

(ii) any other person,

in Great Britain who in his opinion is able to supply information or produce any document which appears relevant to the discharge of any such function, to supply the information or produce the document; or

(b) a registered pharmacy technician, a person authorised by the Society may require—

(i) any registered pharmacy technician (except the registered pharmacy technician against whom the information or document is sought), or

(ii) any other person,

in England or Wales who in his opinion is able to supply information or produce any document which appears relevant to the discharge of any such function, to supply the information or produce the document.

(2) Nothing in paragraph (1) shall require or permit—

(a) any disclosure of information which is prohibited by or under any enactment, but where that prohibition arises because the information is in a form which allows for the identification of an individual, the person authorised by the Society may require that information to be put in a form which does not allow for the identification of that individual; or

(b) the supplying of information or production of a document which a person could not be compelled to produce in civil proceedings in the High Court or the Court of Session under article 56.

(3) In determining for the purposes of paragraph (2)(a) whether a disclosure of personal data is prohibited, it shall be assumed, for the purposes of section 35(1) of the Data Protection Act 1998(**24**) (disclosures required by law or made in connection with legal proceedings etc.), that disclosure of the personal data is required by paragraph (1).

(4) If a person fails to supply any information or produce any document within 14 days of his being required to do so under paragraph (1), the Society may seek an order of the relevant court requiring the information to be supplied or the document to be produced.

(5) For the purposes of this article, the "relevant court" means—

(a) the county court; or

(b) if—

(i) the information or document relates to the fitness to practise of a registered pharmacist, and

(ii) the person against whom the order is sought is domiciled in Scotland,

the sheriff in whose sheriffdom that person is domiciled.

Disclosure of fitness to practise matters in the public interest

47.—(1) The Society may, if it considers it to be in the public interest to do so, publish, or disclose to any person, information—

(a) which relates to a particular pharmacist's or pharmacy technician's fitness to practise, whether the matter to which the information relates arose before or after his registration, or arose in the United Kingdom or elsewhere; or

(b) of a particular description related to fitness to practise in relation to every pharmacist or pharmacy technician, or to every pharmacist or pharmacy technician of a particular description.

(2) For the purposes of paragraph (1)(b) above, the Society need not consider whether it is in the public interest to publish or disclose the information in question in relation to each individual pharmacist or pharmacy technician to whom it relates.

Impairment of fitness to practise

48.—(1) A person's fitness to practise shall be regarded as "impaired" for the purposes of this Order only by reason of—

(a) misconduct;

(b) deficient professional performance (which includes competence);

(c) adverse physical or mental health;

(d) failure to comply with a reasonable requirement imposed by an individual assessor or an assessment team in connection with carrying out a professional performance assessment;

(e) a conviction in the British Islands for a criminal offence;

(f) a conviction elsewhere than in the British Islands for an offence which, if committed in England and Wales, would constitute a criminal offence;

(**24**) 1998 c.29.

(g) an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995(**25**) (admonition and absolute discharge) discharging him absolutely;

(h) having accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal);

(i) having agreed to pay a penalty under section 115A of the Social Security Administration Act 1992(**26**) (penalty as alternative to prosecution);

(j) a police caution in the British Islands; or

(k) a determination made by a regulatory body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that his fitness to practise as a member of a profession regulated by that body is impaired, or a determination by a regulatory body elsewhere to the same effect.

(2) The demonstration towards a patient or customer, or a prospective patient or customer, of a pharmacist or pharmacy technician of attitudes or behaviour from which that person can reasonably expect to be protected may be treated as misconduct for the purposes of paragraph (1)(a).

(3) References in this article to a conviction include a conviction by court martial.

(4) A person's fitness to practise may be regarded as impaired because of matters arising—

(a) outside the United Kingdom; and

(b) at any time.

(5) The Council may make such provision in rules as it considers appropriate in connection with the information to be provided to the Registrar by a registrant about fitness to practise matters that arise while he is registered.

(6) If a registrant fails to comply with rules under paragraph (5), the failure may be treated as misconduct for the purposes of paragraph (1)(a) and the Registrar shall consider, in accordance with article 49(1), whether to refer the matter to the relevant fitness to practise committee.

Initial action in respect of allegations

49.—(1) Where—

(a) an allegation is made to the Society against a registrant that his fitness to practise is impaired; or

(b) the Society has information that calls into question a registrant's fitness to practise, but no allegation to that effect has been made against him to the Society,

the Registrar shall, except in such cases and subject to such considerations as the Council may prescribe, refer the matter (referred to in this article as "the allegation") to the Investigating Committee.

(2) Rules under paragraph (1) may in addition provide—

(a) for the allegation to be referred instead, in prescribed cases, to the Disciplinary Committee or the Health Committee; and

(b) that where the Registrar—

(i) refers a case to the Disciplinary or Health Committee; and

(ii) is of the opinion that the Committee to which he has referred the case should consider making an interim order under article 54,

he shall notify the Committee accordingly,

(**25**) 1995 c.46; section 246 has been amended by the Crime and Punishment (Scotland) Act 1997 (c.48), Schedule 1, paragraph 21(31).

(**26**) 1992 c.5; section 115A was inserted by the Social Security Administration (Fraud) Act 1997 (c.47), section 15.

and where the Registrar does decide to refer an allegation to the Disciplinary or Health Committee under such rules, the Registrar shall inform the registrant who is the subject of the allegation and the person (if any) who made the allegation of that decision.

(3) Once a decision has been taken to refer the allegation to the Investigating Committee, or where rules so provide to the Disciplinary or Health Committee, the Registrar shall, as soon as is reasonably practicable—

(a) require from the registrant who is the subject of the allegation details of any person—

(i) by whom the registrant is employed or engaged to provide services in, or in relation to, any area of pharmacy, or

(ii) with whom he has arrangements to do so;

(b) notify the Secretary of State, the Scottish Ministers, the Department of Health, Social Services and Public Safety in Northern Ireland and the National Assembly for Wales of the investigation of the registrant's fitness to practise;

(c) if the registrant is a registered pharmacist, notify any person in Great Britain of whom the Registrar is aware—

(i) by whom the registrant concerned is employed or engaged to provide services in, or in relation to, any area of pharmacy, or

(ii) with whom he has arrangements to do so,

of the investigation of the registrant's fitness to practise; and

(d) if the registrant is a registered pharmacy technician, notify any person in England or Wales of whom the Registrar is aware—

(i) by whom the registrant concerned is employed or engaged to provide services in, or in relation to, any area of pharmacy, or

(ii) with whom he has arrangements to do so,

of the investigation of the registrant's fitness to practise.

(4) Where a registrant fails to comply with a requirement imposed on him under paragraph (3)(a) within 14 days of the requirement being imposed—

(a) the failure may be treated as misconduct for the purposes of article 48(1)(a) and the Registrar may refer the matter to the Committee that is considering the allegation in respect of the registrant; and

(b) the Registrar may seek an order of the relevant court requiring the requested details to be supplied.

(5) For the purposes of this article, the "relevant court" means—

(a) the county court; or

(b) if the registrant is a registered pharmacist domiciled in Scotland, the sheriff in whose sheriffdom that registrant is domiciled.

Consideration by the Investigating Committee

50.—(1) Where an allegation or a matter has been referred to the Investigating Committee under this Order by the Registrar (referred to in this article as "the allegation"), it shall decide whether the allegation ought to be considered by the Disciplinary Committee or the Health Committee.

(2) If the Investigating Committee decides that the allegation need not be considered by the Disciplinary Committee or the Health Committee, unless the person who is the subject of the allegation (referred to in this article as "the person concerned") has requested a referral under paragraph (3)—

(a) the Investigating Committee may issue—

(i) a warning or advice to the person concerned in connection with any matter arising out of or related to the allegation, and

(ii) advice to any other person or other body involved in its investigation of the allegation on any matter arising out of or related to the allegation; and

(b) the Registrar shall inform the person concerned and the person who made the allegation, if any, of the Committee's decision and any action it is taking under sub-paragraph (a).

(3) If the Investigating Committee decides that the allegation ought to be considered by the Disciplinary Committee or the Health Committee or the person concerned has requested a referral under this paragraph—

(a) the Investigating Committee shall refer the allegation—

(i) in the case of an allegation that the person concerned's fitness to practise is impaired by reason only of adverse physical or mental health, to the Health Committee,

(ii) in the case of an allegation that the person concerned's fitness to practise is impaired by reason of adverse physical or mental health and by reason of other matters, to the Health Committee or the Disciplinary Committee, whichever one the Investigating Committee considers more appropriate, or

(iii) in any other case, to the Disciplinary Committee;

(b) where the Investigating Committee is of the opinion that the committee to which it is referring the allegation should consider making an interim order under article 54, it shall notify the committee accordingly; and

(c) the Registrar shall inform the person concerned and the person who made the allegation, if any, of the Investigating Committee's decision to refer the allegation to the Health Committee or the Disciplinary Committee.

(4) If, having considered an allegation, the Investigating Committee is of the opinion that the Society should consider exercising any of its powers to bring criminal proceedings under any enactment, it shall notify the Registrar accordingly.

Consideration by the Health Committee

51.—(1) Where an allegation is referred to the Health Committee by—

(a) the Registrar under rules made under article 49(2)(a);

(b) the Investigating Committee under article 50(3)(a)(i) or (ii); or

(c) the Disciplinary Committee under rules made under article 59(3)(g),

the Committee shall, except in such circumstances as may be prescribed, determine whether or not the fitness to practise of the person in respect of whom the allegation is made (referred to in this article as "the person concerned") is impaired.

(2) If the Health Committee determines that the person concerned's fitness to practise is not impaired—

(a) the Committee may issue—

(i) a warning or advice to the person concerned in connection with any matter arising out of or related to the allegation, and

(ii) advice to any other person or other body involved in its investigation of the allegation on any issue arising out of or related to the allegation;

(b) the Registrar shall inform the person concerned and the person who made the allegation, if any, of the Committee's decision and any action it is taking under sub-paragraph (a); and

(c) the Committee shall, if the person concerned so requests, publish in such manner as it sees fit a statement summarising its determination, or may publish such a statement if he consents.

(3) If the Health Committee determines that the person concerned's fitness to practise is impaired by reason of adverse physical or mental health, it may—

(a) issue—

(i) a warning to the person concerned in connection with any matter arising out of or related to the allegation and give a direction that details of the warning must be recorded in the person concerned's entry in the register, and

(ii) advice to any other person or other body involved in its investigation of the allegation on any issue arising out of or related to the allegation;

(b) give a direction that the person concerned's registration shall be suspended, for such period not exceeding 12 months as may be specified in the direction; or

(c) give a direction that the person concerned's registration shall be conditional upon his compliance, during a period specified in the direction not exceeding 3 years, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or in the person concerned's interests.

(4) Where the Health Committee has given a direction under this article, following a review it may if it thinks fit—

(a) where the person concerned's registration is suspended, give a direction that—

(i) the suspension be extended for such further period not exceeding 12 months as may be specified in the direction, starting from the time when the period of suspension would otherwise expire,

(ii) the person concerned's registration be suspended indefinitely, if the suspension has already been in force throughout a period of at least 2 years,

(iii) in the case of an indefinite suspension, terminate the suspension, provided that the review takes place in the circumstances provided for in paragraph (5), or

(iv) on expiry or termination of the period of suspension (including a period of suspension that was expressed to be indefinite), the person concerned's registration shall be conditional upon his compliance, during a period specified in the direction not exceeding 3 years, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or in the person concerned's interests;

(b) where the person concerned's registration is conditional upon his compliance with requirements specified in a direction given under this article, give a direction that—

(i) the period specified in the direction for compliance with the requirements shall be extended for such further period not exceeding 3 years as may be specified in the direction, starting from the time when the earlier period would otherwise expire,

(ii) the requirements be added to, reduced, removed or otherwise varied in such manner as is specified in the direction, or

(iii) the person concerned's registration shall instead be suspended (for example, where he has failed to comply, whether wholly or partly, with the requirements), for such period not exceeding 12 months as may be specified in the direction.

(5) If the Health Committee gives a direction under paragraph (4)(a)(ii), the Committee shall review the direction if—

(a) the person concerned asks them to do so; and

(b) at least two years have elapsed—

(i) since the direction took effect, or

(ii) if the direction has already been reviewed by the Committee, since the conclusion of the last review by the Committee.

(6) If the person concerned is registered in both of the Society's registers, the Health Committee—

(a) shall make separate determinations under this article in relation to each register; and

(b) may give a direction under paragraph (3) or (4) in relation to only one of the registers or different directions in relation to each register,

but may otherwise deal with the matter as a single case.

(7) If the Health Committee issues a warning or gives a direction under this article, the Registrar shall on its behalf send to the person concerned at his last known home address a statement in writing notifying him of—

(a) the reasons for the warning or the direction; and

(b) any right of appeal he has under article 56.

Consideration by the Disciplinary Committee

52.—(1) Where an allegation is referred to the Disciplinary Committee by—

(a) the Registrar under rules made under article 49(2)(a);

(b) the Investigating Committee under article 50(3)(a)(ii) or (iii);

(c) an individual assessor or an assessment team under rules made under article 53(2)(c); or

(d) the Health Committee under rules made under article 59(3)(h),

the Committee shall, except in such circumstances as may be prescribed, determine whether or not the fitness to practise of the person in respect of whom the allegation is made (referred to in this article as "the person concerned") is impaired.

(2) If the Disciplinary Committee determines that the person concerned's fitness to practise is not impaired—

(a) the Committee may issue—

(i) a warning or advice to the person concerned in connection with any matter arising out of or related to the allegation, and

(ii) advice to any other person or other body involved in its investigation of the allegation on any issue arising out of or related to the allegation;

(b) the Registrar shall inform the person concerned and the person who made the allegation, if any, of the Committee's decision and any action it is taking under sub-paragraph (a); and

(c) the Committee shall, if the person concerned so requests, publish in such manner as it sees fit a statement summarising its determination, or may publish such a statement if he consents.

(3) If the Disciplinary Committee determines that the person concerned's fitness to practise is impaired, it may—

(a) issue—

(i) a warning to the person concerned in connection with any matter arising out of or related to the allegation and give a direction that details of the warning must be recorded in the person concerned's entry in the register, and

(ii) advice to any other person or other body involved in its investigation of the allegation on any issue arising out of or related to the allegation;

(b) give a direction that the person concerned be removed from the register;

(c) give a direction that the person concerned's registration shall be suspended, for such period not exceeding 12 months as may be specified in the direction; or

(d) give a direction that the person concerned's registration shall be conditional upon his compliance, during a period specified in the direction not exceeding 3 years, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or in the person concerned's interests.

(4) Where the Disciplinary Committee has given a direction under this article, other than a direction that the person concerned be removed from the register, following a review it may if it thinks fit—

(a) where the person concerned's registration is suspended, give a direction that—

(i) the person concerned be removed from the register,

(ii) the suspension be extended for such further period not exceeding 12 months as may be specified in the direction, starting from the time when the period of suspension would otherwise expire,

(iii) the person concerned's registration be suspended indefinitely, if the suspension has already been in force throughout a period of at least 2 years,

(iv) in the case of an indefinite suspension, terminate the suspension, provided that the review takes place in the circumstances provided for in paragraph (5), or

(v) on expiry or termination of the period of suspension (including a period of suspension that was expressed to be indefinite), the person concerned's registration shall be conditional upon his compliance, during a period specified in the direction not exceeding 3 years, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or in the person concerned's interests;

(b) where the person concerned's registration is conditional upon his compliance with requirements specified in a direction given under this article, give a direction that—

(i) the period specified in the direction for compliance with the requirements shall be extended for such further period not exceeding 3 years as may be specified in the direction, starting from the time when the earlier period would otherwise expire,

(ii) the requirements be added to, reduced, removed or otherwise varied in such manner as is specified in the direction,

(iii) the person concerned's registration shall instead be suspended (for example, where he has failed to comply, whether wholly or partly, with the requirements), for such period not exceeding 12 months as may be specified in the direction, or

(iv) the person concerned be removed from the register, if he has failed to comply, whether wholly or partly, with the requirements.

(5) If the Disciplinary Committee gives a direction under paragraph (4)(a)(iii), the Committee shall review the direction if—

(a) the person concerned asks them to do so; and

(b) at least two years have elapsed—

(i) since the direction took effect, or

(ii) if the direction has already been reviewed by the Committee, since the conclusion of the last review by the Committee.

(6) If the person concerned is registered in both of the Society's registers, the Disciplinary Committee—

(a) shall make separate determinations under this article in relation to each register; and

(b) may give a direction under paragraph (3) or (4) in relation to only one of the registers or different directions in relation to each register,

but may otherwise deal with the matter as a single case.

(7) If the Disciplinary Committee issues a warning or gives a direction under this article, the Registrar shall on its behalf send to the person concerned at his last known home address a statement in writing notifying him of—

(a) the reasons for the warning or the direction; and

(b) any right of appeal he has under article 56.

Professional performance assessments

53.—(1) The Council may make rules authorising the Registrar and fitness to practise committees to give directions, in such circumstances as may be prescribed (including during proceedings of the committee), requiring an assessment of the standard of a registrant's professional performance by an individual assessor or an assessment team.

(2) The Council may make such provision in rules in connection with the composition of professional performance assessment teams, and functions of and procedures to be followed by individual assessors and assessment teams, as it considers appropriate, and may in particular make provision with regard to—

(a) the Society entering into arrangements with other bodies for those bodies to provide individual assessors or assessment teams to carry out the assessments;

(b) allowing an assessment by an individual assessor or an assessment team to include an assessment of the standard of a registrant's professional performance both at any time prior to the assessment and at the time of the assessment; and

(c) referring to the Investigating Committee or the Disciplinary Committee a case where an individual assessor or an assessment team considers that a registrant has failed to comply with a reasonable requirement that he or it has imposed on him.

(3) An individual assessor or an assessment team, in connection with carrying out an assessment of the standard of a registrant's professional performance—

(a) may require the production of, inspect and take copies of any records (in whatever form they are held) arising out of or related to the registrant's professional practice; and

(b) where such records are kept otherwise than in legible form, may require a copy of them to be given to the team in a legible form.

(4) Nothing in, or in rules under, this article shall require or permit—

(a) any disclosure of information which is prohibited by or under any enactment, but where that prohibition arises because the information is in a form which allows for the identification of an individual, an individual assessor or an assessment team, when requiring the production of records under paragraph (3)(a), may require that the records be put in a form which does not allow for the identification of that individual; or

(b) the production of records which a person could not be compelled to produce in civil proceedings in the High Court or the Court of Session under article 56.

(5) In determining for the purposes of paragraph (4)(a) whether a disclosure of personal data is prohibited, it shall be assumed, for the purposes of section 35(1) of the Data Protection Act 1998(**27**) (disclosures required by law or made in connection with legal proceedings etc.), that disclosure of the personal data is required by paragraph (3).

(**27**) 1998 c.29.

(6) If a person fails to produce any records within 14 days of his being required to do so under paragraph (3), the Registrar or the committee on whose behalf the individual assessor or an assessment team is carrying out the assessment in connection with which the records are being sought may seek an order of the relevant court requiring the records to be produced.

(7) For the purposes of this article, the "relevant court" means—

(a) the county court (the central London county court in the case of a registered pharmacist who is not domiciled in Great Britain or a registered pharmacy technician who is not domiciled in England or Wales); or

(b) if—

(i) the records are being sought in relation to a registered pharmacist, and

(ii) the registered pharmacist is domiciled in Scotland,

the sheriff in whose sheriffdom that registered pharmacist is domiciled.

Interim Orders

54.—(1) Where the Health Committee or the Disciplinary Committee is satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of a registrant, for the registration of that registrant to be suspended or to be made subject to conditions, the Committee may make an order—

(a) that his registration be suspended during such period not exceeding 18 months as may be specified in the order (an "interim suspension order"); or

(b) that his registration shall be conditional on his compliance, during such period not exceeding 18 months as may be specified in the order, with such requirements specified in the direction as the Committee thinks fit to impose (an "order for interim conditional registration").

(2) Subject to paragraphs (7) and (8), where the Health Committee or the Disciplinary Committee has made an order under paragraph (1), the Committee that made the order—

(a) shall review it within the period of 6 months beginning on the date on which the order was made, and shall thereafter, for so long as the order continues in force, further review it—

(i) before the end of the period of 6 months beginning on the date of the decision of the immediately preceding review, or

(ii) if after the end of the period of three months beginning on the date of the decision of the immediately preceding review the person concerned requests an earlier review, as soon as practicable after that request; and

(b) may review it where new evidence relevant to the order has become available after it was made.

(3) Where an interim suspension order or an order for interim conditional registration has been made in relation to any person under any provision of this article (including this paragraph) the committee that made the order (or the committee that is treated as the committee that made the order by virtue of paragraph (8)(a)) may—

(a) revoke the order or revoke any condition imposed by the order;

(b) add to, remove or otherwise vary any condition imposed by the order; or

(c) if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest—

(i) replace an order for interim conditional registration with an interim suspension order having effect for the remainder of the term of the previous order, or

(ii) replace an interim suspension order with an order for interim conditional registration having effect for the remainder of the term of the previous order.

(4) If an order is made under any provision of this article, the Registrar shall without delay send a notification of the order to the person to whose registration it relates at his last known home address.

(5) The Society may apply to the relevant court for an order made by the Health Committee or the Disciplinary Committee under paragraph (1) or (3)—

(a) to be extended;

(b) that has been extended to be further extended,

and on such an application the relevant court may extend, or further extend, for up to 12 months the period for which the order has effect.

(6) Any reference in this article to an interim suspension order, or to an order for interim conditional registration, includes a reference to such an order as extended under paragraph (5).

(7) For the purposes of paragraph (2), the first review after the relevant court's extension of an order made by the Health Committee or the Disciplinary Committee, or after a replacement order made by the Health Committee or the Disciplinary Committee under paragraph (3)(c), shall take place—

(a) if the order (or the order which has been replaced) has not been reviewed at all under paragraph (2), within the period of 6 months beginning on the date ("the relevant date") on which the relevant court ordered the extension or on which a replacement order under paragraph (3)(c) was made; and

(b) if the order has been reviewed under paragraph (2), within the period of three months beginning on the relevant date.

(8) Where one of the Committees that may make orders under this article has made such an order but then refers the related fitness to practise case under rules made under article 59(3)(g)(ii) or (h)(ii) to the other Committee that may make orders under this article—

(a) the order that has been made under this article is to be treated as made by the Committee to which the case is referred; and

(b) as soon as is practicable, the Committee to which the case is referred must review the order.

(9) A registrant who is aggrieved by a decision of the Health Committee or the Disciplinary Committee to make or vary an order under this article may appeal against that decision to the relevant court, and the court may—

(a) in the case of an interim suspension order, terminate the suspension;

(b) in the case of an order for interim conditional registration, revoke or vary any condition imposed by the order; and

(c) in either case, substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it),

but unless the court otherwise directs the order shall remain in force pending the outcome of the appeal.

(10) The decision of the relevant court on any application under paragraph (9) shall be final.

(11) If an order is made in relation to any person under this article and that order remains in effect immediately before the determination in respect of the allegation against that person under article 51(1) or 52(1), the committee considering that allegation shall revoke the order once it has determined whether or not the person's fitness to practise is impaired.

(12) In this article "the relevant court" means—

(a) in a case relating to a registered pharmacist who is domiciled in Scotland, the Court of Session; and

(b) in any other case, the High Court.

Restoration of names to the register: fitness to practise

55.—(1) Subject to paragraph (2)—

(a) a person whose name has been removed from one or both of the Society's registers in accordance with a direction under article 52(3)(b) or (4)(a)(i) or (b)(iv) may apply to the Registrar for his name to be restored to any register from which he has been removed; and

(b) the Registrar shall refer that application to the Disciplinary Committee.

(2) An application may not be made under paragraph (1)—

(a) before the expiration of five years from the date of removal; or

(b) within 12 months of the date of an earlier application under paragraph (1) in respect of that person.

(3) The Council may make such provision in rules in connection with applications for restoration by virtue of paragraph (1) as it considers appropriate, and may in particular make provision with regard to—

(a) the form and manner in which applications for restoration are to be made (and the rules may provide that applicants shall apply using application forms that are in such form as the Council may determine from time to time);

(b) the information to be provided by the applicant, including—

(i) the name under which he intends to practise, or in the case of a person who does not intend to practise, the name by which he is generally known, and

(ii) his home address;

(c) whether any, and if so what, additional education, training or continuing professional development is required before restoration, and the rules may make provision for these issues to be determined in individual cases by the Continuing Professional Development Committee;

(d) fitness to practise matters; and

(e) refusal of applications (including where the applicant has not paid the fee prescribed under article 40(1)(a)).

(4) An application under this article shall not be granted unless the person applying for his name to be restored to the register provides such evidence of his fitness to practise as the Disciplinary Committee directs.

(5) Where the Disciplinary Committee refuses an application for restoration to one of the Society's registers, the Registrar shall send to the applicant at his last known home address a statement in writing notifying him of the reasons for the decision.

(6) If the Disciplinary Committee grants the application, it may give a direction that the person's registration shall be conditional upon his compliance, during a period specified in the direction not exceeding 3 years, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or in the person's interests.

(7) Where the Disciplinary Committee gives a direction under paragraph (6), that direction shall, for the purposes of article 52(4), be treated as a direction under article 52.

(8) If the application under this article relates to both of the Society's registers, the Disciplinary Committee—

(a) shall make separate determinations under this article in relation to each register; and

(b) may give a direction under paragraph (6) in relation to only one of the registers or different directions in relation to each register,

but may otherwise deal with the matter as a single case.

(9) If, during a continuous period when a person is not registered, a person makes two or more applications under this article in respect of a register and the applications are refused, the Disciplinary Committee may direct that he may make no further applications under this article in respect of that register (if the applications related to both registers and the applicant has been restored to neither register, the direction may cover both registers).

(10) If the Disciplinary Committee gives a direction under paragraph (6) or (9), the Registrar shall on its behalf send to the person concerned at his last known home address a statement in writing notifying him of—

(a) the reasons for the direction; and

(b) his right of appeal under article 56.

Appeals against appealable fitness to practise decisions

56.—(1) The following decisions are appealable fitness to practise decisions for the purposes of this Part—

(a) a decision of the Registrar under article 41 to refuse an application for restoration to one of the Society's registers for a reason that relates to the applicant's fitness to practise;

(b) a decision of the Health Committee under article 51 to give a direction for suspension or for conditional registration or varying the conditions imposed by a direction for conditional registration (including a decision to give such a direction that extends an earlier direction);

(c) a decision of the Disciplinary Committee under article 52 to give a direction—

(i) to remove a person from a register, or

(ii) for suspension or conditional registration or for varying the conditions imposed by a direction for conditional registration (including a decision to give such a direction that extends an earlier direction);

(d) a decision of the Disciplinary Committee under article 55(6) to give a direction for conditional registration; and

(e) a decision of the Disciplinary Committee to give a direction under article 55(9) that a person may make no further applications under that article in respect of a particular register (or both registers).

(2) A person in respect of whom an appealable fitness to practise decision has been made may appeal against that decision to the relevant court, provided that he does so (subject to any rules of the relevant court in respect of the admissibility of applications to it) within 28 days beginning with the date on which the written notice of the reasons for the decision was sent to him.

(3) In this article and article 57, "the relevant court" means—

(a) the High Court; or

(b) as regards an application relating to registration in the Register of Pharmacists, if the person making the appeal is domiciled in Scotland, the Court of Session.

(4) Having considered the appeal, the relevant court may—

(a) dismiss the appeal;

(b) allow the appeal, and—

(i) quash the decision appealed against, or

(ii) in the case of an appeal in respect of a direction, quash the direction in respect of which the appeal is made;

(c) in the case of an appeal in respect of a direction, substitute for the direction any other direction that the committee or person giving the direction could have given; or

(d) remit or refer the case to the Registrar, the Health Committee or the Disciplinary Committee for him or it to dispose of the matter in accordance with directions from the relevant court,

and may make such order as to costs or, in Scotland, expenses as the relevant court thinks fit.

The taking effect of directions in respect of appealable fitness to practise decisions

57.—(1) Where an appealable fitness to practise decision is taken in respect of a direction, that direction shall not take effect—

(a) until the period for bringing an appeal in respect of the direction has expired; or

(b) where an appeal is brought within the period for bringing an appeal, until the date on which the appeal is finally disposed of, or is abandoned or fails by reasons of its non- prosecution.

(2) Where an appeal is brought, within the period for bringing an appeal, against an appealable fitness to practise decision in respect of a direction ("the later direction") that extends, varies or replaces an earlier direction, the earlier direction shall continue to have effect until the date on which the appeal is finally disposed of, or is abandoned or fails by reason of its non-prosecution.

(3) Where, as a result of the extension of an earlier direction pursuant to paragraph (2), a later direction takes effect on a date after it was due to take effect, the period for which the later direction was originally expressed to have effect (howsoever expressed) shall be treated as commencing—

(a) on the date on which it was originally due to take effect; or

(b) if this would mean that the later direction would in practice expire before it commences, on the date on which the appeal is finally disposed of, or is abandoned or fails by reason of its non-prosecution.

Interim measures pending a direction taking effect

58.—(1) Where—

(a) the Health Committee gives a direction for suspension under article 51; or

(b) the Disciplinary Committee gives a direction for suspension, or to remove a person from a register, under article 52,

if the Committee is satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the best interests of the person who is the subject of the direction, it may order that his registration in the register shall be suspended forthwith, pending the coming into force of the direction.

(2) Where—

(a) the Health Committee gives a direction for conditional registration under article 51; or

(b) the Disciplinary Committee gives a direction for conditional registration under article 52 or 55(6),

if the committee is satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the best interests of the person who is the subject of the direction, it may order that his registration in the register shall be conditional upon his compliance, pending the coming into force of the direction, with such requirements specified in the order as the Committee thinks fit to impose.

(3) Where the Health Committee or the Disciplinary Committee, as the case may be, makes an order under paragraph (1) or (2), the Registrar shall send to the person who is the subject of the order at his last known home address a statement in writing notifying him of the contents of the order and his right of appeal under paragraph (4).

(4) A registrant who is aggrieved by a decision of the Health Committee or the Disciplinary Committee to make an order under this article may appeal against that decision to the relevant court, and the court may—

(a) dismiss the appeal;

(b) in the case of an order under paragraph (1), terminate the suspension; and

(c) in the case of an order under paragraph (2), revoke or vary any condition imposed by the order,

and the decision of the relevant court on any application under this paragraph shall be final.

(5) In this article "the relevant court" means—

(a) in a case relating to a registered pharmacist who is domiciled in Scotland, the Court of Session; and

(b) in any other case, the High Court.

PART 6

Proceedings

Rules in respect of proceedings

59.—(1) Subject to the following provisions of this Part, the Council shall make such provision in rules in connection with the procedure to be followed and rules of evidence to be observed by—

(a) the Registration Appeals Committee; and

(b) fitness to practise committees (whether exercising functions under this Order or the Medicines Act 1968),

as it considers appropriate.

(2) The rules under paragraph (1) above in respect of the Health Committee, the Disciplinary Committee or the Registration Appeals Committee shall, and in respect of the Investigating Committee may, include provision—

(a) for securing that, where a hearing is to be held, notice of when and where the hearing is to be held is given, at such time and in such manner as may be specified in the rules, to any person to whom the proceedings relate;

(b) for securing that the person concerned (which, for the purposes of this article, where appropriate, includes an individual who, or body corporate which, is subject to disqualification proceedings under Part 4 of the Medicines Act 1968) and the Society shall, if they so require, be entitled to be heard by the committee—

(i) at any hearing, or

(ii) in fitness to practise proceedings, on any other occasion when the committee is considering making an interim suspension order or an order for interim conditional registration;

(c) for enabling the person concerned and the Society to be represented at the hearing, or in fitness to practise proceedings on any other occasion when the committee is considering making an interim suspension order or an order for interim conditional registration, by—

(i) a person with a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990),

(ii) an advocate in Scotland, or a solicitor with rights of audience to appear in the Court of Session or the High Court of Justiciary by virtue of section 25A of the Solicitors (Scotland) Act 1980(**28**) (rights of audience in the Court of Session etc.), or

(iii) a person of such other description as may be specified in rules, if the rules so allow and the person concerned or the Society so elects;

(d) for proceedings before the committee to be held in public, except and to the extent that rules provide otherwise; and

(e) in respect of reviewing directions under article 51 or 52—

(i) which are due to expire, or

(ii) in circumstances where the committee is considering varying the requirements specified in the direction.

(3) The rules under paragraph (1) may include provision—

(a) in respect of the preliminary consideration of a case before a committee (including considering representations from the person concerned and the Society during its preliminary consideration);

(b) following preliminary consideration of a case—

(i) in the case of an appeal before the Registration Appeals Committee, allowing the Committee, in prescribed circumstances, to allow the appeal or take a decision that has the effect of allowing the appeal,

(ii) in fitness to practise proceedings, allowing the committee, in prescribed circumstances, to make a finding that the person concerned's fitness to practise is not impaired, and

(iii) in disqualification proceedings, allowing the Disciplinary Committee, in prescribed circumstances, to dismiss the case;

(c) in respect of consensual disposal of a fitness to practise case following preliminary consideration of it, including provision—

(i) enabling a fitness to practise committee, in such circumstances as may be specified in the rules, to agree with the person concerned that he will comply with such undertakings as the committee considers appropriate, and

(ii) with respect to the procedure to be followed where any such undertakings are breached (the rules may provide that the breach may be treated as misconduct for the purposes of article 48(1)(a) and for the matter to be dealt with as a misconduct allegation that is before the committee);

(d) in respect of consensual disposal of a disqualification case following preliminary consideration of it, including provision—

(i) enabling the Disciplinary Committee, in such circumstances as may be specified in the rules, to agree with the individual or body corporate that he or it will comply with such undertakings as the Committee considers appropriate, and

(ii) with respect to the procedure to be followed where any such undertakings are breached;

(**28**) Section 25A was inserted by the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c.40), section 24, and has been amended by: the Criminal Procedure and Consequential Provisions (Scotland) Act 1995 (c.40), Schedule 4, paragraph 1; S.I. 1999/1042; and S.S.I. 2000/121.

(e) in respect of case management meetings (and the rules may provide that the preliminary consideration of a case is to take place at a case management meeting) and directions, including provision with respect to the procedure to be followed where case management directions are breached;

(f) in respect of cancelling, postponing or adjourning hearings and staying proceedings in appropriate circumstances;

(g) enabling the Disciplinary Committee to refer a fitness to practise case before it to the Health Committee, in such circumstances as may be prescribed—

(i) for advice, or

(ii) for the Health Committee to dispose of the case;

(h) enabling the Health Committee to refer a case before it to the Disciplinary Committee, in such circumstances as may be prescribed—

(i) for advice, or

(ii) for the Disciplinary Committee to dispose of the case;

(i) enabling the Registration Appeals Committee to refer a case before it to a fitness to practise committee for advice;

(j) enabling the committee to draw such inference as seems appropriate to it in the particular circumstances of the case if the person concerned fails—

(i) during fitness to practise proceedings, to submit to any examination or assessment required or directed to be carried out in accordance with rules made under this article or article 53, or

(ii) to co-operate with the committee;

(k) enabling the committee, at any time during the course of proceedings, to make such inquiries as it considers appropriate;

(l) enabling the Disciplinary Committee, following consideration of a disqualification case, instead of issuing a direction under section 80 of the Medicines Act 1968 (disqualification, and removal of persons from the register)—

(i) to agree with the individual or body corporate that he or it will comply with such undertakings as the Committee considers appropriate, and the rules may include provision with respect to the procedure to be followed where any such undertakings are breached, and

(ii) to dispose of the matter by way of a reprimand or a warning; and

(m) for the award of, and in respect of the assessment of, costs or expenses, and may require the committee to have regard to a person's ability to pay when considering the making of an award against him under the rules.

(4) An award of costs may, by leave of the High Court, be enforced in the same manner as an order of the High Court to the same effect.

(5) An award of expenses may, by leave of the Court of Session, be enforced in the same manner as a decree of the Court of Session to the same effect.

(6) The rules under paragraph (1) above may make provision—

(a) as to the form which is to be used for any document (and may provide that specified documents are to be in such form as the Council may determine from time to time); and

(b) for documents and certificates to be sent or received as an electronic communication.

Procedure of fitness to practise committees and the Registration Appeals Committee

60.—(1) For the purposes of proceedings under this Order in England and Wales—

(a) a fitness to practise committee or the Registration Appeals Committee may administer oaths; and

(b) a fitness to practise committee, the Registration Appeals Committee or any party to proceedings before them may issue a writ of subpoena ad testificandum or subpoena duces tecum.

(2) No person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

(3) Section 36 of the Supreme Court Act 1981(**29**) (subpoena issued by High Court to run throughout the United Kingdom) shall apply in relation to any such proceedings in England and Wales as it applies in relation to causes and matters in the High Court.

(4) For the purposes of any such proceedings in Scotland, the committee may administer oaths and the Court of Session shall on the application of any party to the proceedings have the like power as in any action in that court—

(a) to grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the committee, and for the issue of letters of second diligence against any witnesses or havers failing to appear after due citation;

(b) to grant warrant for the recovery of documents; and

(c) to grant commissions to persons to take the evidence of witnesses or to examine havers and receive their exhibits and productions.

(5) Where—

(a) several sittings of a fitness to practise committee are required to enable the committee to dispose of a case; or

(b) on an appeal to the relevant court under article 56, the case is remitted to a fitness to practise committee to dispose of the case in accordance with directions given by the court,

the validity of the proceedings on the case before the committee shall not be called into question by reason only that members of the committee who were present at a former meeting were not present at a later meeting of the committee or that members present at a later meeting were not present at a former meeting of the committee.

Legal advisers

61.—(1) The Council shall appoint suitably qualified and experienced barristers, solicitors or advocates to be legal advisers, except that the Council may make rules which provide for it to enter into arrangements with another person, body or group (including a committee established under the Charter) for that person, body or group to appoint suitably qualified and experienced barristers, solicitors or advocates to be legal advisers on its behalf.

(2) Legal advisers appointed under this article must not be a member of the Council or a statutory committee.

(3) Legal advisers appointed under this article may be appointed either generally or for any particular class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument under which they are appointed.

(4) The Council may make rules as to the functions of legal advisers appointed under this article.

(**29**) 1981 c.54; section 36 has been amended by the Courts and Legal Services Act 1990 (c.41), Schedule 17, paragraph 13.

Clinical and other specialist advisers

62.—(1) In connection with proceedings under this Order, the Council—

(a) shall appoint registered medical practitioners to be clinical advisers, except that the Council may make rules which provide for it to enter into arrangements with another person, body or group (including a committee established under the Charter) for that person, body or group to appoint registered medical practitioners to be clinical advisers on its behalf; and

(b) may appoint persons to act as specialist advisers on issues on which, in the Council's opinion, specialist knowledge is required, and the Council may make rules which provide for it to enter into arrangements with another person, body or group (including a committee established under the Charter) for that person, body or group to appoint persons to be specialist advisers on its behalf.

(2) Persons appointed to be—

(a) clinical advisers must have specialist expertise in a particular field or fields; and

(b) specialist advisers must have particular expertise in the speciality for which they are appointed.

(3) Clinical advisers shall be appointed for the purpose of giving advice to the Health Committee or the Investigating Committee on health related issues under consideration by the Committee in the course of proceedings before it and may also be appointed to give advice to the Council or the Society's committees on other health related issues.

(4) If specialist advisers are appointed under paragraph (1)(b) above, their appointment shall be for the purpose of giving advice—

(a) to one or more of the statutory committees on issues falling within their speciality which are under consideration by the committee in the course of proceedings before it; and

(b) to the Council or the Society's committees on issues falling within their speciality or related to it.

(5) Advisers appointed under this article must not be a member of the Council or a statutory committee.

(6) Advisers appointed under this article with regard to proceedings may be appointed either generally or for any particular class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument under which they are appointed.

(7) The Council may make rules as to the functions of advisers appointed under this article.

PART 7

Miscellaneous

General fees

63.—(1) Subject to paragraph (2), the Society may charge such fees in connection with the exercise of its, the Council's or its statutory committees' functions as it may reasonably determine.

(2) No fee may be charged, pursuant to paragraph (1), in connection with the exercise of a function where provision is made for the charging of a fee in connection with the exercise of that function elsewhere in this Order.

Education and training outside the United Kingdom

64.—(1) The Society may perform the following functions outside the United Kingdom—

(a) accreditation of degree courses for prospective pharmacists and approval of providers of such courses;

(b) approval or accreditation of programmes or courses of education and training for prospective pharmacy technicians;

(c) approval of courses for, or providers of, postgraduate education and training for prospective pharmacists;

(d) approval of premises as being suitable for postgraduate education and training of prospective pharmacists;

(e) approval of courses for, or providers of, preregistration additional education, training or experience for prospective pharmacists and prospective pharmacy technicians; and

(f) approval of courses for, or providers of, additional education, training or experience for pharmacists and pharmacy technicians either for continuing professional development or for the purposes of obtaining annotations to professional registers,

and it may enter into arrangements with a body outside the United Kingdom to assist it in the performance of the functions referred to in sub-paragraphs (a) to (f) or to perform those functions on its behalf.

(2) Approval or accreditation pursuant to paragraph (1) may—

(a) be made subject to conditions (such as limiting approval of a course to the provision of that course at specified premises); and

(b) be in respect of a programme or course of education or training that only provides part of the education or training needed for an approved or accredited course or programme, or for an approved qualification, where the Society is satisfied that there are appropriate arrangements in place for persons participating in the education and training to receive the remainder of the education or training necessary for the approved or accredited course or programme, or for the approved qualification, elsewhere.

Prosecutions

65. Notwithstanding anything in any enactment, proceedings for an offence under this Order may be begun—

(a) in England and Wales, at any time within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the Society to justify a prosecution came to the Society's knowledge;

(b) in Scotland, at any time within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify a prosecution came to the prosecutor's knowledge; or

(c) within a period of two years beginning with the date of the commission of the offence,

whichever period first expires.

Rules

66.—(1) Any power to make rules under this Order may be exercised—

(a) so as to make different provision—

(i) with respect to different cases or different classes of cases, or

(ii) in respect of the same case or class of case for different purposes;

(b) in relation to all cases to which the power extends or in relation to all those cases subject to specified exceptions; or

(c) so as to make any supplementary, incidental, consequential, transitional, transitory or saving provision which the Council considers necessary or expedient.

(2) The Council shall ensure that its rule making powers under this Order are exercised in such a way so as to ensure that its rules are and remain consistent with the requirements of the Treaties, the Pharmacy Qualifications Directive and the Second General System Directive.

(3) Before making rules under Part 6 of this Order, the Council shall consult—

(a) Primary Care Trusts in England;

(b) Local Health Boards in Wales; and

(c) unless the rules relate exclusively to proceedings with regard to pharmacy technicians, Health Boards in Scotland.

(4) No rules made under this Order, apart from rules made solely under article 40 (or article 40 together with paragraph (1)), shall come into force until approved by order of the Privy Council.

(5) The Privy Council may approve rules submitted to them for approval either in the form submitted to them or subject to such modifications as appear to them requisite.

Amendments, repeals and revocations

67. The amendments, repeals and revocations contained in Schedule 1 shall have effect.

Transitional provisions

68.—(1) The transitional provisions contained in Schedule 2 shall have effect.

(2) The Privy Council may by order make such further transitional, transitory or saving provisions as it considers appropriate.

Privy Council procedures etc.

69.—(1) Any power vested in the Privy Council to make an order under this Order may be exercised by any two or more members of the Privy Council.

(2) Any power of the Privy Council to make an order under this Order shall be exercisable by statutory instrument, and except for an order made solely in respect of—

(a) approving byelaws under paragraph 4(1) of Schedule 2; or

(b) approving rules made under—

(i) article 16 (or article 16 together with article 66(1)),

(ii) article 27 (or article 27 together with article 66(1)),

(iii) article 30 (or article 30 together with article 66(1)),

(iv) article 31 (or article 31 together with article 66(1)),

(v) article 36 (or article 36 together with article 66(1)),

(vi) article 37 (or article 37 together with article 66(1)), or

(vii) article 39 (or article 39 together with article 66(1)),

an order of the Privy Council under this Order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Paragraph (2) and article 66(4) do not preclude the inclusion of rules under article 16, 27, 30, 31, 36, 37, 39 or 40 in a set of rules which is to be approved by an order of the Privy Council that is subject to annulment in pursuance of a resolution of either House of Parliament.

(4) For the purposes of section 1 of the Statutory Instruments Act 1946(**30**) (definition of "Statutory Instrument"), paragraph (2) shall have effect as if contained in an Act of Parliament.

(5) Any act of the Privy Council under this Order shall be sufficiently signified by an instrument signed by the Clerk of the Privy Council.

(6) Where an order or act of the Privy Council under this Order is signified by an instrument purporting to be signed by the Clerk of the Privy Council, that shall be evidence, and in Scotland sufficient evidence, of—

(a) the fact that the instrument was duly made, or the act duly done; and

(b) the instrument's terms.

Christine Cook
Deputy Clerk of the Privy Council

(**30**) 1946 c.36; section 1 has been amended by the Government of Wales Act 1998 (c.38), Schedule 12, paragraph 2.

SCHEDULE 1 Article 67

AMENDMENTS, REPEALS AND REVOCATIONS

PART 1

Primary legislation

Repeal of the Pharmacy Act 1954

1. The Pharmacy Act 1954(**31**) is repealed.

Amendment of the Medicines Act 1968

2.—(1) The Medicines Act 1968(**32**) is amended as follows.

(2) In section 40(**33**) (medicated animal feeding stuffs), in subsection (12), for the definition of "the registrar" substitute the following definition—

""the registrar" means the person appointed under article 9(1) of the Pharmacists and Pharmacy Technicians Order 2007 as Registrar for the purposes of that Order."

(3) In section 57(**34**) (power to extend or modify exemptions), in subsection (2D), for the definition of "the registrar" substitute the following definition—

""the registrar" means the person appointed under article 9(1) of the Pharmacists and Pharmacy Technicians Order 2007 as Registrar for the purposes of that Order."

(4) In section 69(**35**) (general provisions for Part 4), in subsection (3)—

(a) in the definition of "the registrar", for "appointed under section 1 of the Pharmacy Act 1954 as registrar for the purposes of that Act," substitute "appointed under article 9(1) of the Pharmacists and Pharmacy Technicians Order 2007 as Registrar for the purposes of that Order,";

(b) after the definition of "the registrar" insert the following definitions—

""the relevant disciplinary committee" means—

(a) in relation to Great Britain, the Disciplinary Committee established under article 7(1)(b) of the Pharmacists and Pharmacy Technicians Order 2007; and

(b) in relation to Northern Ireland, the Statutory Committee appointed under Article 19 of the Pharmacy (Northern Ireland) Order 1976(**36**);

"relevant European State" means either an EEA State other than the United Kingdom or Switzerland."; and

(c) omit the definition of "the Statutory Committee".

(5) In section 70(**37**) (business carried on by individual pharmacist or by partners), as it has effect before its substitution by section 27 of the Health Act 2006—

(**31**) 1954 c.61.
(**32**) 1968 c.67.
(**33**) Section 40 was substituted by the Animal Health and Welfare Act 1984 (c.40), section 13(1).
(**34**) Section 57(2D) was inserted by the Animal Health and Welfare Act 1984, section 14.
(**35**) Section 69(3) has been amended by the Statute Law Repeals Act 1993 (c.50), Schedule 1, Part 12, and by S.I. 1976/1213.
(**36**) S.I. 1976/1212 (N.I. 22).
(**37**) In section 70, subsection (1) has been amended by S.I. 1987/2202 and subsection (3) by S.I. 1976/1213, and is to be substituted by section 27 of the Health Act 2006 (c.28) on a date to be appointed.

(a) in subsection (1) for "section 4A of the Pharmacy Act 1954 (qualification by European diploma), or any corresponding provision applying to Northern Ireland," substitute "a qualification in pharmacy awarded in a relevant European State,"; and

(b) in subsection (3), for "the Pharmacy Act 1954" substitute "Part 2 of the Pharmacists and Pharmacy Technicians Order 2007".

(6) In section 70, as it has effect after its substitution by section 27 of the Health Act 2006—

(a) in subsection (3)(b), for "the Pharmacy Act 1954" substitute "Part 2 of the Pharmacists and Pharmacy Technicians Order 2007"; and

(b) in subsection (5) for "section 4A of the Pharmacy Act 1954 (qualification by European diploma), or any corresponding provision applying to Northern Ireland" substitute "a qualification in pharmacy awarded in a relevant European State".

(7) In section 71(**38**) (bodies corporate) as it has effect before its substitution by section 28 of the Health Act 2006, in subsection (1), for "section 4A of the Pharmacy Act 1954, or any corresponding provision applying to Northern Ireland," substitute "a qualification in pharmacy awarded in a relevant European State,".

(8) In section 71 (business carried on by a body corporate) as it has effect after its substitution by section 28 of the Health Act 2006—

(a) in subsection (3)(b), for "the Pharmacy Act 1954" substitute "Part 2 of the Pharmacists and Pharmacy Technicians Order 2007"; and

(b) in subsection (5) for "section 4A of the Pharmacy Act 1954 (qualification by European diploma), or any corresponding provision applying to Northern Ireland" substitute "a qualification in pharmacy awarded in a relevant European State".

(9) In section 72 (representative of pharmacist in case of death or disability)—

(a) in subsection (2B)(**39**), for "the Pharmacy Act 1954" substitute "Part 2 of the Pharmacists and Pharmacy Technicians Order 2007"; and

(b) in subsection (3)(**40**), for "the Statutory Committee" substitute "the relevant disciplinary committee".

(10) In section 72B(**41**) (section 72A: supplementary), in subsection (1)—

(a) for "section 8 of the Pharmacy Act 1954" substitute "article 48(1)(a) of the Pharmacists and Pharmacy Technicians Order 2007", and

(b) for "Statutory Committee" substitute "the relevant disciplinary committee".

(11) In section 78(**42**) (restrictions on use of titles, descriptions and emblems), in subsection (5), for "not a pharmacist" substitute "neither a pharmacist nor registered in Part 2 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007".

(12) In section 80(**43**) (power for Statutory Committee to disqualify and direct removal from register)—

(a) in subsections (1) (twice), (2) (twice), (3) and (4) (twice), for "the Statutory Committee" substitute "the relevant disciplinary committee"; and

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(**38**) Section 71(1) has been amended by S.I. 1987/2202 and is to be substituted by section 28 of the Health Act 2006 on a date to be appointed.
(**39**) To be inserted by section 29 of the Health Act 2006 on a date to be appointed.
(**40**) Section 72(3) has been amended by the Adults with Incapacity (Scotland) Act 2000 (asp.4), Schedule 5, paragraph 12(b), and Schedule 6.
(**41**) To be inserted by section 30(1) of the Health Act 2006 on a date to be appointed.
(**42**) Section 78(5) has been amended by the Statute Law (Repeals) Act 1993 (c.50), Schedule 1, Part 12.
(**43**) Section 80(5) has been amended by the Misuse of Drugs Act 1971 (c.38), section 12(7), and by S.I. 1976/1213.

(b) in subsection (5), after "the Pharmacy Act 1954," insert "the Pharmacists and Pharmacy Technicians Order 2007,",

and in the heading of that section, for "Statutory Committee" substitute "relevant disciplinary committee".

(13) In section 81 (grounds for disqualification in certain cases), in subsection (1)—

(a) for "the Statutory Committee" substitute "the relevant disciplinary committee"; and

(b) for "the Committee" (twice) substitute "the committee".

(14) In section 82(**44**) (procedure relating to disqualification), in subsections (1) and (5), for "the Statutory Committee" substitute "the relevant disciplinary committee".

(15) In section 83(**45**) (revocation of disqualification)—

(a) in subsections (1) and (2), for "the Statutory Committee" substitute "the relevant disciplinary committee"; and

(b) in subsection (2), for "the Committee" substitute "the committee".

(16) In section 132(**46**) (general interpretation provisions), in subsection (1), in the definition of "pharmacist" for "the register of pharmaceutical chemists established in pursuance of the Pharmacy Act 1852 and maintained in pursuance of section 2(1) of the Pharmacy Act 1954," substitute "Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007,".

Amendment of the Poisons Act 1972

3.—(1) The Poisons Act 1972(**47**) is amended as follows.

(2) In section 9(**48**) (inspection and enforcement)—

(a) in subsection (1)—

(i) in paragraph (a), for "subsections (2) and (3) of section 20 of the Pharmacy Act 1954 (offences relating to certificates)" substitute "articles 20 and 29 of the Pharmacists and Pharmacy Technicians Order 2007 (offences relating to the Register of Pharmacists and the Register of Pharmacy Technicians)", and

(ii) for "such number of inspectors as the Privy Council may direct" substitute "inspectors";

(b) in subsection (2), omit ", and every such appointment shall be subject to the approval of the Privy Council";

(c) in subsection (3) omit "with the approval of the Privy Council"; and

(d) in subsection (4)(a), for the words "subsections (2) and (3) of section 20 of the Pharmacy Act 1954" substitute "articles 20 and 29 of the Pharmacists and Pharmacy Technicians Order 2007".

(3) In section 11(**49**) (interpretation), in subsection (2), for the definition of "pharmacist" substitute the following definition—

(**44**) There are no relevant amendments to section 82.

(**45**) There are no relevant amendments to section 83.

(**46**) Section 132(1) has been amended by: the National Health Reorganisation Act 1973 (c.32), Schedule 4, paragraph 128(3); the National Health Service Act 1977 (c.49), Schedule 15, paragraph 50; the Medical Act 1983 (c.54), Schedule 5, paragraph 5; the Dentists Act 1984 (c.24), Schedule 5, paragraph 2; the Animal Health and Welfare Act 1984, section 13(3); the Food Safety Act 1990 (c.16), Schedule 3, paragraph 11, and Schedule 5; and by S.I. 1976/1213, 1992/3271, 1996/1496, 2002/236, 2003/232 and 2004/1031.

(**47**) 1972 c.66.

(**48**) There are no relevant amendments to section 9.

(**49**) Section 11(2) has been amended by: the Local Government (Scotland) Act 1973 (c.65), Schedule 24, paragraph 47; the Medical Act 1983, Schedule 5, paragraph 12; the Dentists Act 1984, Schedule 5, paragraph 4; the Local Government (Wales)

""pharmacist" means a person registered in Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007;".

Amendment of the National Health Service (Scotland) Act 1978

4.—(1) The National Health Service (Scotland) Act 1978(**50**) is amended as follows.

(2) In section 27(**51**) (arrangements for the provision of pharmaceutical services), in subsection (4)(ba), for "under the Pharmacy Act 1954 by virtue of section 4A of that Act (qualification by European diploma)" substitute "in the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007 by virtue of a qualification in pharmacy awarded in an EEA State other than the United Kingdom, or in Switzerland,"

(3) In section 28(**52**) (persons authorised to provide pharmaceutical services), after subsection (2B) insert the following subsection—

"(2C) Where—

(a) arrangements have been made under this Part with a registered pharmacist; and

(b) his registration is suspended by virtue of any direction or order under the Pharmacists and Pharmacy Technicians Order 2007,

he shall not provide any services under those arrangements during the period of the suspension."

(4) In section 108(**53**) (interpretation and construction), for the definition of "registered pharmacist" substitute the following definition—

""registered pharmacist" means a pharmacist registered in Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007;".

Amendment of the Value Added Tax Act 1994

5.—(1) The Value Added Tax Act 1994(**54**) is amended as follows.

(2) In Part 2 of Schedule 8 (zero rating – the Groups: drugs, medicines, aids for the handicapped), in item 1 in Group 12, for "the register of pharmaceutical chemists kept under the Pharmacy Act 1954 or" substitute "the Register of Pharmacists maintained under the Pharmacists and Pharmacy Technicians Order 2007 or in the register of pharmaceutical chemists kept under".

(3) In Part 2 of Schedule 9 (exemptions – the Groups: health and welfare), in item 3 in Group 7, for "the register of pharmaceutical chemists kept under the Pharmacy Act 1954 or" substitute "the Register of Pharmacists maintained under the Pharmacists and Pharmacy Technicians Order 2007 or in the register of pharmaceutical chemists kept under".

Repeal of the Pharmacists (Fitness to Practise) Act 1997

6. The Pharmacists (Fitness to Practise) Act 1997(**55**) is repealed.

Act 1994 (c.19), Schedule 16, paragraph 39; the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 89; and S.I. 1996/1496.

(**50**) 1978 c.29.

(**51**) Section 27(4) has been amended by S.I. 1987/2022.

(**52**) Subsection (2B) was inserted by the National Health Service (Primary Care) Act 1977 (c.46), section 29(2).

(**53**) There are no relevant amendments to section 108(1).

(**54**) 1994 c.23; item 1 in Group 12 in Part 2 of Schedule 8 has been amended by S.I. 1997/2744 and 2006/1914.

(**55**) 1997 c.19; this Act has never been brought into force.

Amendment of the Data Protection Act 1998

7. In section 69 of the Data Protection Act 1998(**56**) (meaning of "health professional"), in subsection (1)(d), for "a registered pharmaceutical chemist as defined by section 24(1) of the Pharmacy Act 1954" substitute "a registered pharmacist or registered pharmacy technician within the meaning of the Pharmacists and Pharmacy Technicians Order 2007".

Amendment of the National Health Service Reform and Health Care Professions Act 2002

8.—(1) The National Health Service Reform and Health Care Professions Act 2002(**57**) is amended as follows.

(2) In section 26 (powers and duties of the Council for the Regulation of Health Care Professionals: general), in subsection (5)—

(a) for "or an officer or committee of the Society", where it first appears, substitute "a member of its staff or one of its committees";

(b) for paragraph (a) substitute the following paragraph—

"(a) conferred on the Society (or its Council, a member of its staff or one of its committees) by or by virtue of the Pharmacists and Pharmacy Technicians Order 2007,";

(c) in paragraph (b), for "an Order in Council" substitute "another Order in Council"; and

(d) for paragraph (c) substitute the following paragraph—

"(c) otherwise conferred as mentioned in paragraph (a) and relate to the regulation of the professions regulated by the Pharmacists and Pharmacy Technicians Order 2007."

(3) In section 29(**58**) (references of disciplinary cases by Council to court), in subsection (1), for paragraph (a) substitute the following paragraph—

"(a) a direction of the Disciplinary Committee of the Royal Pharmaceutical Society of Great Britain under article 52 of the Pharmacists and Pharmacy Technicians Order 2007 (which gives the Disciplinary Committee powers to direct suspension of registration, the attachment of conditions to registration or removal from the registers) or section 80 of the Medicines Act 1968 (power to disqualify and direct removal from register),".

Amendment of the Income Tax (Earnings and Pensions) Act 2003

9. In section 343 of the Income Tax (Earnings and Pensions) Act 2003(**59**) (deduction for professional membership fees), in the Table in subsection (2), in paragraph 1 (health professionals) for sub-paragraph (l) substitute the following sub-paragraphs—

"(l) the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007,

(m) the Register of Pharmacy Technicians maintained under 21(1) of the Pharmacists and Pharmacy Technicians Order 2007,

(n) the register of pharmaceutical chemists kept under Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976."

(**56**) 1998 c.29; section 69(1) has been amended by S.I. 2002/253 and 254, 2003/1590 and 2005/848.
(**57**) 2002 c.17.
(**58**) Section 29(1) has been amended by S.I. 2002/3135, 2004/1771 and 2005/848 and 2011.
(**59**) 2003 c.1; section 343(2) has been amended by S.I. 2003/1652, 2004/1360 and 2005/1091 and 2011.

Amendment of the National Health Service Act 2006

10.—(1) The National Health Service Act 2006(**60**) is amended as follows.

(2) In section 129 (regulations as to pharmaceutical services), in subsection (6)(c), for "under the Pharmacy Act 1954 (c. 61) by virtue of section 4A of that Act (qualification by European diploma)" substitute "in the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007 by virtue of a qualification in pharmacy awarded in an EEA State other than the United Kingdom, or in Switzerland,".

(3) In section 132 (persons authorised to provide pharmaceutical services)—

(a) in subsection (8), for paragraph (b) substitute the following paragraph—

"(b) his registration is suspended by virtue of any direction or order under the Pharmacists and Pharmacy Technicians Order 2007,"; and

(b) omit subsection (9).

(4) In section 275 (interpretation), in subsection (1), for the definition of "registered pharmacist" substitute the following definition—

""registered pharmacist" means a pharmacist registered in Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007;".

Amendment of the National Health Service (Wales) Act 2006

11.—(1) The National Health Service (Wales) Act 2006(**61**) is amended as follows.

(2) In section 83 (regulations as to pharmaceutical services), in subsection (6)(c), for "under the Pharmacy Act 1954 (c. 61) by virtue of section 4A of that Act (qualification by European diploma)" substitute "in the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007 by virtue of a qualification in pharmacy awarded in an EEA State other than the United Kingdom, or in Switzerland,".

(3) In section 86 (persons authorised to provide pharmaceutical services)—

(a) in subsection (8), for paragraph (b) substitute the following paragraph—

"(b) his registration is suspended by virtue of any direction or order under the Pharmacists and Pharmacy Technicians Order 2007,"; and

(b) omit subsection (9).

(4) In section 206 (interpretation), in subsection (1), for the definition of "registered pharmacist" substitute the following definition—

""registered pharmacist" means a pharmacist registered in Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007;".

PART 2

Secondary legislation

Amendment of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

12. In Schedule 1 to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(**62**) (excepted professions, offices, employments, work and occupations)—

(**60**) 2006 c. 41.
(**61**) 2006 c. 42.
(**62**) S.I. 1975/1023; a relevant amendment was made by the Osteopaths Act 1993 (c.21), section 39(4).

(a) in Part 1 (professions), for paragraph 8 substitute the following paragraphs—

"**8.** Registered pharmacist.

8A. Registered pharmacy technician."; and

(b) in Part 4 (interpretation), after the definition of "registered osteopath" insert the following definitions—

""registered pharmacist" means a person who is registered in the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007;

"registered pharmacy technician" means a person who is registered in the register maintained under article 21(1) of the Pharmacists and Pharmacy Technicians Order 2007;".

Amendment of the Medicines (Sale or Supply) (Miscellaneous Provisions) Regulations 1980

13. In regulation 1 of the Medicines (Sale or Supply) (Miscellaneous Provisions) Regulations 1980(**63**) (citation, commencement and interpretation), in the definition of "relevant register" in paragraph (2), for "the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007".

Amendment of the Medicines (Pharmacy and General Sale – Exemption) Order 1980

14. In regulation 1 of the Medicines (Pharmacy and General Sale – Exemption) Order 1980(**64**) (citation, commencement and interpretation), in the definition of "relevant register" in paragraph (2), for "the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007".

Amendment of the Pharmaceutical Qualifications (EEC Recognition) Order 1987

15. Omit article 2 of the Pharmaceutical Qualifications (EEC Recognition) Order 1987(**65**) (amendment of the Pharmacy Act 1954).

Amendment of the National Health Service (Pharmaceutical Services) Regulations 1992

16. In the National Health Service (Pharmaceutical Services) Regulations 1992(**66**)—

(a) in regulation 2 (interpretation), in paragraph (1)—

(i) in the definition of "relevant register" for "the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954 (the registers and registration)" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007", and

(ii) in the definition of "supplementary prescriber", for paragraph (ii) substitute the following paragraph—

"(ii) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007,"; and

(**63**) S.I. 1980/1923; the definition of "relevant register" was inserted by S.I. 2003/698.
(**64**) S.I. 1980/1924; the definition of "relevant register" was inserted by S.I. 2004/1.
(**65**) S.I. 1987/2202.
(**66**) S.I. 1992/662. These Regulations have been revoked in relation to England and now only apply in relation to Wales: *see* S.I. 2005/641. Relevant amendments have been made by S.I. 2005/916 and 1013.

(b) in regulation 4 (pharmaceutical lists), in paragraph (5), for "to have his name registered under the Pharmacy Act 1954 by virtue of section 4A of that Act (qualification by European diploma)" substitute "as a pharmacist in an EEA State other than the United Kingdom, or in Switzerland,".

Amendment of the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994

17. In regulation 1 of the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994(**67**) (citation, commencement and interpretation), in the definition of "relevant register" in paragraph (2), for "the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007".

Amendment of the National Health Service (Pharmaceutical Services) (Scotland) 1995

18. In the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995(**68**)—

(a) in regulation 2 (interpretation), in paragraph (1)—

(i) in the definition of "supplementary prescriber", for paragraph (b) substitute the following paragraph—

"(b) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007,"; and

(b) in regulation 5 (pharmaceutical lists), in paragraph (13), for "to have his name registered under the Pharmacy Act 1954 by virtue of section 4A of that Act (qualification by European diploma)" substitute "as a pharmacist in an EEA State other than the United Kingdom, or in Switzerland,".

Revocation of the Pharmaceutical Qualifications (Recognition) Regulations 1996

19. The Pharmaceutical Qualifications (Recognition) Regulations 1996(**69**) are hereby revoked.

Amendment of the Prescription Only Medicines (Human Use) Order 1997

20. In article 1 of the Prescription Only Medicines (Human Use) Order 1997(**70**) (citation, commencement and interpretation), in the definition of "relevant register" in paragraph (2), for "the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007".

Amendment of the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999

21. In the Schedule to the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999(**71**) (functions transferred from the Lord Advocate to the Secretary of State), omit "Pharmacy Act 1954 (c.61), Schedule 1C, paragraph 3;".

(**67**) S.I. 1994/3144; the definition of "relevant register" was inserted by S.I. 2005/768.
(**68**) S.I. 1995/414; the relevant amending instruments are S.I. 1996/840 and 1504, 1997/696, and 1998/2224 and 3031, and S.S.I. 1999/57, 2001/70, 2002/111 and 153, 2003/296, 2004/39 and 212, 2005/327 and 618 and 2006/143 and 245.
(**69**) S.I. 1996/1405.
(**70**) S.I. 1997/1830; the definition of "relevant register" was inserted by S.I. 2003/696 and has been amended by S.I. 2004/1189 and 1771 and 2005/765.
(**71**) S.I. 1999/678; a relevant amendment was made by S.I. 2002/3135.

Amendment of the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999

22. In Schedule 1 to the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999(**72**) (functions exercisable in or as regards Scotland: general), omit paragraph 2 (Pharmacy Act 1954 (c.61)).

Amendment of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999

23. In Schedule 1 to the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999(**73**) (enactments conferring functions transferred to the Scottish Ministers)—

(a) in column 1 (enactment), omit "The Pharmacy Act 1954 (c.61), Schedule 1C, paragraph 3(4)(b)"; and

(b) in column 2 (restrictions and requirements), opposite the entry to be omitted by virtue of sub-paragraph (a), omit "Functions of the Secretary of State only.".

Amendment of the National Health Service (Charges for Drugs and Appliances) Regulations 2000

24. In regulation 2 of the National Health Service (Charges for Drugs and Appliances) Regulations 2000(**74**) (interpretation)—

(a) in sub-paragraph (a) of the definition of "pharmacist independent prescriber", for "the Register of Pharmaceutical Chemists maintained in pursuance of section 2(1) of the Pharmacy Act 1954" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007"; and

(b) in sub-paragraph (a) of the definition of "supplementary prescriber" in paragraph (1), for paragraph (ii) substitute the following paragraph—

"(ii) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007;".

Amendment of the National Health Service (Charges for Drugs and Appliances) (Wales) Regulations 2001

25. In regulation 2 of the National Health Service (Charges for Drugs and Appliances) (Wales) Regulations 2001(**75**) (interpretation), in the definition of "supplementary prescriber" in paragraph (1), for sub-paragraph (b) substitute the following sub-paragraph—

"(b) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007; or".

Amendment of the Adults with Incapacity (Countersignatories of Applications for Authority to Intromit) (Scotland) Regulations 2001

26. In the Adults with Incapacity (Countersignatories of Applications for Authority to Intromit) (Scotland) Regulations 2001(**76**)—

(a) in regulation 2 (interpretation), for the definition of "registered pharmaceutical chemist" substitute the following definition—

(**72**) S.I. 1999/1748; there are no relevant amending instruments.
(**73**) S.I. 1999/1750; there are no relevant amending instruments.
(**74**) S.I. 2000/620; the definition of "supplementary prescriber" is as substituted by S.I. 2005/578.
(**75**) S.I. 2001/1358; the definition of "supplementary prescriber" is as substituted by S.I. 2004/1771.
(**76**) S.S.I. 2001/78; amended by S.S.I. 2005/445 and 631.

""registered pharmacist" means a person registered in Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007;"; and

(b) in the Schedule (classes of persons who may countersign an application under section 26 of the Act), for "Registered pharmaceutical chemists" substitute "Registered pharmacists".

Amendment of the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001

27. In regulation 2 of the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001(**77**) (interpretation), in the definition of "supplementary prescriber" in paragraph (1), for sub-paragraph (b) substitute the following sub-paragraph—

"(b) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007; ".

Amendment of the Council for the Regulation of Health Care Professionals (Appointment etc.) Regulations 2002

28. In regulation 4 of the Council for the Regulation of Health Care Professionals (Appointment etc.) Regulations 2002(**78**) (conditions of appointment applicable to certain appointments), in paragraph (2)(b), for "the Pharmacy Act 1954" substitute "the Pharmacists and Pharmacy Technicians Order 2007".

Amendment of the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002

29. In Part 1 of Schedule 2 to the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002(**79**) (regulated professions – professions regulated by law or public authority)—

(a) in the column headed "Profession", after "licensed lighterman" insert "pharmacy technician"; and

(b) in the column headed "Designated Authority", opposite "pharmacy technician" in the column headed "Profession" insert "Royal Pharmaceutical Society of Great Britain".

Amendment of the Adults with Incapacity (Ethics Committee) (Scotland) Regulations 2002

30. In regulation 3 of the Adults with Incapacity (Ethics Committee) (Scotland) Regulations 2002(**80**) (membership of the Committee) for "registered pharmaceutical chemist defined by section 24(1) of the Pharmacy Act 1954" substitute "pharmacist registered in Part 1 of one of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007".

Amendment of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003

31. In Schedule 4 to the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003(**81**) (excepted professions, offices, employments, and occupations)—

(a) in Part 1 (professions), for paragraph 8 substitute the following paragraph—

(**77**) S.S.I. 2001/430; the relevant amending instruments are S.S.I. 2003/295, 2004/212, 2005/617 and 2006/246.
(**78**) S.I. 2002/2376.
(**79**) S.I. 2002/2934; the relevant amending instruments are S.I. 2004/1771 and 2033.
(**80**) S.S.I. 2002/190; the relevant amending instrument is S.I. 2003/1590.
(**81**) S.S.I. 2003/231; there are no relevant amending instruments.

"**8.** Registered pharmacist."; and

(b) in Part 4 (interpretation), after the definition of "registered osteopath" insert the following definition—

""registered pharmacist" means a person who is registered in the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007;".

Amendment of the European Qualifications (Health Care Professions) Regulations 2003

32. In the European Qualifications (Health Care Professions) Regulations 2003(**82**)—

(a) in regulation 1 (citation, commencement, interpretation and extent), in paragraph (2), omit the definition of "the Pharmacy Act"; and

(b) omit regulation 8 (Pharmacy Act) and Schedule 3 (pharmacists).

Amendment of the Medicines (Child Safety) Regulations 2003

33. In regulation 1 of the Medicines (Child Safety) Regulations 2003(**83**) (citation, commencement and interpretation), in the definition of "relevant register" in paragraph (2), for "the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007".

Amendment of the National Health Service (General Medical Services Contracts) Regulations 2004

34. In regulation 2 of the National Health Service (General Medical Services Contracts) Regulations 2004(**84**) (interpretation), in paragraph (1)—

(a) in the definition of "pharmacist independent prescriber", for "the Register of Pharmaceutical Chemists maintained in pursuance of section 2(1) of the Pharmacy Act 1954" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007";

(b) in the definition of "relevant register" for "the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007"; and

(c) in sub-paragraph (b) of the definition of "supplementary prescriber", for paragraph (ii) substitute the following paragraph—

"(ii) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007,".

Amendment of the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004

35. In regulation 2 of the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004(**85**) (interpretation), in paragraph (1)—

(a) in the definition of "relevant register" for "the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007"; and

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(**82**) S.I. 2003/3148.
(**83**) S.I. 2003/2317; the definition of "relevant register" has been amended by S.I. 2004/1771 and 2005/1520.
(**84**) S.I. 2004/291; relevant amendments were made by S.I. 2005/893 and 2006/1501.
(**85**) S.I. 2004/478; there are no relevant amending instruments.

(b) in sub-paragraph (b) of the definition of "supplementary prescriber", for paragraph (ii) substitute the following paragraph—

"(ii) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007, or".

Amendment of the National Health Service (Personal Medical Services Agreements) Regulations 2004

36. In regulation 2 of the National Health Service (Personal Medical Services Agreements) Regulations 2004(**86**) (interpretation), in paragraph (1)—

(a) in the definition of "pharmacist independent prescriber", for "the Register of Pharmaceutical Chemists maintained in pursuance of section 2(1) of the Pharmacy Act 1954" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007";

(b) in the definition of "relevant register" for "the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954 (the registers and registration)" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007"; and

(c) in sub-paragraph (b) of the definition of "supplementary prescriber", for paragraph (ii) substitute the following paragraph—

"(ii) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007,".

Amendment of the Medicines for Human Use (Clinical Trials) Regulations 2004

37. In regulation 2 of the Medicines for Human Use (Clinical Trials) Regulations 2004(**87**) (interpretation), in paragraph (1), for sub-paragraph (a) of the definition of "pharmacist" substitute the following sub-paragraph—

"(a) in relation to Great Britain, a person registered in Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007, and".

Amendment of the European Qualifications (Health and Social Care Professions and Accession of New Member States) Regulations 2004

38. Omit regulation 13 of the European Qualifications (Health and Social Care Professions and Accession of New Member States) Regulations 2004(**88**) (Pharmacy Act 1954).

Amendment of the Cosmetic Products (Safety) Regulations 2004

39. In regulation 9 of the Cosmetic Products (Safety) Regulations 2004(**89**) (product information), in paragraph (5), for sub-paragraph (a) substitute the following sub-paragraph—

"(a) subject to paragraph (6) below, a person who is "appropriately qualified" within the meaning of article 11(1)(a)(i) of the Pharmacists and Pharmacy Technicians Order 2007 or any other person who has the right, granted by a competent authority of a Member State, to take up and pursue the activities of a pharmacist;".

(**86**) S.I. 2004/627; relevant amendments were made by S.I. 2005/893 and 2006/1501.
(**87**) S.I. 2004/1031; there are no relevant amending instruments.
(**88**) S.I. 2004/1947.
(**89**) S.I. 2004/2152; there are no relevant amending instruments.

Amendment of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004

40. In regulation 2 of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004(**90**) (interpretation)—

(a) in the definition of "relevant register", for "the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007"; and

(b) for sub-paragraph (b) of the definition of "supplementary prescriber" substitute the following sub-paragraph—

"(b) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007,".

Amendment of the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004

41. In regulation 2 of the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004(**91**) (interpretation)—

(a) in the definition of "relevant register", for "the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007"; and

(b) for sub-paragraph (b) of the definition of "supplementary prescriber" substitute the following sub-paragraph—

"(b) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007,".

Amendment of the National Health Service (Pharmaceutical Services) Regulations 2005

42. In the National Health Service (Pharmaceutical Services) Regulations 2005(**92**)—

(a) in regulation 2 (interpretation), in paragraph (1)—

(i) in the definition of "pharmacist independent prescriber", for "the Register of Pharmaceutical Chemists maintained in pursuance of section 2(1) of the Pharmacy Act 1954" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007",

(ii) in the definition of "relevant register" for "the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954 (the registers and registration)" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007", and

(iii) in the definition of "supplementary prescriber", for paragraph (ii) substitute the following paragraph—

"(ii) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007,";

(b) in regulation 11 (refusal: general provisions), in paragraph (1), for "to have his name registered under the Pharmacy Act 1954 by virtue of section 4A of that Act (qualification by European diploma)" substitute "as a pharmacist in an EEA State other than the United Kingdom, or in Switzerland,"; and

(**90**) S.S.I. 2004/115. Relevant amendments were made by S.S.I. 2004/215, 2005/337 and 2006/247.
(**91**) S.S.I. 2004/116. Relevant amendments were made by S.S.I. 2004/217, 2005/336 and 2006/248.
(**92**) S.I. 2005/641. Relevant amendments were made by S.I. 2006/913.

(c) in paragraph (6) of regulation 54 (temporary provision of services during a period of suspension) for "to have his name registered under the Pharmacy Act 1954 by virtue of section 4A (qualification by appropriate European diploma for registration) of that Act" substitute "as a pharmacist in an EEA State other than the United Kingdom, or in Switzerland,".

Amendment of the Medicines for Human Use (Prescribing) Order 2005

43. In article 1 of the Medicines for Human Use (Prescribing) Order 2005(**93**) (citation, commencement, extent and interpretation), in the definition of "relevant register" in paragraph (4), for "the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954" substitute "Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007".

Amendment of the Gender Recognition (Disclosure of Information) (England, Wales and Northern Ireland) (No. 2) Order 2005

44. In article 5 of the Gender Recognition (Disclosure of Information) (England, Wales and Northern Ireland) (No. 2) Order 2005(**94**) (disclosure for medical purposes), in paragraph (3)(c), for "a registered pharmaceutical chemist within the meaning of section 24(1) of the Pharmacy Act 1954" substitute "a pharmacist or pharmacy technician registered in Part 1 of one of the registers maintained under articles 10(1) and 21(1) of the Pharmacists and Pharmacy Technicians Order 2007".

Amendment of the Gender Recognition (Disclosure of Information (Scotland) Order 2005

45. In article 5 of the Gender Recognition (Disclosure of Information) (Scotland) Order 2005(**95**) (disclosure for medical purposes), in paragraph (2)(b)(iii), for "a registered pharmaceutical chemist within the meaning of section 24(1) of the Pharmacy Act 1954" substitute "a pharmacist registered in Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007".

SCHEDULE 2 Article 68(1)

TRANSITIONAL PROVISIONS

PART 1

General

Interpretation of this Schedule and construction of old legislation

1.—(1) In this Schedule—

"appointed day" means—

(a) except in Part 3, the day specified under article 1 for the coming into force of article 10; and

(b) in Part 3, the day specified under article 1 for the coming into force of article 21;

(**93**) S.I. 2005/765.
(**94**) S.I. 2005/916.
(**95**) S.S.I. 2005/125.

"Infringements Committee" means the Infringements Committee established under the Charter, as it continues in being by virtue of paragraph 3(a);

"old committees" means the Statutory Committee and the Infringements Committee;

"the old rules" means the regulations and rules made by the Council and the old committees in respect of the old committees' procedures, in particular—

(a) the Regulations scheduled to the Pharmaceutical Society (Statutory Committee) Order of Council 1978(**96**); and

(b) the Royal Pharmaceutical Society of Great Britain Infringements Committee (Procedure) Rules 2005,

as they had effect immediately before the appointed day, but subject to the modifications in sub-paragraphs (2) and (3) and such other modifications as the Council considers appropriate in the circumstances of a case;

"Register of Pharmacists" means, as the context requires, either the register maintained under article 10(1) or the register maintained under section 2(1) of the 1954 Act;

"relevant court" has the meaning given in section 4B(2) of the 1954 Act(**97**);

"specified period" has the meaning given in section 2(2C) of the 1954 Act(**98**);

"Statutory Committee" means the Statutory Committee established under section 7 of the 1954 Act, as it continues in being by virtue of paragraph 3(b); and

"voluntary register" means the voluntary register of pharmacy technicians maintained by the Society before the coming into force of article 21.

(2) Where, by virtue of this Schedule, the Disciplinary Committee is to dispose of a case in accordance with the old rules and the 1954 Act, references in those rules—

(a) to the Statutory Committee shall be construed, as appropriate, as references to the Disciplinary Committee; and

(b) to the secretary or chairman of the Statutory Committee shall be construed, as appropriate, as references to the secretary or chair of the Disciplinary Committee.

(3) Where, by virtue of this Schedule, the Disciplinary Committee or the Statutory Committee is to dispose of a case in accordance with the Regulations scheduled to the Pharmaceutical Society (Statutory Committee) Order of Council 1978, those Regulations shall apply as if they included provision—

(a) enabling the Committee to award costs or expenses (to be assessed in such manner as the Committee considers just, but the award may not take into account costs or expenses incurred before the appointed day); and

(b) allowing the award of—

(i) costs which, by leave of the High Court, are to be enforced in the same manner as an order of the High Court to the same effect, and

(ii) expenses which, by leave of the Court of Session, are to be enforced in the same manner as a decree of the Court of Session to the same effect.

(4) Where provision is made in this Schedule for appeals to be disposed of in accordance with sections 10 and 11 of the 1954 Act—

(a) those sections shall continue to apply for the purposes of disposing of those appeals, except that section 11 shall apply as if subsection (2) of that section were omitted; and

(**96**) S.I. 1978/20.
(**97**) Section 4B was inserted by S.I. 2003/3148.
(**98**) Section 2(2C) was inserted by S.I. 2003/3148.

(b) if the appeal is from the Disciplinary Committee, the reference in section 10(1) to the Statutory Committee shall be construed as a reference to the Disciplinary Committee.

Continuation in office of the Registrar and Deputy Registrar

2.—(1) Any person kept appointed as Registrar under section 1 of the 1954 Act (appointment of registrar and other officers) immediately before article 9(1) comes into force shall be regarded as having been appointed under article 9(1).

(2) Any person kept appointed as Deputy Registrar under section 1 of the 1954 Act immediately before article 9(2) comes into force shall be regarded as having been appointed under article 9(2).

Continuation of the old committees

3. On and after the appointed day—

(a) the Infringements Committee shall continue in being for the purposes of exercising the functions it retains by virtue of this Schedule; and

(b) the Statutory Committee shall continue in being for the purposes of exercising the functions it retains by virtue of this Schedule, and while it continues in being, Schedule 1 of the 1954 Act shall continue to have effect in relation to it.

The Society's byelaws

4.—(1) Notwithstanding the repeal of section 16 of the 1954 Act, byelaws under that section shall continue in force until they are superseded by rules made under this Order, but the Council may, pursuant to this paragraph, make byelaws amending or revoking any provision of those byelaws where it considers it necessary or expedient to do so for the purpose of dealing with any matter arising out of or related to the coming into force of any provision of this Order.

(2) No byelaws under sub-paragraph (1) shall come into force until approved by order of the Privy Council.

PART 2

Registration of pharmacy technicians

Entry in the Register of Pharmacy Technicians: persons on the voluntary register

5.—(1) Subject to sub-paragraph (3), if on the day before the appointed day a person's name is included in—

(a) Part 1 of the voluntary register, he shall be registered in Part 1 of the Register of Pharmacy Technicians with effect from the appointed day; or

(b) Part 2 of the voluntary register, he shall be registered in Part 2 of the Register of Pharmacy Technicians with effect from the appointed day.

(2) If on the appointed day there is an outstanding application for a person's name to be entered in the voluntary register (including an application for restoration to that register), the Council—

(a) may determine that his name is to be entered in the Register of Pharmacy Technicians; and

(b) shall dispose of the matter in such manner as it considers just.

(3) If on the appointed day a person's name is included in the voluntary register but his registration is suspended (whether temporarily or permanently) or he is the subject of proceedings which, but for

the closure of the voluntary register, could have led to his removal or suspension from the voluntary register, the Council—

(a) may determine that his name is not to be entered in the Register of Pharmacy Technicians; and

(b) shall dispose of the matter (including any proceedings) in such manner as it considers just.

Transitional arrangements in respect of persons practising as pharmacy technicians before the statutory register is opened

6.—(1) This paragraph applies to a person who does not meet the requirements of article 22(1)(a)(i) and (iii) but who applies to be registered in the Register of Pharmacy Technicians within two years of the appointed day.

(2) The Registrar may register a person to whom this paragraph applies in the Register of Pharmacy Technicians, where he has—

(a) undergone education or training which has provided him with a reasonable (in the opinion of the Registrar) foundation for future employment as a pharmacy technician; and

(b) demonstrated to the satisfaction of the Registrar that he possesses the knowledge, skill and experience requisite for practising as a registered pharmacy technician in England and Wales,

provided that, in doing so, he is acting in a manner which is consistent with the requirements of the Second General System Directive and the Second General System Regulations.

(3) The Society shall establish and publish from time to time in such manner as it sees fit criteria to which the Registrar is to have regard for the purposes of determining—

(a) whether or not particular education or training provides a person with a reasonable foundation for future employment as a pharmacy technician for the purposes of sub-paragraph (2)(a); and

(b) whether or not a person possesses the knowledge, skill and experience requisite for practising as a registered pharmacy technician in Great Britain for the purposes of sub-paragraph (2)(b).

PART 3

Outstanding registration cases

Outstanding referrals to, and cases before, the Statutory Committee where no direction has been given

7.—(1) Where—

(a) before the appointed day, an application for registration in or restoration to the Register of Pharmacists has been referred to the Statutory Committee;

(b) immediately before the appointed day there was no direction of the Statutory Committee in force in relation to the applicant; and

(c) an inquiry has not already opened in respect of the application,

the Statutory Committee shall refer the application to the Registrar (together with such advice on the application as the Committee considers appropriate) for him to dispose of it in accordance with the provisions of and rules under Parts 2 and 4 of this Order.

(2) Where—

(a) before the appointed day, an application for registration in or restoration to the Register of Pharmacists has been referred to the Statutory Committee;

(b) immediately before the appointed day there was no direction of the Statutory Committee in force in relation to the applicant; and

(c) an inquiry has already opened in respect of the application (including where a decision on the application has been postponed),

the Statutory Committee shall dispose of the matter in accordance with the old rules and the provisions of the 1954 Act, and any appeal shall be disposed of in accordance with sections 10 and 11 of that Act.

(3) Where a person's name has been removed from the Register of Pharmacists under section 12(1) of the 1954 Act and immediately before the appointed day there was no direction of the Statutory Committee in force in relation to that person, if he applies to be restored to the register within one year of the appointed day, the Registrar—

(a) may, in such cases as he considers it appropriate to do so, determine the application in accordance with section 12(2) of the 1954 Act; and

(b) shall in any event dispose of the matter in such manner as he considers just.

Outstanding appeals to the Council

8.—(1) Where, before the appointed day, a person was entitled, by virtue of section 2(2) or (2B) of the 1954 Act(**99**), to appeal to the Council against a decision of the Registrar that he is not qualified to have his name registered in the Register of Pharmacists, or against the failure of the Registrar to give notice of a decision on his application within the specified period—

(a) whether or not he has appealed to the Council before the appointed day, he may appeal to the Council against that decision or failure to give notice, provided he does so within the specified period for bringing an appeal; and

(b) on the appeal, the Council—

(i) may determine that his name is to be entered in the Register of Pharmacists, and

(ii) shall in any event dispose of the matter in such manner as it considers just.

(2) A person whose appeal is determined by the Council in accordance with sub-paragraph (1) and is dismissed may appeal to the relevant court, provided that he does so (subject to any rules of the relevant court in respect of the admissibility of applications to it) within 28 days beginning with the date on which the Council notified him of the decision against which he is appealing.

(3) Section 4B(2) and (3) of the 1954 Act(**100**) shall apply to an appeal under sub-paragraph (2) as they apply to an appeal under section 4B(1) of that Act.

Outstanding appeals to the county court or the sheriff

9. Where an appeal has been brought under section 4B(1) of the 1954 Act before the appointed day, the relevant court shall dispose of that appeal in accordance with section 4B(2) and (3) of that Act.

(**99**) Subsection (2) was amended by S.I. 1987/2202 and subsection (2B) was inserted by S.I. 2003/3148.
(**100**) Section 4B was inserted by S.I. 2003/3148.

PART 4

Fitness to practise

Outstanding fitness to practise proceedings

10.—(1) Subject to the following provisions of this Order, where, as regards the registration of a person in the Register of Pharmacists, before the appointed day—

(a) a case of alleged misconduct has been referred by the Infringements Committee to the Statutory Committee—

(i) if a day has been appointed for holding an inquiry (including cases where an inquiry has been postponed or adjourned), the Statutory Committee (and its secretary and chairman) shall dispose of the case in accordance with the old rules and the 1954 Act, or

(ii) if a day has not been appointed for holding an inquiry, the Disciplinary Committee (and its secretary and chair) shall dispose of the case in accordance with the old rules and the 1954 Act,

but other allegations of misconduct that have been brought to the attention of the Society shall be dealt with in accordance with, and with rules under, Parts 5 and 6 of this Order; or

(b) information about a conviction for a criminal offence has been submitted to the Chairman of the Statutory Committee by the Secretary of the Committee—

(i) if a day has been appointed for holding an inquiry (including cases where an inquiry has been postponed or adjourned), the Statutory Committee (and its secretary and chairman) shall dispose of the matter in accordance with the old rules and the 1954 Act, or

(ii) if a day has not been appointed for holding an inquiry, the Disciplinary Committee (and its secretary and chair) shall dispose of the case in accordance with the old rules and the 1954 Act,

but other information about a conviction for a criminal offence that has been brought to the attention of the Society shall be dealt with in accordance with, and with rules under, Parts 5 and 6 of this Order,

and any appeal shall be disposed of in accordance with sections 10 and 11 of the 1954 Act.

(2) Where, by virtue of sub-paragraph (1), the chair or the secretary of the Disciplinary Committee acquires functions with regard to a case, if the chairman or the secretary of the Statutory Committee has already taken steps with regard to that case, those steps shall, for the purposes of disposing of the case, be treated as steps taken by the chair or the secretary of the Disciplinary Committee.

(3) Where, by virtue of this Schedule—

(a) a case of alleged misconduct or in respect of a conviction for a criminal offence is before the Statutory Committee or the Disciplinary Committee; and

(b) the Statutory Committee or the Disciplinary Committee determines (whether or not it has already decided that the conviction or misconduct is proved) that the fitness to practise of the person who is the subject of the case may be impaired by reason of adverse physical or mental health,

the Committee may refer the matter to the Health Committee for it to dispose of the matter in accordance with, and with rules under, Parts 5 and 6 of this Order.

(4) Where a matter is referred to the Health Committee under sub-paragraph (3), the Health Committee shall deal with it in the same way as it would deal with a case referred to it by the

Investigating Committee, except that its rules of procedure shall apply subject to such modifications as it considers appropriate to the circumstances of the case.

Applicants for registration or restoration who are subject to directions given under the 1954 Act

11.—(1) Where the Statutory Committee has given a direction in relation to a case falling within section 8(1)(a) of the 1954 Act, if the person in respect of whom the direction was given ("the person concerned") makes or before the appointed day has made a further application for registration in the Register of Pharmacists—

(a) the application shall be determined by the Registrar, even if it has already been referred to the Statutory Committee; and

(b) the Registrar shall determine the application in accordance with the provisions of and rules under Part 4 of this Order, except that the application may not be granted unless—

(i) if the Statutory Committee has given a direction that an application for registration from the person concerned shall not be entertained until the expiration of a specified period, that period has expired,

(ii) if the Statutory Committee has given a direction that an application for registration from the person concerned shall not be entertained until specified conditions have been fulfilled, those conditions have been fulfilled, and

(iii) the Disciplinary Committee has been consulted and it has advised the Registrar that the person concerned's fitness to practise is not or is no longer impaired.

(2) Where the Statutory Committee (or, pursuant to this Schedule, the Disciplinary Committee) has given a direction in relation to a case falling within section 8(1)(b) or (c) of the 1954 Act, if the person in respect of whom the direction was given ("the person concerned") makes or before the appointed day has made an application (or in relation to a case falling within section 8(1)(c) a further application) for restoration to the Register of Pharmacists—

(a) the application shall be referred by the Registrar to the Disciplinary Committee, even if it has already been referred to the Statutory Committee; and

(b) the Disciplinary Committee shall dispose of the case in accordance with the provisions of and rules under article 55, except that—

(i) if it is the first application that the person concerned has made which is to be disposed of in accordance with the provisions of and rules under article 55, paragraph (2) of article 55 shall not apply, but if the Statutory Committee (or, pursuant to this Schedule, the Disciplinary Committee) has given a direction that an application for restoration from the person concerned shall not be entertained until the expiration of a specified period, that period must have expired, and

(ii) if the Statutory Committee (or, pursuant to this Schedule, the Disciplinary Committee) has given a direction that an application for restoration from the person concerned shall not be entertained until specified conditions have been fulfilled, those conditions must have been fulfilled.

Outstanding appeals to the courts against directions of the Statutory Committee

12. Where, as regards a direction given by the Statutory Committee before the appointed day—

(a) an appeal has been brought under section 10(1) of the 1954 Act against the direction; or

(b) after the appointed day an appeal is brought against the direction, in accordance with section 10(1) of that Act (which continues to apply for the purposes of bringing such appeals),

the appeal shall be disposed of in accordance with sections 10 and 11 of that Act.

PART 5

Transfer of responsibilities under the Medicines Act 1968

Referral of outstanding business and premises cases from the Statutory Committee to the Disciplinary Committee

13.—(1) Subject to the arrangements set out in sub-paragraph (6), where, before the appointed day, in proceedings under Part 4 of the Medicines Act 1968 which relate to alleged misconduct, the matter has been referred by the Infringements Committee to the Statutory Committee, if—

(a) a day has been appointed for holding an inquiry (including cases where an inquiry has been postponed or adjourned)—

(i) the Statutory Committee (and its secretary and chairman) shall dispose of the matter, and

(ii) any appeal shall be disposed of,

in accordance with the old rules and with the provisions of Part 4 of the Medicines Act 1968 as they had effect immediately before the appointed day, or

(b) a day has not been appointed for holding an inquiry—

(i) the Disciplinary Committee (and its secretary and chair) shall dispose of the matter, and

(ii) any appeal shall be disposed of,

in accordance with the old rules and with the provisions of Part 4 of the Medicines Act 1968; or

(2) Subject to the arrangements set out in sub-paragraph (6), where, before the appointed day, in proceedings under Part 4 of the Medicines Act 1968 which relate to a conviction for a criminal offence, information about the conviction has been submitted to the Chairman of the Statutory Committee by the Secretary of the Committee, if—

(a) a day has been appointed for holding an inquiry (including cases where an inquiry has been postponed or adjourned)—

(i) the Statutory Committee (and its secretary and chairman) shall dispose of the matter, and

(ii) any appeal shall be disposed of,

in accordance with the old rules and with the provisions of Part 4 of the Medicines Act 1968 as they had effect immediately before the appointed day, or

(b) a day has not been appointed for holding an inquiry—

(i) the Disciplinary Committee (and its secretary and chairman) shall dispose of the matter, and

(ii) any appeal shall be disposed of,

in accordance with the old rules and with the provisions of Part 4 of the Medicines Act 1968.

(3) Where, before the appointed day, proceedings in respect of a matter have begun under Part 4 of the Medicines Act 1968, but—

(a) in proceedings which relate to alleged misconduct, the matter has not been referred by the Infringements Committee to the Statutory Committee; or

(b) in proceedings which relate to a conviction for a criminal offence, information about the conviction has not been submitted to the Chairman of the Statutory Committee by the Secretary of the Committee,

the matter shall be referred to the Disciplinary Committee for it to dispose of the matter in accordance with any relevant rules under this Order and with Part 4 of the Medicines Act 1968.

(4) Where, by virtue of sub-paragraph (1) or (2), the chair or the secretary of the Disciplinary Committee acquires functions with regard to a case, if the chairman or the secretary of the Statutory Committee has already taken steps with regard to that case, those steps shall, for the purposes of disposing of the case, be treated as steps taken by the chair or the secretary of the Disciplinary Committee.

(5) Sub-paragraph (6) applies to a case where—

(a) there are related proceedings against a body corporate and an individual pharmacist;

(b) those proceedings were, before the appointed day, dealt with by the same Committee; and

(c) those proceedings would, by virtue of paragraph 10 and sub-paragraphs (1) and (2), be dealt with by different Committees.

(6) In a case to which this sub-paragraph applies—

(a) the Registrar shall, if he considers it appropriate to do so, assign the case against the body corporate to the Committee that is dealing with the related case; and

(b) that Committee shall dispose of the matter in accordance with whichever of the statutory procedures (that is, the old rules or any relevant rules under this Order, together with Part 4 of the Medicines Act 1968) it considers to be the most appropriate in the particular circumstances of the case.

(7) Except in connection with the bringing and disposing of an appeal by virtue of sub-paragraph (1)(a)(ii) or (2)(a)(ii), any direction of the Statutory Committee that has been given under Part 4 of the Medicines Act 1968 shall, once given, be treated for all purposes as a direction of the Disciplinary Committee.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order sets out the arrangements for the professional regulation of pharmacists in Great Britain and pharmacy technicians in England and Wales. The arrangements for pharmacists replace those set out in the Pharmacy Act 1954, which is repealed.

This Order contains the necessary legislative framework for the implementation, in Great Britain, of Council Directive 85/432/EEC concerning the co-ordination of provisions laid down by law, regulation or administrative action in respect of certain activities in the field of pharmacy(**101**), as amended(**102**), and Council Directive 85/433/EEC concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy(**103**), as amended(**104**). The

(**101**) OJ No. L 253, 24.9.1985, p.34.
(**102**) Council Directive 85/432/EEC has been amended by Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1) and is repealed by Directive 2005/36/EC (OJ No. L 255, 30.9.2005, p.22).
(**103**) OJ No. L 253, 24.9.1985, p.37.

implementing measures in respect of these directives were previously set out in the Pharmacy Act 1954. It also contains measures relating to the implementation in England and Wales, as regards pharmacy technicians, of Council Directive 92/51/EEC on a second general system for the recognition of professional education and training(**105**), as amended(**106**).

Part 1 contains preliminary matters. These include the commencement arrangements and the interpretation provisions (articles 1 and 3). Parts 1, 2 and 7 of the Order extend to Great Britain, but Part 3, which relates to the registration of pharmacy technicians, only extends to England and Wales – and Parts 4 to 6, in so far as they relate to registered pharmacy technicians or applicants for restoration to their register, also only extend to England and Wales. In addition, where other legislation is amended, the amendments have the same territorial extent as the provisions being amended (article 2).

Article 4 contains general duties of the Royal Pharmaceutical Society of Great Britain ("the Society"). These include the main purpose of the Society, when exercising functions that affect the health and safety of the public, which is to protect, promote and maintain the health and safety of the public. There are also duties to have proper regard to specified interests, and in respect of co-operation with specified bodies (article 4).

There are new powers in respect of the composition, membership and functions of the Council of the Society ("the Council"), and the Council is given various duties in respect of publications, including publication of annual accounts and an annual report (articles 5 and 6).

The Society is to have six statutory committees, and provision is made for the Council to make rules in connection with such matters as their size, composition, membership, procedures and functions (article 7). There is also provision for the Council to determine remuneration and allowances for its own members, members of the statutory committees, and for specialist advisers (article 8). The Council of the Society is to keep appointed a Registrar and may also appoint a Deputy Registrar (article 9).

Part 2 contains provisions relating to registration of pharmacists in Great Britain. The Registrar is to continue to maintain the Society's existing register of pharmacists, which is to be divided into two parts: a practising part and a non-practising part (article 10). There are provisions relating to entitlement to registration: registrants must be appropriately qualified, be fit to practise, and where appropriate have met additional requirements as to education, training, experience and continuing professional development (article 11). There is also provision in respect of the recognition of qualifications and of additional education, training and experience (article 12). There are also a range of functions relating to the education and training of pharmacists and those wanting to join this profession, including the approval of qualifications, premises and providers of education and training (articles 13 to 15). There are also supplemental provisions, including a rule making power in respect of the process underpinning the carrying out of the Society's various functions under articles 14 and 15 (article 16).

(**104**) Council Directive 85/433/EEC has been amended by: Council Directive 85/584/EEC (OJ No. L 372, 31.12.1985, p.42); Council Directive 90/658/EEC (OJ No. L 353, 17.12.1990, p.73); the Act of Accession of Austria, Sweden and Finland (OJ No. L 1, 1.1.1995, p.1); Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1); and the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No. L 236, 23.9.2003, p.33). Directive 85/433/EEC is also repealed by Directive 2005/36/EC.

(**105**) OJ No. L 209, 24.7.1992, p.25.

(**106**) Council Directive 92/51/EEC has been amended by: Commission Directive 94/38/EC (OJ No. L 217, 23.8.1994, p.8); the Act of Accession of Austria, Sweden and Finland (OJ No. L 1, 1.1.1995, p.1); Commission Directive 95/43/EC (OJ No. L 184, 3.8.1995); Commission Directive 97/38/EC (OJ No. L 184, 12.7.1997, p.31); Commission Directive 2000/5/EC (OJ No. L 54, 26.2.2000, p.42); Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1); the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No. L 236, 23.9.2003, p.33); Regulation (EC) No. 1882/2003 (OJ No. L 284, 31.10.2003, p.1); and Commission Decision 2004/108/EC (OJ No. L 32, 5.2.2004, p.15). Directive 92/51/EEC is also repealed by Directive 2005/36/EC.

There are rule making powers in respect of applications for registration, or retention in the registers, and provision in respect of notification of decisions and the time limits within which certain applications by pharmacists need to be processed (articles 17 and 18). There are a number of restrictions relating to registration and the unlawful use of certificates of registration, and these include restricting the professional title "registered pharmacist" to registrants (article 20).

Part 3 contains parallel provisions relating to the registration of pharmacy technicians in England and Wales. The Registrar is to establish and maintain a new statutory register of pharmacy technicians, which is to be in two parts, a practising and a non-practising part, and which is to replace the existing voluntary register (article 21). There are transitional arrangements allowing for the transfer of certain pharmacy technicians from the existing voluntary register to the new statutory register, and for allowing persons who have been practising as pharmacy technicians onto the statutory register, even if they do not have the approved qualifications, provided they satisfy certain other criteria (Part 2 of Schedule 2). There are provisions relating to entitlement to registration: registrants must be appropriately qualified, be fit to practise, and where appropriate have met additional requirements as to education, training, experience and continuing professional development (article 22). There is also provision in respect of the recognition of qualifications and of additional education, training and experience (article 23), and a range of functions relating to the education and training of pharmacy technicians and those wanting to join this profession, including the approval of qualifications, premises and providers of education and training (articles 24 to 26). Again, as in Part 2, there are also supplemental provisions (article 27).

There are rule making powers in respect of applications for registration, or retention in the registers (article 28), and a number of restrictions relating to registration and the unlawful use of certificates of registration. These include restricting the professional titles "pharmacy technician" and "registered pharmacy technician" to registrants, although under the transitional arrangements, unregistered technicians may continue to use these titles for two years, or for longer if they have applied for registration within the two year period and their application has not been disposed of (article 29).

Part 4 contains provisions relating to matters common to both registers. The Council is to make rules relating to the form and keeping of the registers, and the Registrar is to publish lists of pharmacists and pharmacy technicians containing information derived from the entries in the registers (article 30). There is also provision in respect of the making of annotations in the registers to denote specialisations (article 31), and in respect of certificates of registration (article 32). Registrants also have continuing obligations with regard to their registration entries (article 33). The Registrar has obligations to keep the registers correct, and has powers to deal with fraudulent and incorrect entries (article 34). Provision is made to enable the Registrar to take action where he finds out, after a person is registered, about a fitness to practise matter arising before that person was registered, including powers to remove such a person from the registers. Rules may provide him with information gathering powers to assist him in finding out about such matters (article 35). Provision is also made for rules to deal with moving between the practising and non-practising parts of the registers, and for voluntary removal from the registers (articles 36 and 37).

All registrants in the practising parts of the registers are required to have adequate and appropriate professional indemnity cover, and again there are information gathering powers in respect of this requirement (article 38). All registrants in the practising parts of the registers must also undertake continuing professional development, and rules will provide for sanctions where continuing professional development obligations are not met (article 39). Provision is also made for the Council to make rules which will allow them to charge fees in connection with registration functions, and non-payment of fees may lead to applications being refused or removal from the register (article 40). There is provision for the restoration of registrants to the registers where they have been removed under Parts 2 to 4 (article 41), and for appeals to the Registration Appeals Committee against appealable registration decisions. These decisions are thereafter appealable through the courts (articles 42 to 44). There are also transitional arrangements for dealing with outstanding registration applications, including those which are under appeal (Part 3 of Schedule 2).

Part 5 contains measures relating to the fitness to practise of registrants. The Council is to publish guidance on the professional standards expected of registrants (article 45), and the Society is given powers to obtain information from third parties about a particular registrant (article 46). They may also publish any information about the fitness to practise of registrants where it is in the public interest to do so (article 47).

Provision is made about what it means for fitness to practise to be impaired (article 48) – and the framework within which allegations of impairment are to be considered is set out. Usually, cases will be considered first by the Registrar, who will then refer them on to the Investigating Committee. The Investigating Committee has power to deal with the case itself by way of warnings or advice, or may refer the matter on to the Health Committee or the Disciplinary Committee. As well as giving advice and warnings, these Committees may suspend registrants or attach conditions to their registration – and in the case of the Disciplinary Committee, may direct that the registrant be removed from the registers. There is also provision for the review of earlier decisions to suspend or impose conditions (articles 49 to 52).

The Council may also establish a scheme of professional performance assessments to assist the Registrar and the fitness to practise committees (article 53). Provision is also made for interim orders suspending registration or attaching temporary conditions to registration while an investigation is ongoing (article 54).

If a registrant has been removed from the registers for fitness to practise reasons, there are arrangements for allowing him to be restored to the registers in defined circumstances (article 55). Provision is also made for appeals to the courts against appealable fitness to practise decisions (article 56), and in respect of when fitness to practise decisions are to take effect – including provision for temporary measures pending the outcome of an appeal, if a decision is being appealed (articles 57 and 58). There are also arrangements for dealing with outstanding disciplinary proceedings under the Pharmacy Act 1954 in respect of criminal convictions or misconduct, including cases which are under appeal (Part 4 of Schedule 2).

Part 6 contains provisions relating to proceedings before a fitness to practise committee or the Registration Appeals Committee. Essentially, these matters are to be covered in rules, but there are particular provisions relating to the use of legal, clinical and other specialist advisers. There are also provisions for dealing with witness summonses and orders for the production of documents, which may be enforced through the courts (articles 59 to 62).

Part 7 contains miscellaneous measures. The Society is given a general power to charge fees, but this must not be used in areas where there are specific charging arrangements under the Order (article 63). There is provision for the Society to enter into arrangements to approve qualifications, premises and providers of education and training for pharmacists, pharmacy technicians and those wanting to join these professions outside the United Kingdom (article 64). The time limits for bringing prosecutions are extended (article 65), and provision is made in respect of the procedural aspects of rules and orders under the Order (article 66 and 69).

Consequential amendments, revocations and repeals are made in respect of other legislation, and the amendments to the Poisons Act 1972 also remove the responsibilities of the Privy Council in respect of the appointment of the Society's inspectors (article 67 and Schedule 1). Provision is also made for further transitional provisions to supplement the provisions in Schedule 2 (article 68). As well as the transitional provisions noted above, Schedule 2 also provides for certain outstanding business and premises cases to be dealt with by the Statutory Committee, established under the Pharmacy Act 1954, instead of the Disciplinary Committee (Part 5 of Schedule 2), and for the Council to deal with consequential modification of the Society's byelaws (paragraph 4 of Schedule 2).