
DRAFT STATUTORY INSTRUMENTS

2010 No.

The Pharmacy Order 2010

PART 6

Fitness to practise

Interim orders

56.—(1) Where the Fitness to Practise Committee is satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest or is in the interests of the registrant for an entry in the Register relating to a registrant to be suspended or to be made subject to conditions, the Committee may make an order—

- (a) that the entry in question be suspended for such period not exceeding 18 months as may be specified in the order (an “interim suspension order”); or
- (b) that the entry in question be conditional upon the registrant complying, during such period not exceeding 18 months as may be specified in the order, with such requirements specified in the order as the Committee thinks fit to impose (an “order for interim conditional entry”).

(2) Subject to paragraph (7), where the Fitness to Practise Committee has made an order under paragraph (1), the Committee—

- (a) must review it within the period of 6 months beginning with the date on which the order was made, and must after that, for so long as the order continues in force, further review it—
 - (i) before the end of the period of 6 months beginning with the date of the decision of the immediately preceding review, or
 - (ii) if, after the end of the period of 3 months beginning with the date of the decision of the immediately preceding review, the person concerned requests an earlier review, as soon as practicable after that request; and
- (b) may review it where new evidence relevant to the order has become available after it was made.

(3) Where an interim suspension order or an order for interim conditional entry has been made in relation to any person under any provision of this article (including this paragraph) the Fitness to Practise Committee may—

- (a) revoke the order;
- (b) add to, remove or otherwise vary any condition imposed by the order; or
- (c) if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest—
 - (i) replace an order for interim conditional entry with an interim suspension order having effect for the remainder of the term of the previous order, or
 - (ii) replace an interim suspension order with an order for interim conditional entry having effect for the remainder of the term of the previous order.

(4) If an order is made, revoked or varied under any provision of this article, the Registrar must without delay send to the person in respect of whose entry in the Register it relates at the last known home address of that person a statement in writing giving the person notice of the order, the revocation or, as the case may be, the variation.

(5) The Council may apply to the relevant court for an order made by the Fitness to Practise Committee under paragraph (1) or (3) to be extended or, if it has been extended, further extended, and on such application the relevant court may extend, or further extend, for up to 12 months the period for which the order has effect.

(6) Any reference in this article to an interim suspension order, or to an order for interim conditional entry, includes a reference to such an order as extended under paragraph (5).

(7) For the purposes of paragraph (2), the first review after the relevant court's extension of an order made by the Fitness to Practise Committee, or after a replacement order made by the Fitness to Practise Committee under paragraph (3)(c), must take place—

- (a) if the order (or the order which has been replaced) has not been reviewed at all under paragraph (2), within the period of 6 months beginning with the date on which the relevant court ordered the extension or on which the replacement order under paragraph (3)(c) was made; and
- (b) if the order (or the order which has been replaced) has been reviewed under paragraph (2), within the period of 3 months beginning with that date.

(8) A registrant who is aggrieved by the decision of the Fitness to Practise Committee to make or vary an order under this article may appeal against that decision to the relevant court, and the court may—

- (a) in the case of an interim suspension order, terminate the suspension;
- (b) in the case of an order for interim conditional entry, revoke the order or remove or vary any condition imposed by the order; and
- (c) in either case, substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it),

but unless the court otherwise directs, the order remains in force pending the outcome of the appeal.

(9) The decision of the relevant court on any application under paragraph (8) is final.

(10) If an order is made in relation to any person under this article and that order remains in effect immediately before the determination in respect of the allegation against that person under article 54(1), the Fitness to Practise Committee must revoke the order once it has been determined whether or not the person's fitness to practise is impaired.

(11) In this article, "the relevant court" means—

- (a) in a case relating to a registrant who is domiciled in Scotland, the Court of Session; and
- (b) in any other case, the High Court.