
DRAFT STATUTORY INSTRUMENTS

2010 No.

The Pharmacy Order 2010

PART 6

Fitness to practise

Initial action in respect of allegations

52.—(1) Where—

- (a) an allegation is made to the Council against a registrant that the registrant's fitness to practise is impaired; or
- (b) the Council has information that calls into question a registrant's fitness to practise, even though no allegation to that effect has been made to the Council,

the Registrar must, 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 provide for—

- (a) an allegation not to be referred where it is of a type that the Council has stated in threshold criteria, which it has published and which it may amend from time to time, should not be referred; and
- (b) an allegation to be referred, in prescribed cases, directly by the Registrar to the Fitness to Practise Committee.

(3) Where the Registrar—

- (a) refers an allegation directly to the Fitness to Practise Committee under rules made by virtue of paragraph (2)(b); and
- (b) is of the opinion that the Fitness to Practise Committee should consider making an interim order under article 56,

the Registrar must notify the Committee accordingly.

(4) Where the Registrar refers an allegation to the Fitness to Practise Committee under rules made by virtue of paragraph (2)(b), the Registrar must inform the registrant who is the subject of the allegation and the person, if any, who made the allegation of that decision.

(5) Once a decision has been taken to refer the allegation to the Investigating Committee or (where rules so provide) the Fitness to Practise Committee, the Registrar must, 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 the registrant has arrangements to provide such services;

- (b) notify the Secretary of State, the Scottish Ministers and the Welsh Ministers of the investigation of the registrant's fitness to practise;
 - (c) notify the Department of Health, Social Services and Public Safety in Northern Ireland of the investigation of the registrant's fitness to practise where the registrant is also entered in the register of pharmaceutical chemists for Northern Ireland or the register of visiting pharmaceutical chemists made out and maintained under Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976⁽¹⁾; and
 - (d) notify any person of whom the Registrar is aware—
 - (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 the registrant has arrangements to provide such services,of the investigation of the registrant's fitness to practise.
- (6) Where a registrant fails to comply with a requirement imposed under paragraph (5)(a) within 14 days of the requirement being imposed, or within such longer period as the Registrar may in the circumstances of the particular case allow—
- (a) the failure may be treated as misconduct for the purposes of article 51(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.
- (7) For the purposes of this article, the “relevant court” means—
- (a) in a case where the registrant is domiciled in Scotland, the sheriff in whose sheriffdom that registrant is domiciled; and
 - (b) in any other case, the county court (the Central London County Court if the registrant is not domiciled in Great Britain).

⁽¹⁾ S.I.1976/1213 (N.I. 22).