



# Medicines Act 1968

## 1968 CHAPTER 67

### PART IV

#### PHARMACIES

##### *Disqualification, and removal of premises from register*

#### **80 Power for Statutory Committee to disqualify and direct removal from register**

- (1) Where a body corporate carries on a retail pharmacy business and—
- (a) that body is convicted of an offence under any of the relevant Acts, or
  - (b) any member of the board or any officer of or person employed by that body is convicted of an offence, or has been guilty of misconduct, and the offence or misconduct is such as in the opinion of the Statutory Committee renders him, or would if he were a pharmacist render him, unfit to be a pharmacist,
- then, subject to the following provisions of this Part of this Act, the Statutory Committee, after inquiring into the case, may direct that the body corporate shall be disqualified for the purposes of this Part of this Act.
- (2) In any case falling within the preceding subsection—
- (a) if the Statutory Committee give a direction under that subsection, they shall direct the registrar to remove from the register all premises entered in the register as being premises at which the body corporate carries on a retail pharmacy business ;
  - (b) if the Statutory Committee do not give a direction under the preceding subsection, they may, if they think fit, direct the registrar to remove from the register all those premises, or such of them as may be specified in the direction under this paragraph.
- (3) Directions under subsection (1) of this section and under paragraph (a) of the last preceding subsection, and any direction under paragraph (b) of the last preceding subsection, may, if the Statutory Committee think fit, be given so as to have effect for a limited period; and in that case the registrar, at the end of that period, shall restore

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*Status: This is the original version (as it was originally enacted).*

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to the register any premises removed from it in compliance with the direction given under paragraph (a) or paragraph (b) of the last preceding subsection.

(4) Where, in any such case as is mentioned in subsection (1) of section 72 of this Act, a representative, or a person employed by a representative in the business referred to in that subsection.—

- (a) is convicted of an offence, or
- (b) has been guilty of misconduct,

and the offence or misconduct is such as in the opinion of the Statutory Committee renders him, or would if he were a pharmacist render him, unfit to be a pharmacist, then, subject to the following provisions of this Part of this Act, the Statutory Committee, after inquiring into the case, may direct that the representative shall be disqualified for the purposes of this Part of this Act.

(5) In this and the next following section " the relevant Acts " means the Pharmacy Act 1954, Part II of the Pharmacy and Poisons Act (Northern Ireland) 1925, Part II of the Medicines, Pharmacy and Poisons Act (Northern Ireland) 1945, and this Act, and " representative " has the same meaning as in section 72 of this Act.

## **81 Grounds for disqualification in certain cases**

(1) The Statutory Committee shall not give a direction under subsection (1) of section 80 of this Act, in a case falling within paragraph (b) of that subsection, and shall not give a direction under subsection (4) of that section, unless—

- (a) one or more of the facts specified in the next following subsection are proved to the satisfaction of the Committee, and
- (b) the Committee are of the opinion, having regard to those facts, that the board of the body corporate are, or, as the case may be, the representative is, to be regarded as responsible for the offence or misconduct in question.

(2) The facts referred to in subsection (1)(a) of this section are—

- (a) that the offence or misconduct in question was instigated or connived at by the board or by a member of the board, or by the representative, as the case may be ;
- (b) that, in the case of a body corporate, a member of the board, or an officer of or person employed by the body corporate, had, at some time within twelve months before the date on which the offence or misconduct in question occurred, been guilty of a similar offence or similar misconduct and that the board had, or with the exercise of reasonable care would have had, knowledge of that previous offence or misconduct;
- (c) that, in the case of the representative, he or a person employed by him had, at some time within twelve months before the date on which the offence or misconduct in question occurred, been guilty of a similar offence or similar misconduct and (where it was a similar offence or similar misconduct on the part of an employee) that the representative had, or with the exercise of reasonable care would have had, knowledge of that previous offence or misconduct;
- (d) if the offence or misconduct in question is a continuing offence or continuing misconduct, that the board, or the representative, had, or with the exercise of reasonable care would have had, knowledge of its continuance;

- (e) in the case of an offence in respect of a contravention of an enactment contained in any of the relevant Acts, that the board, or the representative, had not exercised reasonable care to secure that the enactment was complied with.

## **82 Procedure relating to disqualification**

- (1) The Statutory Committee shall not give a direction under section 80 of this Act except with the assent of the chairman of the Committee.
- (2) A direction under that section shall not take effect until the end of the period of three months from the date on which notice of the direction is given to the body corporate or other person to whom it relates, and, if an appeal against the direction is brought under this section, shall not take effect until that appeal has been determined or withdrawn.
- (3) Where any such direction is given, the body corporate or other person to whom it relates may, at any time before the end of the period of three months specified in subsection (2) of this section, appeal against the direction to the High Court.
- (4) The Pharmaceutical Society may appear as respondent on any such appeal; and, for the purpose of enabling directions to be given as to costs on any such appeal, the Pharmaceutical Society shall be deemed to be a respondent to the appeal whether they appear on the hearing of the appeal or not.
- (5) On any such appeal, the High Court may give such directions in the matter as appear to the Court to be appropriate; and it shall be the duty of the Statutory Committee to comply with any such directions and (where appropriate) of the registrar to make such alterations in the register as are necessary to give effect to them.
- (6) No appeal shall lie from any decision of the High Court under this section.
- (7) In the application of this section to Scotland, any reference to the High Court shall be construed as a reference to the Court of Session, and any reference to costs shall be construed as a reference to expenses.
- (8) In the application of this section to Northern Ireland, any reference to the High Court shall be construed as a reference to a judge of the Supreme Court of Judicature of Northern Ireland.

## **83 Revocation of disqualification**

- (1) At any time while a direction under section 80 of this Act is in force the Statutory Committee, either on the application of the person to whom it relates or without any such application, may revoke the direction.
- (2) If, on an application to the Statutory Committee to revoke such a direction, the Committee refuse to revoke it, the applicant, at any time before the end of the period of three months from the date on which notice of the refusal is given to him, may appeal to the High Court against the refusal.
- (3) Subsections (4) to (6) of section 82 of this Act shall have effect in relation to any appeal under this section as they have effect in relation to appeals under that section.
- (4) In the application of this section to Scotland, any reference to the High Court shall be construed as a reference to the Court of Session; and in the application of this section to Northern Ireland, any reference to the High Court shall be construed as a reference to a judge of the Supreme Court of Judicature of Northern Ireland.