
STATUTORY RULES OF NORTHERN IRELAND

2012 No. 311

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

PART 2

Initial consideration by the registrar

Initial action in respect of allegations

- 5.—(1) The registrar may only refer an allegation where—
- (a) the person concerned is identifiable; and
 - (b) the allegation is capable of being referred.
- (2) The registrar must not refer the allegation where—
- (a) in the case of a fitness to practise allegation, the allegation is of a type stated in the threshold criteria which should not be referred;
 - (b) more than 5 years have elapsed since the most recent events referred to in the allegation unless the registrar considers that it is necessary for the protection of the public, or otherwise in the public interest, for the allegation to be referred; or
 - (c) the allegation is made by an informant who—
 - (i) is anonymous and the allegation is not capable of verification from an independent source; or
 - (ii) is identifiable but does not participate in the consideration of the allegation and the allegation is not capable of verification from an independent source.
- (3) The registrar's consideration of an allegation under paragraphs (1) and (2) may include the carrying out of any investigations which, in the registrar's opinion, are appropriate to the consideration of it.
- (4) Investigations referred to in paragraph (3) may include—
- (a) requesting the Pharmacy Inspector to undertake further inquiries;
 - (b) requesting the informant to provide a written statement or statutory declaration;
 - (c) instructing solicitors; or
 - (d) in relation to a health allegation, requiring the person concerned to agree to be medically examined by a medical practitioner nominated by the Society.
- (5) The allegation must be referred to the Statutory Committee instead of to the Scrutiny Committee if the registrar considers that—
- (a) the Statutory Committee should consider making an interim order, and if the registrar does so consider, the registrar must notify the Statutory Committee accordingly; or

(b) the public interest is best served by urgent consideration of the case.

(6) The registrar must also refer an allegation to the Statutory Committee instead of to the Scrutiny Committee if it relates to a conviction for one or more criminal offences and the sentence imposed in respect of one offence or in respect of some or all of those offences, is a custodial or suspended custodial sentence.

(7) The registrar may refer an allegation to the Statutory Committee instead of the Scrutiny Committee if—

(a) it relates to a determination by a regulatory body in the United Kingdom responsible under any statutory provision for the regulation of a health or social care profession that the registered person's fitness to practise is impaired; and

(b) the registrar considers that the allegation should be so referred.

(8) The registrar may refer an allegation to the Statutory Committee instead of to the Scrutiny Committee where—

(a) in so far as the allegation relates to an entry in the register, the registrar has reasonable grounds for believing that that entry may have been fraudulently procured or incorrectly made; and

(b) the registrar considers that the allegation should be so referred.

(9) The registrar may refer an allegation to the Statutory Committee instead of to the Scrutiny Committee where the allegation relates to—

(a) a failure to comply with the requirements or conditions of the framework adopted by the Council under Article 4A(6)(a) of the Order relating to the continuing professional development of registered persons; or

(b) the making of a false declaration about compliance with the requirements or conditions of that framework;

and the registrar considers that the circumstances of the failure or false declaration are such that the allegation should be so referred.

(10) Where the registrar refers an allegation to the Statutory Committee under any of paragraphs (5) to (9) the registrar must inform the person concerned and the informant, if any, that the allegation has been so referred.

Notices of referral and documents to be supplied to persons concerned

6.—(1) Once the registrar has taken a decision to refer a fitness to practise allegation or a disqualification allegation to the Scrutiny Committee, the registrar must—

(a) send to the person concerned a notice of referral to the Scrutiny Committee;

(b) provide that person with—

(i) copies of all documentation, including summaries of relevant information, to be placed by the registrar before the Scrutiny Committee; and

(ii) a copy of the threshold criteria.

(2) The notice of referral to the Scrutiny Committee must in terms—

(a) particularise the allegation;

(b) set out any recommendations for disposal of the case made by the registrar;

(c) specify a date for the meeting of the Scrutiny Committee which will consider the allegation, which must be no less than 28 days after the date of service of the notice of referral;

(d) inform the person concerned of the Scrutiny Committee's powers—

- (i) to dismiss the case,
 - (ii) in relation to a health allegation, to require the person concerned to undergo a medical examination,
 - (iii) to issue warnings,
 - (iv) to agree undertakings,
 - (v) to give advice to the person concerned or to other persons, and
 - (vi) to refer the matter to the Statutory Committee;
- (e) invite the person concerned to indicate, no later than 21 days after the day of service of the notice, whether the particulars of the allegation set out in the notice are admitted or denied;
 - (f) invite the person concerned to provide written representations on the allegation, and on any recommendations for disposal of the case made by the registrar;
 - (g) state that any written representations must be submitted to the Scrutiny Committee no later than 21 days after the day of service of the notice;
 - (h) inform the person concerned that any representations, or extracts of any representations, received may be shown to the informant, if any, for comment;
 - (i) inform the person concerned that the Scrutiny Committee may seek further information from any source for the purposes of carrying out its functions in investigating the allegation, including from the person concerned's employer, if any.

Voluntary removal of names from the register

7.—(1) Subject to the following paragraphs, applicants for the voluntary removal of their names from the register may apply to the registrar.

(2) An application under this regulation must be made to the registrar using the relevant application form which must be in such form as the Society may from time to time determine.

(3) The application form must, in particular—

- (a) require the applicant ("A") to—
 - (i) specify A's full name, home address and contact details (including a telephone number and electronic mail address, where possible),
 - (ii) specify their registration number in the register to which the application relates;
- (b) if A is a superintendent pharmacist, require A to state that fact;
- (c) require A to—
 - (i) declare that A is not aware of any investigation by any enforcement or regulatory body, or proceedings brought by such a body, that relate to A's fitness to practise, or of any act or omission on A's part which might render A liable to an allegation being referred to the Society that A's fitness to practise is impaired,
 - (ii) provide any supporting documents, information or evidence as mentioned in the application form, and
 - (iii) sign and date the application.

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

(5) Upon receipt of an application under this regulation, the registrar must make such inquiries as the registrar considers necessary in order to be satisfied that there are no ongoing investigations or outstanding proceedings relating to the registered person's fitness to practise.

- (6) The registrar must not grant an application under this rule unless—
 - (a) the registrar is satisfied that there are no ongoing investigations or outstanding proceedings relating to the registered person’s fitness to practise; or
 - (b) in cases where there are such investigations or proceedings, the registrar considers that the public interest would be best served by granting the application.
- (7) Where the registrar grants an application under this regulation, the registrar must remove their name from the register and must publish that fact on the Society’s website.

Voluntary removal: supplementary provision

- 8.—**(1) Where the registrar becomes aware that an application for the voluntary removal of a name from the register—
- (a) has been granted in reliance upon information provided by the applicant (“the former registered person”) relating to fitness to practise matters that was false or misleading; and
 - (b) but for that information, the application would have been refused by virtue of regulation 7(6),

the registrar must revoke the decision to grant the application and must restore the name to the register.

- (2) The restoration shall have effect as from the date on which the name was removed from the register.

Applications for restoration

9.—(1) Subject to the following provisions of this regulation, any person applying for restoration to the register under paragraph 9 of Schedule 3 to the Order must apply using the relevant application form, which is to be in such form as the Society may from time to time determine.

- (2) The application form must (amongst other matters)—
 - (a) require persons applying under paragraph (1) to—
 - (i) provide their full home address and contact details (including a telephone number and electronic mail address, where possible),
 - (ii) give reasons for saying that their fitness to practise is no longer impaired,
 - (iii) specify the register to which they are applying to be restored,
 - (iv) provide any necessary supporting documentation, as mentioned in paragraph (3), and
 - (v) sign and date the application; and
 - (b) include a demand that any relevant prescribed fee be paid.
- (3) Persons applying for restoration to the register under paragraph 9 of Schedule 3 to the Order must provide to the registrar, together with their completed application form—
 - (a) at least two certificates attesting to their identity and good character, one of which must be given by a registered person in good standing with the Society;
 - (b) sufficient evidence to demonstrate their fitness to return to practice, which may include—
 - (i) evidence of activities designed to address or learn from the original allegation,
 - (ii) evidence of learning activities designed to keep up to date with skills and knowledge, and with developments in practice, and
 - (iii) evidence demonstrating insight into the gravity of the allegation which resulted in their removal from the register; and

- (c) any necessary supporting documentation, information or evidence as mentioned in the completed application form, and such additional documents, information or evidence as the registrar may reasonably require for the purposes of verifying the information in, or determining, the application.
- (4) The registrar must not accept a certificate of the type referred to in paragraph (3)(a) as a valid part of the application unless there is an indication on the face of the certificate that the person signing it—
 - (a) knows why the person was removed from the register; and
 - (b) has seen a copy of the reasons given for the person’s removal from the register.
- (5) The registrar must refuse the application if the relevant prescribed fee is not paid.