

SCHEDULE 2

TRANSITIONAL PROVISIONS

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.