

## 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;

“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<sup>(1)</sup>; 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<sup>(2)</sup>;

“specified period” has the meaning given in section 2(2C) of the 1954 Act<sup>(3)</sup>;

“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.

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(1) [S.I. 1978/20](#).

(2) Section 4B was inserted by [S.I. 2003/3148](#).

(3) Section 2(2C) was inserted by [S.I. 2003/3148](#).

(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
- (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<sup>(4)</sup>, 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

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(4) Subsection (2) was amended by [S.I. 1987/2202](#) and subsection (2B) was inserted by [S.I. 2003/3148](#).

(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<sup>(5)</sup> 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.

## **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.

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(5) Section 4B was inserted by S.I. 2003/3148.

(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.