

## SCHEDULE

The General Pharmaceutical Council (Fitness to Practise and Disqualification etc.) Rules 2010

### PART 1

#### Preliminary matters

##### **Citation and commencement**

1. These Rules may be cited as the General Pharmaceutical Council (Fitness to Practise and Disqualification etc.) Rules 2010 and come into force on 27th September 2010.

##### **Interpretation**

2.—(1) In these Rules—

“the Act” means the Medicines Act 1968<sup>(1)</sup>;

“the Order” means the Pharmacy Order 2010;

“allegation” means a criminal conduct allegation, a disqualification allegation, a fitness to practise allegation or a health allegation;

“the Appeals Committee Rules” means the General Pharmaceutical Council (Appeals Committee) Rules 2010<sup>(2)</sup>;

“applicant concerned” means an applicant (or, where appropriate their representatives) for—

(a) registration or renewal of registration whose application has been referred to the Committee for advice;

(b) restoration of registration;

“the chair” means the chair of the Committee;

“the Committee” means the Fitness to Practise Committee established by virtue of article 4(6) (b) of the Order;

“criminal conduct allegation” means a complaint to, or concern of, the Council which gives rise or may give rise to criminal proceedings under any enactment;

“disqualification allegation” means a complaint to, or concern of, the Council which gives rise to, or may give rise to, an inquiry under Part 4 of the Act;

“fitness to practise allegation” means a complaint to, or concern of, the Council which is an allegation for the purposes of article 52(1), 53(1) or 54(1) of the Order, as appropriate;

“health allegation” means a complaint to, or a concern of, the Council which gives rise to, or may give rise to, an inquiry that a person’s fitness to practise is impaired by reason of article 51(1)(c) of the Order;

“informant” means a person who makes a complaint, or who raises a concern, to the Council relating to any person;

“interim order” means an interim order under article 56 of the Order;

“interim order hearing” means a hearing solely for the purposes of considering whether to make, confirm, vary, replace or revoke an interim order;

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(1) 1968 c.67. Relevant amendments are made by Schedule 4 to the Order.

(2) Scheduled to [S.I. 2010/1614](#).

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“legal adviser” means the person appointed to be a legal adviser under, or by virtue of rules under, article 63(1) of the Order in relation to the proceedings in question;

“parties” means the Council and the person concerned (or, where appropriate, their representatives) and “party”, except in the phrase “section 80 party”, is to be construed accordingly;

“person concerned” means, as the case may be, an applicant concerned, a registrant concerned or a section 80 party;

“prescribed fee” means a fee prescribed in rules under article 36(1) of the Order;

“the presenter” means the person instructed to represent the Council at a hearing (and includes employees of the Council);

“principal hearing” means—

- (a) in fitness to practise proceedings, a hearing of the Committee held in connection with making a determination under article 54(1) of the Order (as opposed to any further hearing to consider varying or revoking any direction given as a consequence of a finding of impairment); and
- (b) in disqualification proceedings, a hearing of the Committee held in connection with giving a direction under section 80 of the Act;

“registrant concerned” in the context of fitness to practise proceedings or proceedings under Part 4 of the Registration Rules, means the registrant who is the subject of the allegation or investigation to which those proceedings relate (or, where appropriate, their representatives);

“Registration Rules” means the General Pharmaceutical Council (Registration) Rules 2010(3);

“restoration hearing” means a hearing in fitness to practise proceedings to consider an application for restoration to the Register;

“review hearing” means a hearing for the purpose of—

- (a) reviewing directions issued by the Committee under article 54(2)(d) or (e) of the Order;
- (b) reviewing undertakings agreed by the Committee; or
- (c) revoking a direction by virtue of section 83(1) of the Act;

“secretary” means, except in relation to references to the secretary of the Investigating Committee, the secretary of the Committee;

“section 80 party” means an individual who, or a body corporate which, is subject to proceedings before the Committee in connection with the giving of a direction under section 80(1) or (4) of the Act (or, where appropriate, their representatives);

“threshold criteria” means the criteria published by the Council under article 52(2)(a) of the Order, as amended from time to time;

“witness” means a person who gives evidence, or whose evidence is received, at a hearing.

(2) For the purposes of these Rules—

- (a) a meeting or hearing of the Committee, other than when it is deliberating in private, is considered to be “in private” if it is held in the presence of—
  - (i) the parties and any person present who is representing a party,
  - (ii) the person acting as secretary,
  - (iii) any witness giving evidence,
  - (iv) any legal, clinical or specialist adviser,
  - (v) any person responsible for the recording of the proceedings, or

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(3) Scheduled to [S.I. 2010/1617](#).

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- (vi) any other person whose presence is deemed necessary by the chair, but otherwise excluding everyone else; and
- (b) a meeting of the Investigating Committee and the private deliberations of that Committee are considered to be “in private” if they are held in the presence of—
  - (i) the person acting as secretary to that Committee,
  - (ii) any legal, clinical or specialist adviser, or
  - (iii) any person responsible for the recording of the proceedings, but otherwise excluding everyone else.

### **Service of documents**

**3.—(1)** Subject to paragraph (2), any notice or document required to be served by the Council under these Rules must be in writing and may be served by sending it by a postal service or another delivery service (including, with the agreement of the person concerned, by electronic mail to an electronic mail address notified to the Registrar as an address for communications) or by leaving it at—

- (a) in the case of a registrant, their address as entered in the Register;
- (b) in relation to premises included in Part 3 of the Register, where the business carried on from those premises is carried on by—
  - (i) an individual, their home address entered in the Register,
  - (ii) a body corporate, its registered office address or principal office,
  - (iii) a partnership, its principal office; or
- (c) in the case of an applicant who is not a registrant, the last known home address of the applicant.

(2) If a person to whom a notice is to be sent under these Rules so requests, notices or documents may be sent to or left at—

- (a) where the person is represented by a solicitor, the solicitor’s practising or electronic mail address; or
- (b) where the person is represented by a defence organisation or trade union, the business or electronic mail address of that defence organisation or trade union.

(3) Where any notice or document is sent on behalf of the Investigating Committee or of the Committee by a postal service, unless sent by a service which records the date of delivery, it must be sent by first class post and is to be treated as having been served on the day after the day on which it was posted.

(4) Where a notice or document has been sent by electronic mail or left at an address, it is to be treated as having been served on the day on which it was sent, or left at that address.

### **Duty to provide information to the Registrar**

**4.—(1)** A registrant must notify the Registrar in writing of the events specified in paragraph (2) within the period of 7 days starting on the day on which the event occurs.

- (2) Those events are if the registrant—
  - (a) is convicted of any criminal offence;
  - (b) accepts a police caution;
  - (c) has, in summary proceedings in Scotland in respect of an offence, been the subject of an order discharging the registrant absolutely (without proceeding to conviction);

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- (d) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995<sup>(4)</sup> (fixed penalty: conditional offer by procurator fiscal);
- (e) has agreed to pay a penalty under section 115A of the Social Security Administration Act 1992<sup>(5)</sup> (penalty as an alternative to prosecution);
- (f) is notified by a regulatory body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession of a determination to the effect that their fitness to practise is impaired, or a determination by a regulatory body elsewhere to the same effect;
- (g) becomes subject to an investigation into their fitness to practise by another regulatory body (apart from the Council);
- (h) becomes the subject of any fraud investigation by a body responsible for investigating fraud in relation to the health service (for example, the NHS Counter Fraud and Security Management Service, the NHS Business Services Authority or the NHS Scotland Counter Fraud Services, which is part of the Common Services Agency); or
- (i) is removed, contingently removed or suspended from, refused admission to or conditionally included in any list held by a health service body of performers or providers of pharmaceutical services on fitness to practise grounds.

### **Fitness to practise criteria**

5.—(1) The Committee must have regard to the criteria specified in paragraph (2) or, where appropriate, (3), or, where appropriate, paragraphs (2) and (3), when deciding, in the case of any registrant, whether or not the requirements as to fitness to practise are met in relation to that registrant.

(2) In relation to evidence about the conduct or behaviour of the registrant which might cast doubt on whether the requirements as to fitness to practise are met in relation to the registrant, the Committee must have regard to whether or not that conduct or behaviour—

- (a) presents an actual or potential risk to patients or to the public;
- (b) has brought, or might bring, the profession of pharmacy into disrepute;
- (c) has breached one of the fundamental principles of the profession of pharmacy; or
- (d) shows that the integrity of the registrant can no longer be relied upon.

(3) In relation to evidence about the registrant's physical or mental health which might cast doubt on whether the requirements as to fitness to practise are met in relation to the registrant, the Committee must have regard to whether or not that evidence shows actual or potential—

- (a) self-harm; or
- (b) harm to patients or to the public.

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(4) 1995 c.46.

(5) 1992 c.5; section 115A was inserted by the Social Security Administration (Fraud) Act 1997 (c.47), section 15.