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*Pharmacists and Pharmacy
Technicians Order 2006*

A paper for consultation

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Foreword from Rt Hon Jane Kennedy MP

This document sets out proposed changes to the regulation of pharmacists throughout Great Britain and pharmacy technicians in England and Wales. To many members of the public, pharmacists and their staff are among the most accessible of all health care workers. We owe them a debt as a key and increasingly significant part of the health care regime and rely on their professionalism. The increasing responsibilities of pharmacists and pharmacy technicians require a commensurate emphasis on their professional regulation to ensure that the high regard in which pharmacists are generally held by patients and the public may be not only maintained but increased.

The proposals in the draft Pharmacists and Pharmacy Technicians Order at the end of this document are an important element in the Government's programme of reform to assure safe, high-quality care and to set in place systems to take early action when things go wrong. They are an essential step towards the modernised approach to regulation promised in *The NHS Plan*.

The Pharmacy Act of 1954 has served the profession and the public well since it was first introduced over 50 years ago but the world in which pharmacy operates has changed greatly over the past 50 years. For instance, when the 1954 Pharmacy Act first came into force, the Royal Pharmaceutical Society of Great Britain (the Society) did not require that pharmacists should be graduates. The Society was granted a new supplemental Charter by Her Majesty in 2004 and it is entirely appropriate that the 1954 Act should now also be overhauled. The provisions of section 60 of the Health Act 1999 give the opportunity for this to be carried out in a way that is less demanding of Parliamentary time than the traditional approach to amending Acts of Parliament.

Many of the tried and trusted aspects of the 1954 Act are still to be found in the draft Order. The Society will still be governed by a Council comprising professional and lay members. There will still be a Registrar appointed under legislation and an independent disciplinary committee with a legally-qualified chairman. There are, however, also some significant innovations which will enable the professions to be regulated in a way that patients and the public have a right to expect in the 21st century. The draft Order brings pharmacy technicians in England and Wales into statutory regulation for the first time. It contains proposals for updated provisions for education and training, together with an increased emphasis on, and improved capacity to address, fitness to practise issues.

The changes being heralded by this Order are neither the beginning nor the end of the reform of the professions. The Government, the Society and other key stakeholders have worked together closely on this Order, which we expect will allow the Society to strengthen its role in protecting patients and promoting high standards of pharmacy practice. It is anticipated that the spirit of mutual confidence and co-operation which has emerged during this project will be maintained as we progress towards further reform of the pharmacy professions in the future.

Our approach to the regulation of pharmacy recognises that different parts of Great Britain have different needs. The NHS in England, Scotland and Wales takes different organisational forms, has different service designs and at times addresses different needs. Government policies and the decisions of the Society's Council need to have proper regard for this diversity by consulting those affected in each part of Great Britain. Although the regulation of certain professions, such as pharmacists, is reserved to Westminster, the devolved administrations have the lead responsibility for the provision of NHS pharmaceutical services.

Our objective is to achieve the situation envisaged in the Kennedy Report where *“All professional bodies charged with responsibility for disciplining their members must constantly keep in mind that they do so on behalf of the wider public... To acquire the public's confidence and trust, these professional regulatory bodies must let the public in, to a degree not hitherto contemplated”*. Further, the bodies regulating health professions need an independence which allows them to act in the public interest.

The aim for reform for all the regulatory bodies of the health care professions is that they should be streamlined, with much greater patient and public involvement. Procedures will become faster and more transparent. The regulatory bodies will remain accountable to the respective Parliaments and will continue to work closely with each other, assisted by the Council for Healthcare Regulatory Excellence, and with the NHS. The steps we are now taking together will contribute to these goals and strengthen public confidence in professionally-led regulation.

Jane Kennedy MP

Minister of State for Delivery and Quality

Introduction

1. The Government's programme for reforming the regulation of all health care professionals was set out in *The NHS Plan – A plan for investment, a plan for reform*. The plan states that regulation must be strengthened. It specifies that regulatory bodies must change so that they:
 - are generally smaller, with much greater patient and public representation in their membership;¹
 - have faster more transparent procedures;
 - develop meaningful accountability to the public and the health service.
2. The health departments of the UK administrations and the Royal Pharmaceutical Society of Great Britain (the Society) are modernising the regulation of pharmacy practice in line with the wider reform of the regulation of the health professions. Section 60 of the Health Act 1999 permits the amendment of Acts of Parliament related to the regulation of health and social care professions by means of an Order in Council contained in a statutory instrument subject to appropriate Parliamentary procedures.
3. Schedule 3 to the Health Act 1999 outlined some of the purposes for which an Order could be used, including:
 - keeping a register of members admitted to practice;
 - education and training before and after admission to practice;
 - standards and conduct of performance;
 - discipline and fitness to practise;
 - investigation and enforcement by or on behalf of the regulatory body; and
 - appeals.
4. Section 60 Orders are designed to facilitate the strengthening of public protection through measures like those mentioned above. They are not intended to be used to strengthen the social or economic status of individual professional groups.

¹ In the Society's case there has been an increase in numbers on what was a comparatively small Council although there has been a significant increase in the number of appointed lay members.

5. Under arrangements contained in Schedule 5 to the Scotland Act 1998, matters relating to the regulation of pharmacists are reserved to the Westminster Parliament. The issue of legislating in respect of pharmacy technicians is one that is devolved, for Scotland, to the Scottish Parliament. The provisions of the Pharmacists and Pharmacy Technicians Order that relate to pharmacy technicians therefore only extend to England and Wales.
6. The Society started its programme of reform in late 2001, with a wide-ranging series of consultations and decisions on the Society's remit and functions, the composition and responsibilities of the Society's Council, and aspects of the Society's regulatory functions. The first outcome of this process was the Society's new Supplemental Royal Charter, which came into force on 7 December 2004. This replaced the earlier Royal Charter granted in 1953. The new Charter places greater emphasis on the Society's responsibility to promote and protect the health and well-being of the public through the regulation and professional leadership and development of the pharmacy profession and the regulation of other persons engaged in related activities. The 2004 Charter also updated the structure of the Society's Council. It provides for substantially increased lay membership of the Council (whilst maintaining a professional majority) and, for the first time, provides for pharmacy technicians to be elected as Council members.

Reforms proposed in this Order

7. The Pharmacy Act 1954 has served the profession well over the years but it has become clear that it is in need of significant modernisation. This is precisely the sort of situation for which section 60 of the Health Act 1999 was introduced, to create a method by which primary legislation may be overhauled without requiring the amount of Parliamentary time necessary to introduce a totally new Act. The Pharmacists and Pharmacy Technicians Order is designed to replace entirely the provisions of the Pharmacy Act 1954, which will be repealed. Clearly, if the draft Order is to be successful in this respect we need to ensure that all the vital ingredients of the 1954 Act are reflected in the draft Order and to identify any significant provisions of the 1954 Act which are in danger of being lost. There may be certain aspects of the 1954 Act where provision has now been made elsewhere so there is no need for the new Order to cover it. An example of this is the powers related to a benevolent fund in section 17 of the 1954 Act, for which provision has now been made in article 3(2) of the 2004 Supplemental Charter.

Q1. Have you identified any significant elements of the Pharmacy Act 1954 which are not reflected in the draft Pharmacists and Pharmacy Technicians Order?

8. The draft Order highlights various areas where reform has become necessary as a result of changes within the profession and the need to modernise the approach to professional regulation. The issues addressed in this draft Order may be categorised into a number of key themes:
- a clearer exposition of the Society's responsibilities in protecting the public and accountability in doing so;
 - reform of the Society's registration process, including bringing pharmacy technicians in England and Wales into statutory regulation for the first time;
 - updated provisions for education and training, including statutory requirements for Continuing Professional Development;
 - increased emphasis on, and improved capacity to address, fitness to practise issues;
 - reform of the Society's statutory committee structure;
 - consequential changes to existing primary and secondary legislation; and
 - transitional arrangements.

Each of these will be discussed in turn in the following pages.

A clearer exposition of the Society's responsibilities and accountability

9. Article 4 sets out the general duties of the Society, and for the first time expressly emphasises the Society's responsibility to protect, promote and maintain the health and safety of the public. The draft Order makes it clear that the Society is to have proper regard to the interests of people using the services of registrants and those of registrants and prospective registrants. Reference is made to the differing interests of registered pharmacists and registered pharmacy technicians.
10. It is proposed to have a formal requirement for the Society to co-operate so far as is appropriate and reasonably practicable with public authorities and other bodies, or persons, concerned with the employment of registrants, the education or training of registrants and prospective registrants or other health care professionals, the regulation of health and social care professions and with the regulation of or carrying out activities in connection with the regulation of the NHS. The Society is also required to have due regard to any differing considerations with regard to practising as pharmacists in England, Scotland or Wales or pharmacy technicians in England or Wales.
11. Article 6 contains specific provisions with regard to the preparation and publication of various reports and accounts and includes, for the first time, a requirement for the Society's annual accounts and any report on them to be laid before each House of Parliament. Article 7 provides for the Society to have six statutory committees, through which certain of its functions will be exercised, and for the Council to make rules about the way they are to be administered.

Reform of the Society's registration process

12. Article 10 of the draft Order proposes that the Society's register, currently known as the "Register of Pharmaceutical Chemists", should in future be called the "Register of Pharmacists". It is considered that the change of name will make the purpose of the register more readily recognisable to the general public. It is not envisaged that the change will give rise to any problems with regard to other legislation such as European Directives.

Q2. Do you think the change of name of the register from the "Register of Pharmaceutical Chemists" to the "Register of Pharmacists" is helpful? Can you suggest a more suitable name for the register?

13. The Government is proposing, for the first time, to introduce the statutory registration of pharmacy technicians in England and Wales. The Society introduced a voluntary register of pharmacy technicians early in 2005 but if article 21 of the draft Order comes into force the Society will establish, and its Council will have the power to make rules about, a statutory register.

Q3. Do you support the proposal to establish a statutory Register of Pharmacy Technicians for England and Wales to be maintained by the Royal Pharmaceutical Society of Great Britain? Can you suggest a more suitable arrangement for the statutory regulation of pharmacy technicians?

14. The draft Order also proposes, for the first time, that the Society's registers should be divided into two parts. Part 1 will contain details of registrants who are practising pharmacists or pharmacy technicians, and Part 2 will contain the names of those who, although wishing to continue their association with the Royal Pharmaceutical Society of Great Britain, are not practising their profession.

Q4. Do you think it is helpful for the Society's registers to be divided into two parts to distinguish between practising and non-practising pharmacists or pharmacy technicians? Is there any further division of the registers which might be appropriate?

15. There will be various consequences of the decision to register in one part of the register rather than the other. One of the most significant will be that there will be a need for those who are registered in "Part 1 – Practising" of the register to satisfy the Society that they are maintaining continuing professional development. All registrants will be required to ensure that their fitness to practise remains "unimpaired" (information on grounds for impairment can be found at paragraph 30 below) and may be required in rules to make disclosures about fitness to practise matters that arise while they are registered. A further implication is the level of retention fee that the registrant will be expected to pay. In the first instance, the Society will assume that applicants wish to be on the "Part 1 – Practising" part of the register for their profession unless they have signed a specific undertaking not to practise.
16. In addition, article 39 provides for the Society's Council to make rules concerning the requirement for those registered in "Part 1 – Practising" – of the Society's registers to undertake such continuing professional development as the Council considers appropriate. Continuing to satisfy this requirement will be a prerequisite of the registrant remaining on Part 1 of the Register of Pharmacists or Pharmacy Technicians, as the case may be.

Q5. Do you agree that it is desirable that those who are recognised as practising pharmacists or pharmacy technicians should be required regularly to demonstrate they are keeping up to date with developments? Can you suggest other, or more suitable, continuing obligations for registrants than the ones already set out in the draft Order?

17. The draft Order defines practising in article 3(2) as follows: “a person practises as a pharmacist or pharmacy technician if, whilst acting in the capacity of or holding himself /herself out as a pharmacist or as a pharmacy technician, he/she undertakes any work or gives any advice in relation to the dispensing or use of medicines, the science of medicines or the provision of health care”. Article 36 of the draft Order makes provision for the Society’s Council to make rules in connection with applications for transfer from one part of one of the Society’s registers to the other.

Q6. Do you consider the definition of practising contained in the draft Order adequate? If not, how would you suggest that the definition might be improved?

18. Article 32(4) of the draft Order provides for the certificate of registration to carry an endorsement indicating whether the registrant is on “Part 1” or “Part 2” of the appropriate register. Because of the logistics of withdrawing and reissuing many thousands of certificates in a short period of time, it is proposed not to withdraw existing certificates solely for the entry “Part 1 – practising pharmacist” to be made on them. The certificates of new registrants and replacement certificates issued for other reasons will be so endorsed as the opportunity arises. Certificates for those intending to be registered in Part 2 of their profession’s register will be withdrawn for endorsement to indicate that the holder is on “Part 2” of the register. When the new statutory Register of Pharmacy Technicians is introduced, those on the voluntary register will be able to request new certificates, but the arrangements for this will be clarified closer to the time.

Q7. Do you agree that the proposal to endorse registration certificates with the part of the register on which the registrant is entered provides an element of added public protection? Bearing in mind the penalty/sanctions contained in articles 20 (for pharmacists) and 29 (for pharmacy technicians) of the draft Order, do you agree that public protection considerations are adequately addressed and that the administrative convenience and expense arguments are justified?

19. Article 30 of the draft Order proposes a provision for the Registrar to cause to be published from time to time in such manner as the Registrar sees fit (including on-line publication) lists comprising information in, or derived from, entries in the Society's registers. It is proposed that such lists will not include information on those whose registration is, at the time of publication, suspended.

Q8. Do you consider that electronic versions of the pharmacists' and pharmacy technicians' lists which can be updated continuously are better than an annually published paper list? Can you suggest any other more accessible and economic way in which the lists could be presented?

20. It has long been good practice, and a requirement of the Society's Code of Ethics, for practitioners to have professional indemnity arrangements. However, article 38 of the draft Order proposes, for the first time, that a registrant whose name is entered on "Part 1" of either register must have in force in relation to him or her an adequate and appropriate indemnity arrangement. The arrangement must provide cover in respect of liabilities incurred in carrying out work as a pharmacist or pharmacy technician, as appropriate. There are various such arrangements available and it is not proposed to prescribe in legislation a single form of cover. It will be for the Society's Council to make rules concerning what represents an "adequate and appropriate indemnity arrangement". If a registrant fails to make adequate provision for such an indemnity, or to provide necessary information about the arrangement, the Registrar may remove his or her name from the register or consider whether to refer the matter to the appropriate fitness to practise committee. Although this measure does not ensure that pharmacists and pharmacy technicians will never make unfortunate mistakes, which lead to harm to patients, it does at least mean that if the patient, or a representative, seeks redress in such situations, then there should be funding available to cover any court judgment. This provision is in line with legislation which has recently been, or soon will be, introduced for all other regulated health professionals.
21. Opportunity is being taken in the draft Order to propose an update of the information that the Registrar may request of registrants with regard to the entry of their name in the register. Articles 17 (for pharmacists) and 28 (for pharmacy technicians) of the draft Order propose that information required in respect of an applicant for registration should include the name under which he or she practises (or, in the case of a person entered on Part 2 of one of the Society's registers and not intending to practise, the name by which they are generally known). Article 33 of the draft Order also proposes that the registrant should notify the Registrar of his or her home address and of any changes to it. It is proposed in article 30(3)(c), however, that details of the registrant's home address beyond the city, town or district in which

they live should not be published without his or her consent. This should facilitate the maintenance of contact with the registrant and be of particular value when there is important correspondence to be sent.

Q9. Do you support the proposals for the collection of additional information by the Registrar contained in the draft Order? Do you think there is any other information which the Registrar could usefully collect as part of the registration process?

22. Article 19 of the draft Order links statutory registration as a pharmacist with membership of the Society, tying in with article 5 of the Society's 2004 Royal Charter, and clarifies that a suspended pharmacist cannot be a member. As has already been indicated in paragraph 4 above, the main aim of this section 60 Order is to enhance public protection. It has been argued that the membership/registration link, currently in the Pharmacy Act, does not contribute towards that aim. Respondents' views are sought, therefore, on whether the proposed article should be deleted. An amendment to the Charter would also be required to break the link completely.

Q10. Do you think the link between registration as a pharmacist and membership of the Society should be removed from the draft Order?

Updated provisions for education and training, including statutory requirements for Continuing Professional Development

23. Articles 11(1)(a)(i) (for pharmacists) and 22(1)(a)(i) (for pharmacy technicians) require a person wishing to be registered to satisfy the Registrar that he or she is appropriately qualified. Articles 12 (for pharmacists) and 23 (for pharmacy technicians) outline the possible routes to this qualification.
24. Articles 11(1)(a)(iii) (for pharmacists) and 22(1)(a)(iii) (for pharmacy technicians) require that applicants, where necessary, shall also have satisfied the Registrar that they have met such requirements as to additional education, training or experience as are appropriate to their case. Articles 13 (for pharmacists) and 24 (for pharmacy technicians) provide for the Society to have the general function of promoting high standards of education for pharmacists, pharmacy technicians and prospective members of those professions. The function relates to all aspects of education – undergraduate, preregistration and post-registration education, including specialisation. It also relates to the education and training for persons seeking restoration to one, or both, of the Society's registers. The draft Order details the Society's particular responsibilities in pursuit of its general function of promoting high educational standards.

25. Articles 14 (for pharmacists) and 25 (for pharmacy technicians) call for the Society to determine the nature of the knowledge and skills required for a person to be considered “appropriately qualified” for the purposes of articles 12(1) (for pharmacists) and 23(1) (for pharmacy technicians) of the draft Order, although they are required to act in a manner that is consistent with harmonising legislation on professional qualifications set at a European level. It has been suggested that the preregistration requirements should be extended explicitly to embrace, in addition, the consideration of “attitudes and behaviours”. It would be helpful to hear any views that those to whom this consultation document is addressed might have on this suggestion, although in practice there is only limited scope for elaborating, in domestic legislation, upon the framework set in the relevant European legislation.

Q11. Do you think an express legislative reference to consideration of “attitudes and behaviours” as part of the process of determining whether an applicant is “appropriately qualified” would be helpful? How would you consider these attitudes and behaviours could best be assessed?

Increased emphasis on, and improved capacity to address, fitness to practise issues

26. In line with the process being undertaken by all other health and social care regulators, the opportunity is being taken with this draft Order to propose a comprehensive update of the fitness to practise provisions for pharmacists and pharmacy technicians. The previous requirement for a registrant to be of “good character” has been retained within the broader concept of their remaining fit to practise.

Q12. Do you agree that the emphasis in the draft Order on ensuring that a registrant’s fitness to practise remains unimpaired strengthens the public protection function of the Society? Can you suggest a more effective way of fulfilling this objective?

27. The Society’s Council is required, under article 45 of the draft Order, to prepare and from time to time publish guidance on the standards of conduct, practice and performance expected of registrants and to keep that guidance under review. Proposals to issue, vary or withdraw such guidance will be subject to the requirement to consult registrants. The draft Order also proposes powers for authorised representatives of the Society, in respect of the fitness to practise of a registrant, to require a registrant (except the one about whom the information or document is being sought) or any other person in the relevant jurisdiction who is able to supply relevant information

or documentation to provide it. The constraints on the disclosure of information in these circumstances are set out in article 46 of the draft Order.

Q13. Do you support the proposal to extend the powers of the Society to collect information from other people related to the fitness to practise of its registrants? Are there any further powers you feel the Society should have in respect of fitness to practise issues?

28. In connection with the legitimate requests for information or documents referred to in the paragraph above, the draft Order proposes that where the material requested has not been supplied within 14 days, the Society may seek a court order for it to be supplied.

Q14. Do you think that reference to a court in these circumstances is the most appropriate approach? Do you agree that 14 days is an appropriate time limit to trigger action?

29. It is proposed in the draft Order that the Society will be authorised (under powers provided in article 47) to disclose to any person any information relating to a registrant's fitness to practise, including historical information, where it appears to be in the public interest for the information to be disclosed. A decision could be taken to release information of a particular type, whenever the matter arose, rather than balancing the public interest in each individual case where the matter arose.

Q15. Do you support the proposal to extend the powers of the Society to share information on a registrant's fitness to practise where they feel it is in the public interest to do so? If not, how else might public interest and protection considerations be satisfactorily addressed?

30. The proposed grounds on which a person's fitness to practise may be regarded as impaired are specified in detail in article 48 of the draft Order. These include: misconduct; deficient professional performance; adverse mental or physical health; failure to comply with a reasonable requirement imposed by an assessment team; a criminal conviction in the United Kingdom, the Channel Islands or the Isle of Man, or a conviction elsewhere that would have constituted a criminal offence if committed in England or Wales; and a determination of impaired fitness to practise made by any UK health or social care regulatory body or any regulatory body elsewhere.

Q16. Apart from the criteria proposed in article 48 of the draft Order, can you suggest any other grounds on which a registrant's fitness to practise may be adjudged to be impaired?

31. The draft Order proposes, where an allegation of impaired fitness to practise is received in respect of a registrant, or where the Society has information that calls a registrant's fitness to practise into question, that the Registrar should refer the matter to the Investigating Committee. In certain prescribed circumstances, however, the matter may be referred directly to the Society's Disciplinary or Health Committee and that committee may be asked to consider making an interim order.

Q17. Do you support the proposal that the Registrar should be able to refer cases directly to the Health Committee or Disciplinary Committee and ask the committee to consider the issue of an interim order where circumstances dictate the need for such action?

32. The Council is also to be given powers to provide in rules for professional performance assessments to be carried out by assessment teams. Generally, these assessments will be carried out under the direction of the Registrar or a fitness to practise committee.

Reform of the Society's statutory committee structure

33. The Pharmacists (Fitness to Practise) Act 1997 was intended to allow the Society to introduce procedures for dealing with allegations that a pharmacist's fitness to practise is impaired for health reasons. This Act received Royal Assent in March 1997 but was never formally brought into force by a commencement order. It is proposed in Schedule 1 to the draft Order that this Act should be repealed in its entirety. Given the progress made recently with regard to health care regulation in general and fitness to practise issues in particular, it would be desirable to await the proposals in the current draft Order. This seems preferable to commencing the 1997 Act and a whole raft of new rules for the Society, only for them to be replaced a matter of months later by revised arrangements and new rules.
34. This draft Order proposes to replace the current Statutory Committee with a series of statutory committees – the Continuing Professional Development Committee, the Disciplinary Committee, the Education Committee, the Health Committee, the Investigating Committee and the Registration Appeals Committee.

Q18. Do you support the proposal to replace the current Statutory Committee with the group of new statutory committees? Do you think the right titles have been selected for the new committees? Do you think there is a need for any further statutory committees and, if so, what are your reasons for thinking this?

35. The draft Order proposes the establishment of the Education Committee as a statutory committee for the first time. In the past, the powers of the Society with regard to education have been derived from both the Charter and the Pharmacy Act 1954. It has not always been easy to identify the location of the power behind any particular education byelaw. Education is undoubtedly a key regulatory function alongside registration, fitness to practise and standards. The opportunity is being taken in the current draft Order to underline the importance of education as a regulatory tool and to resolve the previous uncertainty. The draft Order provides the opportunity to update the provisions for education of pharmacists and contains clearer and more comprehensive statutory education functions for the Society than have ever been provided before, for example in articles 31 (specialisations) and 39 (continuing professional development) of the draft Order. It will be for the Society's Council, by rules set out in Statutory Instruments, to determine precisely what the role of the statutory Education Committee will be. These rules will be subject to their own consultation exercise.

Q19. Do you support the proposal to make the Education Committee one of the Society's statutory committees? Do you agree that this will clarify the previous uncertainty about the precise derivation of the Society's education powers?

36. The Society currently has a fundamental difficulty in so far as it does not have a statutory Health Committee. Where a health case arises, it has to be brought before the Statutory Committee. Where the allegation is not sufficiently serious to merit removal from the register, the Statutory Committee endeavours to adopt a rehabilitative approach and to avoid removing the pharmacist's name from the register (which it cannot currently order on purely health grounds) if he or she complies with certain undertakings given to the Committee. In such situations, the Statutory Committee adjourns the case for a specified period. It then considers the case again at the end of that period, or sooner if further adverse information is received about the registrant. The undertakings provided by the pharmacist can, however, only be given on a voluntary and consensual basis and difficulties can, therefore, arise. There is no power for the Statutory Committee to impose the undertakings on pharmacists and if a pharmacist defaults the Statutory Committee has no specific power to charge him or her with a breach of the undertaking.

37. There is also a problem with pharmacy technicians. The Statutory Committee currently has no statutory authority to consider cases involving pharmacy technicians on the Society's voluntary register. As an interim measure, pharmacy technicians applying for entry to the Society's voluntary register have been required to sign an undertaking that, if they are alleged to have committed misconduct or to be unfit to practise, they will consent to being investigated by the Society's Council or a Committee of the Council and to its adjudication. Now that pharmacy technicians are being brought into statutory regulation in England and Wales, there is a need to establish statutory structures and procedures that can deal with concerns about a pharmacist's or a pharmacy technician's fitness to practise. It is proposed that the Society will have one set of statutory committees which will be responsible for dealing with cases in respect of both pharmacists and pharmacy technicians.
38. The current Statutory Committee lacks powers to impose conditions on a person's registration or to suspend their registration for a limited period. The proposal in the draft Order to introduce separate Health and Disciplinary Committees with these powers should help overcome some of the problems inherent in the current arrangements. The draft Order also proposes that the Disciplinary Committee should adopt the responsibilities formerly laid on the Statutory Committee under Part IV of the Medicines Act 1968 with regard, for instance, to bodies corporate and to the registration of pharmacy premises.
39. Under arrangements proposed in the draft Order, it will be for the Investigating Committee to decide whether an allegation, or information the Society has decided to treat as an allegation, should be referred to the Disciplinary Committee or Health Committee and, if necessary, to ask the appropriate committee to consider making an interim order. It will also be for the Investigating Committee to decide, in cases where the Society has statutory enforcement powers or duties, whether it would be appropriate to advise the Society to consider pursuing a prosecution. Where a decision is taken not to refer a matter to either the Disciplinary or Health Committee, the Investigating Committee will be able to issue a warning to the registrant and annotate the register accordingly, to give advice to complainants, patients and other agencies, or to order that no action be taken.
40. The Continuing Professional Development (CPD) Committee does not have its own particular article within the draft Order. There are, however, various references to the CPD Committee in the draft Order – notably articles 7(4)(b), 36(1)(c), 39(2)(b)–(d), 41(2)(c), 43(4)(d), 44(3)(d) and 55(3)(c). The functions of the CPD Committee proposed in the draft Order include determining any CPD requirements for registrants moving from “Part 2 – Non-practising” to “Part 1 – Practising” of the appropriate register and determining whether a person should be removed from the

register for a breach of CPD requirements. In addition, the CPD Committee would be responsible for determining whether a registrant should be suspended from the register pending the outcome of an appeal against a decision to remove them from the register. Similarly, the CPD Committee would need to determine the CPD requirements of anybody seeking restoration to the register following removal for fitness to practise or for other reasons. Details of the CPD Committee's functions would be set out in rules made by the Council.

Q20. Do you agree that the functions proposed for the Continuing Professional Development Committee are appropriate? Can you suggest any other functions that the CPD Committee might reasonably fulfil?

41. Under present arrangements, appeals against a decision of the Statutory Committee are to the High Court. The draft Order introduces a Registration Appeals Committee, which will provide an important additional stage in the appeals process against appealable registration decisions. Appeals against the Registration Appeals Committee's decisions would be to the County Court (or the Sheriff). Appeals against appealable fitness to practise decisions will continue to be to the High Court (or Court of Session).

Q21. Do you think that the proposal to have a Registration Appeals Committee is sensible? Do you think it will provide a more efficient route to resolving most appeals or slow down the whole process of securing a just resolution of outstanding registration issues?

Consequential changes to existing primary and secondary legislation

42. Part 1 of Schedule 1 to the draft Order contains provision for the repeal of the Pharmacy Act 1954 in its entirety and consequential amendments, within the bounds permitted by section 60 of the Health Act 1999, to the Medicines Act 1968, the Poisons Act 1972, the National Health Service Act 1977, the National Health Service (Scotland) Act 1978 and other primary legislation. Part 2 contains amendments to secondary legislation arising from the provisions of the draft Order.

Transitional arrangements

43. With regard to transitional arrangements, Schedule 2 to the draft Order makes provisions related to various issues which may be outstanding on the “appointed day” for the coming into force of articles 10 (for pharmacists) and 21 (for pharmacy technicians in England and Wales) of the draft Order (which establish the new statutory registers):

Part 1 of the Schedule contains provisions for the continuation, for specific purposes and for a limited period, of the Infringements Committee and the Statutory Committee.

Part 2 relates to provisions in respect of the transfer of names from the Society’s voluntary register of pharmacy technicians to the statutory Register of Pharmacy Technicians and for the registration of pharmacy technicians who, although not on the voluntary register, satisfy certain specified criteria.

Part 3 provides for outstanding applications for registration or restoration, which have been referred to the Statutory Committee but in which no direction has been made, to be referred to the Registrar for disposal in accordance with rules under Part 2 of the draft Order. It also provides for the handling of outstanding appeals to the Society’s Council and to relevant courts.

Part 4 relates to the disposal of outstanding fitness to practise cases still under consideration by old committees under former arrangements.

Part 5 provides for the transfer of outstanding responsibilities under Part IV of the Medicines Act 1968 from the Statutory Committee to the Disciplinary Committee although the Statutory Committee will finish off the cases already before it.

Q22. Is there anything else about the contents of the draft Order on which you would specifically like to comment?

Summary of Consultation Questions

- Q1.** Have you identified any significant elements of the Pharmacy Act 1954 which are not reflected in the draft Pharmacists and Pharmacy Technicians Order?
- Q2.** Do you think the change of name of the register from the “Register of Pharmaceutical Chemists” to the “Register of Pharmacists” is helpful? Can you suggest a more suitable name for the register?
- Q3.** Do you support the proposal to establish a statutory Register of Pharmacy Technicians for England and Wales to be maintained by the Royal Pharmaceutical Society of Great Britain? Can you suggest a more suitable arrangement for the statutory regulation of pharmacy technicians?
- Q4.** Do you think it is helpful for the Society’s registers to be divided into two parts to distinguish between practising and non-practising pharmacists or pharmacy technicians? Is there any further division of the registers which might be appropriate?
- Q5.** Do you agree that it is desirable that those who are recognised as practising pharmacists or pharmacy technicians should be required regularly to demonstrate they are keeping up to date with developments? Can you suggest other, or more suitable, continuing obligations for registrants than the ones already set out in the draft Order?
- Q6.** Do you consider the definition of practising contained in the draft Order adequate? If not, how would you suggest that the definition might be improved?
- Q7.** Do you agree that the proposal to endorse registration certificates with the part of the register on which the registrant is entered provides an element of added public protection? Bearing in mind the penalty/sanctions contained in articles 20 (for pharmacists) and 29 (for pharmacy technicians) of the draft Order, do you agree that public protection considerations are adequately addressed and that the administrative convenience and expense arguments are justified?
- Q8.** Do you consider that electronic versions of the pharmacists’ and pharmacy technicians’ lists which can be updated continuously are better than an annually published paper list? Can you suggest any other more accessible and economic way in which the lists could be presented?

- Q9.** Do you support the proposals for the collection of additional information by the Registrar contained in the draft Order? Do you think there is any other information which the Registrar could usefully collect as part of the registration process?
- Q10.** Do you think the link between registration as a pharmacist and membership of the Society should be removed from the draft Order?
- Q11.** Do you think an express legislative reference to consideration of “attitudes and behaviours” as part of the process of determining whether an applicant is “appropriately qualified” would be helpful? How would you consider these attitudes and behaviours could best be assessed?
- Q12.** Do you agree that the emphasis in the draft Order on ensuring that a registrant’s fitness to practise remains unimpaired strengthens the public protection function of the Society? Can you suggest a more effective way of fulfilling this objective?
- Q13.** Do you support the proposal to extend the powers of the Society to collect information from other people related to the fitness to practise of its registrants? Are there any further powers you feel the Society should have in respect of fitness to practise issues?
- Q14.** Do you think that reference to a court in these circumstances is the most appropriate approach? Do you agree that 14 days is an appropriate time limit to trigger action?
- Q15.** Do you support the proposal to extend the powers of the Society to share information on a registrant’s fitness to practise where they feel it is in the public interest to do so? If not, how else might public interest and protection considerations be satisfactorily addressed?
- Q16.** Apart from the criteria proposed in article 48 of the draft Order, can you suggest any other grounds on which a registrant’s fitness to practise may be adjudged to be impaired?
- Q17.** Do you support the proposal that the Registrar should be able to refer cases directly to the Health Committee or Disciplinary Committee and ask the committee to consider the issue of an interim order where circumstances dictate the need for such action?

- Q18.** Do you support the proposal to replace the current Statutory Committee with the group of new statutory committees? Do you think the right titles have been selected for the new committees? Do you think there is a need for any further statutory committees and, if so, what are your reasons for thinking this?
- Q19.** Do you support the proposal to make the Education Committee one of the Society's statutory committees? Do you agree that this will clarify the previous uncertainty about the precise derivation of the Society's education powers?
- Q20.** Do you agree that the functions proposed for the Continuing Professional Development Committee are appropriate? Can you suggest any other functions that the CPD Committee might reasonably fulfil?
- Q21.** Do you think that the proposal to have a Registration Appeals Committee is sensible? Do you think it will provide a more efficient route to resolving most appeals or slow down the whole process of securing a just resolution of outstanding registration issues?
- Q22.** Is there anything else about the contents of the draft Order on which you would specifically like to comment?

Consultation and next steps

44. This consultation document and draft Order are published in compliance with paragraph 9 of Schedule 3 to the Health Act 1999. Following consultation, the Secretary of State may wish to make amendments to the draft Order before it is laid before Parliament with a report on the consultation. The Order is subject to the affirmative procedures, under which it must be the subject of debates in both Houses of Parliament. Subject to the approval of both Houses, the draft Order will be presented to Her Majesty in Council for the draft Order to be made.
45. Individuals and organisations are invited to submit comments to the Department of Health on any of the issues dealt with in the draft Order. The Secretary of State for Health is consulting GB-wide. However, you may wish to copy your comments additionally to the devolved administrations.
46. Your comments are requested by 19 June 2006. You are invited to submit your comments by email to P&PTO2006@dh.gsi.gov.uk or in writing to:

Pharmacists and Pharmacy Technicians Order Consultation
Department of Health
Room 2N35B
Quarry House
Quarry Hill
Leeds LS2 7UE
Tel: 0113 254 6918
Fax: 0113 254 5286
Email: P&PTO2006@dh.gsi.gov.uk

47. Attachments to emails should be in Microsoft Word or rich text format only please.
48. Please indicate whether you are replying as an individual or on behalf of an organisation or group of people. Your response may be made public, but if you would prefer it to remain private please make this clear in your reply.
49. The proposed legislation will extend to the whole of Great Britain except for the regulation of pharmacy technicians. If you wish to copy your responses to the devolved administrations, their addresses are:

Scotland

Veronica Moffat
Regulatory Unit
Learning, Development and Careers Division
Human Resources Directorate
Scottish Executive Health Department
Ground Floor Rear
St Andrew's House
Regent Road
Edinburgh EH1 3DG
Tel: 0131 244 1712
Email: veronica.moffat@scotland.gsi.gov.uk

Wales

Mary Gilbert
National Assembly for Wales Health Department
Cathays Park
Cardiff CF10 3NQ
Tel: 029 2082 3919
Email: mary.gilbert@wales.gsi.gov.uk

Northern Ireland

Joyce Cairns
Northern Ireland Executive Department of Health, Social Services and Public Safety
Room D216
Castle Buildings
Stormont Estate
Belfast BT4 3PP
Tel: 028 9052 0668
Email: joyce.cairns@dhsspsni.gov.uk

50. This document is available on the Department of Health website:
<http://www.dh.gov.uk/Consultations/LiveConsultations/fs/en>

Commentary on the draft Order

The draft Order contains 68 articles and two Schedules and has been prepared in seven parts as follows:

1. Preliminary
 2. Registration of Pharmacists
 3. Registration of pharmacy technicians
 4. Matters common to both of the Society's Registers
 5. Fitness to Practise
 6. Proceedings
 7. Miscellaneous
- Schedule 1 Amendments, Repeals and Revocations
- Schedule 2 Transitional Provisions

1. Preliminary

Article 1 provides for how the draft Order should be referred to and how and where it is to come into force.

Article 2 relates to the extent of the draft Order. The general rule is that the requirements relating to pharmacists extend to the whole of Great Britain and the requirements relating to pharmacy technicians extend to England and Wales. However, where amendments are made to other legislation, the extent of the amendment is the same as the extent of the legislation being amended.

Article 3 provides the interpretation for various terms used in the draft Order.

Article 4 outlines the main purpose and general duties of the Society. The Society is required to have proper regard to the interests of people using or needing the services of registrants in Great Britain, and of registrants and prospective registrants whether they be pharmacists or pharmacy technicians. It also provides for the Society to have a duty to cooperate, in so far as is appropriate and reasonably practicable, with public bodies, other authorities or persons with regard to the employment of registrants, the education or

training of registrants or prospective registrants or other health care professionals, the regulation of health and social care professions and with the regulation of or carrying out activities in connection with the regulation of the NHS.

Article 5 provides for the total membership of the Royal Pharmaceutical Society of Great Britain Council not to exceed 35, with registered pharmacists forming the majority of the Council members. It provides for the Privy Council to vary the size and composition of the Council, subject to the previously mentioned constraints. It requires that at least one of the lay members appointed to the Council should live or work wholly or mainly in each of England, Scotland and Wales. It provides for the Privy Council to enter into an arrangement with an appointment authority to exercise the Privy Council's function to make appointments to the Society's Council. Article 5(5) provides for the establishment, and publication, for the first time, of a register of Council members' interests.

Article 6 provides for the Council's duties in respect of publication, including the publication at least once every calendar year of a report to the Privy Council on statistics, describing the arrangements the Society has in place to protect the public from persons whose fitness to practise is impaired. In addition, the Council is required to submit to the Privy Council a report on the exercise of its functions and an annual report on its duly audited finances.

Article 7 provides for the Society's six statutory committees (committees for Continuing Professional Development, Discipline, Education, Health, Investigating, and Registration Appeals) and for the Council to make rules concerning their size, composition, quora, procedures and functions.

Article 8 provides for the payment to Council members, the members of statutory committees and advisers to committees of such remuneration and allowances as the Council shall reasonably determine.

Article 9 provides for the appointment of a Registrar and any Deputy Registrar. It provides for the payment of such remuneration, allowances, pension or gratuities as the Council determines to the Registrar or any Deputy Registrar. It provides a power for the Council to terminate the appointment of the Registrar or Deputy Registrar and for the Registrar to authorise a Deputy Registrar or any employee of the Society to act for him or her in any matter.

2. Registration of pharmacists

Article 10 provides for the maintenance of a Register of Pharmacists. The register, currently called the “Register of Pharmaceutical Chemists”, is in future to be called the “Register of Pharmacists”. The Register is in future to be divided into two parts – “Part 1 – Practising pharmacists” and “Part 2 – Non-practising pharmacists”.

Article 11 provides for entitlement to registration in the Register of Pharmacists. It provides for a registrant to be entered into “Part 1 – Practising” of the register unless he or she has given a written undertaking to the Society, in the prescribed form, not to practise. The article also makes provision for an applicant for registration in the Society’s Register of Pharmacists who holds a European Economic Area State pharmacy qualification and is entered on the Register of Pharmaceutical Chemists for Northern Ireland to be regarded as appropriately qualified.

Article 12 provides for preregistration requirements for pharmacists in respect of qualifications and additional education, training or experience, which may be regarded as making a candidate “appropriately qualified” for registration in the Society’s Register of Pharmacists.

Article 13 provides for the Society to have a general function of promoting high standards of education and training for pharmacists and prospective pharmacists and of overseeing all stages of their education and training. The article also provides details of the areas that the Society will need to address with regard to fulfilling that function.

Article 14 details the Society’s specific obligations for determining, for pharmacists, the nature of the knowledge and skills required to satisfy the Registrar that he or she is appropriately qualified. It also provides, amongst other matters, for the Society’s role to include the approval of qualifications and providers, the accreditation of degree courses for prospective pharmacists, determining assessment arrangements for postgraduate education and training, and the education, training and experience requirements in respect of specialisations which are the subject of annotations.

Article 15 details the Society’s specific powers in respect of education, training and the acquisition of experience required of pharmacists and prospective pharmacists. Its provisions include the approval of premises for postgraduate education, the approval of certain qualifications and the approval of providers of particular types of additional education, training, experience or continuing professional development both pre and post-registration. It also provides for the Society to appoint people to carry out assessments, to determine timescales for assessments, the maximum number of attempts permissible and the fees chargeable.

Article 16 provides for the Society to enter into an arrangement with another body to assist the Society in fulfilling its functions under articles 14 and 15 with regard to the education, training and acquisition of experience of pharmacists and prospective pharmacists. It provides in certain circumstances for approvals or accreditations to relate to the provision of only part of the education or training needed for an approved or accredited course or programme. The article also provides for the Society to make rules related to its obligations and powers in relation to its education functions.

Article 17 provides for the Council to make rules governing the form, manner and content of applications for registration in the Society's Register of Pharmacists. It provides for information to be supplied in respect of the applicant to include the name under which he or she practises (or in the case of a person not intending to practise, the name by which they are generally known) and their home address. It also provides for the Council to require the provision of information for determining whether the applicant's fitness to practise is impaired. The article also outlines the circumstances in which the Registrar may refuse to register a person who fails to comply with the rules which have been made. It further outlines the evidence, with regard to fitness to practise, that the Registrar shall accept as "sufficient" in the case of application from an exempt person (i.e. a person with free movement rights) for inclusion in the Society's Register of Pharmacists.

Article 18 provides for the Registrar to notify those seeking registration as a pharmacist, within the specified period of time, of the outcome of their application together with any right of appeal. It also provides a definition of "the specified period".

Article 19 provides for registered pharmacists, while they remain registered pharmacists, to be members of the Society unless their registration has been suspended.

Article 20 provides a description of the circumstances in which a person commits an offence by the false use of a restricted title and specifies the maximum penalty for such an offence. It also provides for the maximum penalty on summary conviction which a non-practising pharmacist shall incur if he or she practises as a pharmacist whilst registered on the "Part 2 – Non-practising" part of the Register of Pharmacists, and contains offences relating to the fraudulent use of certificates.

3. Registration of pharmacy technicians

Article 21 provides for the establishment as regards England and Wales of, and power to make rules concerning, a Register of Pharmacy Technicians which is also to be divided into two parts – "Part 1 – Practising pharmacy technicians" and "Part 2 – Non-practising pharmacy technicians".

Article 22 provides for entitlement to registration in the Society's Register of Pharmacy Technicians. It provides for a registrant to be entered into "Part 1 – Practising" of the register unless he or she has given a written undertaking to the Society, in the prescribed form, not to practise. It also outlines the circumstances in which a person who is, or has been in the previous four years, a registered pharmacist and applies for registration as a pharmacy technician may be regarded as appropriately qualified and as having met the requirements for additional education, training or experience appropriate to his or her case.

Article 23 provides for preregistration requirements for pharmacy technicians in respect of qualifications and additional education, training or experience, which may be regarded as making a candidate "appropriately qualified" for registration in the Society's Register of Pharmacy Technicians.

Article 24 provides for the Society to have a general function of promoting high standards of education and training for pharmacy technicians and prospective pharmacy technicians and of overseeing all stages of the education and training of pharmacy technicians and prospective pharmacy technicians in England and Wales. The article also provides details of the areas that the Society will need to address with regard to fulfilling that function.

Article 25 details the Society's specific obligations for determining, for pharmacy technicians, the nature of the knowledge and skills required to satisfy the Registrar that he or she is appropriately qualified. It also provides, amongst other matters, for the Society's role to include the approval of qualifications, deciding the arrangements for determining that an adequate level of understanding has been achieved for a person to practise as a pharmacy technician, and the education, training and experience requirements in respect of specialisations which are the subject of annotations.

Article 26 details the Society's specific powers in respect of education, training and the acquisition of experience required of pharmacy technicians and prospective pharmacy technicians. Its provisions include the approval of premises for post-registration education, the approval of certain qualifications and the approval of providers of particular types of education, training, experience or continuing professional development both pre and post-registration. It also provides for the Society to appoint examiners, to determine timescales for assessments, the maximum number of attempts permissible and the fees chargeable.

Article 27 provides for the Society to enter into an arrangement with another body to assist the Society in fulfilling its functions under articles 25 and 26 with regard to the education, training and acquisition of experience of pharmacy technicians and prospective pharmacy technicians. It provides in certain circumstances for these approvals or accreditations to relate to the provision of only part of the education or training needed for an approved or accredited course or programme. The article also provides for the Society to make rules related to its obligations and powers in relation to its education functions.

Article 28 provides for the Council to make rules governing the form, manner and content of applications for registration in the Society's Register of Pharmacy Technicians. It provides for information to be supplied in respect of the applicant to include the name under which he or she practises (or in the case of a person not intending to practise, the name by which they are generally known) and their home address. It also provides for the Council to require the provision of information for determining whether the applicant's fitness to practise is impaired. The article also outlines the circumstances in which the Registrar may refuse to register a person who fails to comply with the rules which have been made.

Article 29 provides a description of the circumstances in which a person commits an offence by the false use of a restricted title and specifies the maximum penalty for such an offence. It also provides for the maximum penalty on summary conviction which a non-practising pharmacy technician shall incur if he or she practises as a pharmacy technician whilst registered on the "Part 2 – Non-practising" part of the Register of Pharmacy Technicians, and contains offences relating to the fraudulent use of certificates.

4. Matters common to both of the Society's Registers

Article 30 provides for the Council to make such rules as it considers appropriate in connection with the Society's registers. These are to include the form and keeping of the registers, the making of entries, and provisions for alterations and corrections. The rules may also address the issue of people using more than one name, the recording of addresses (including the home address), the recording of titles, qualifications and specialisations (in Welsh where appropriate), the recording of matters related to continuing professional development and of matters related to fitness to practise. It requires the Registrar to publish from time to time (electronically or otherwise) lists comprising information in or derived from entries in the Society's registers but to omit from those lists those who are, for the time being, suspended from the register(s). The Council will be required to determine the form and manner of publication of the lists and the information the lists are to contain. The list may include which part of the appropriate register a person is on, their registration number, the area in which they live and contact details (but not a person's home address without their consent). In addition, there may be a note on any fitness to practise matters (including any conditions to which a person's registration is currently subject and any warnings concerning future conduct or performance), and a note on any specialisations which are the subject of annotations in the register.

Article 31 provides for the Council to make such rules as it considers appropriate in connection with annotations in the register to denote specialisations. In particular, the Council may make provision with regard to the types of specialisations to be subject to annotations and the form in which applications for entering annotations are to be made.

The Council may also make provision for the education, training or experience required in respect of specialisations before an annotation will be made and the circumstances in which annotations are to be entered, retained or removed by the Registrar.

Article 32 provides for the issue of a certificate of registration and the circumstances in which a replacement certificate may be issued. It provides for the certificate to stipulate in which part of the register its holder is registered. It also provides for the Council to make rules concerning the return of certificates of registration.

Article 33 provides for the Council to make rules in connection with the information to be provided by registrants with regard to their entries in the register. This includes their obligation to inform the Registrar of the name under which they practise, or if they do not practise the name by which they are generally known, and any changes to that name, together with their home address and any changes to that. The article provides for the procedure to be followed by the Registrar where a registrant fails to respond to notices addressed to him or her, culminating, in certain circumstances, with the removal of the person from the register.

Article 34 provides that the Registrar shall keep the Society's registers correct. In so doing, he or she shall remove from the Society's registers the name of any registrant who has died and shall make such alterations as are necessary to the particulars of any registrant's entry. The Registrar General is required to notify the Society whenever he or she registers the death of any pharmacist or pharmacy technician. The article provides a power for the Registrar to remove from the register any person's entry that has been fraudulently procured or incorrectly made, and for the Council to make such provisions in rules concerning determinations by the Registrar in these circumstances as it considers appropriate.

Article 35 provides the power for the Registrar to remove a registrant from the Society's register(s) where it is demonstrated, to the Registrar's satisfaction, that the registrant's fitness to practise was impaired at the time of registration because of their involvement in a serious matter or a problem with his or her physical or mental health which had not been mentioned prior to registration. The article also provides for the Council to make rules concerning the information to be provided to the Registrar by, or in respect of, the registrant for the purpose of determining whether his or her fitness to practise was impaired at the time of registration.

Article 36 provides a power for the Council to make rules in connection with applications for moving from one part of the Society's registers to the other, as it considers appropriate. In particular, it provides for the Council to specify the form and manner in which applications are to be made, the information to be provided by the applicant and any additional education or training requirements attached to a move from the "Part 2 – Non-practising" to the "Part 1 – Practising" part of the register. It also provides for the consideration of fitness to practise

matters and requires the Registrar, where appropriate, to notify the registrant of the reasons for refusal to grant their application for a move from one part of one of the Society's registers to the other, together with any right of appeal to the Registration Appeals Committee.

Article 37 provides a power for the Council to make rules in connection with applications for voluntary removal from one of the Society's registers, as it considers appropriate. In particular, it provides for the Council to specify the form and manner in which applications are to be made, the information to be provided by the applicant and for the consideration of fitness to practise matters. It also requires the Registrar, where appropriate, to notify the registrant of the reasons for refusal to grant their application for voluntary removal from one of the Society's registers.

Article 38 provides that a registrant whose name is entered in the "Part 1 – Practising" part of the Society's register(s) must have in force in relation to him or her an adequate and appropriate indemnity arrangement which provides cover in respect of liabilities incurred in carrying out work as a pharmacist or pharmacy technician. It provides that an indemnity arrangement may comprise a policy of insurance, an arrangement made for the purposes of indemnifying a person or a combination of the two. The Council is given a power to make rules about what is an "adequate and appropriate indemnity arrangement". The draft Order provides for the Council to make rules in connection with the information to be provided about a registrant's indemnity arrangement. If a registrant fails to comply with rules the Council has made concerning indemnity arrangements, the Registrar may remove his or her name from the register or consider whether to refer the matter to the appropriate fitness to practise committee.

Article 39 requires the Council to make rules in connection with registrants on "Part 1 – Practising" of the Society's register(s) undertaking such continuing professional development as it considers appropriate. It provides that rules shall be made with regard to the additional education and training necessary for registrants who have been restored to the register and the amount and type of continuing professional development that a registrant is required to undertake. In addition, the rules should cover the information to be provided by the registrant in respect of the continuing professional development they have undertaken and the form and manner in which that information is provided. Provision is also made for the Society's Council to make rules related to the removal by the Continuing Professional Development (CPD) Committee of registrants from the Society's register(s), or other such remedial measures as may be prescribed, for breaches of CPD rules. In the event of an appeal against a decision to remove a registrant from the register, their registration may be suspended pending the outcome of the appeal.

Article 40 provides for the Council to make rules in relation to the fees to be charged in connection with registration, e.g. for registration, retention, entry or retention of annotations, transfer to another part of the register or for voluntary removal from the Society's register(s). It provides for fees not to be charged or to be waived, in whole or in part, in prescribed circumstances. The article also provides for the removal of a registrant from the Society's register(s) for non-payment of a prescribed retention fee (after such warnings as may be prescribed have been given). In addition, the article provides for the removal of an annotation where a prescribed fee in respect of its retention has not been paid (after such warnings as may be prescribed have been given).

Article 41 provides for the restoration of persons removed from the register under specified articles and rules. It provides for the Council to make rules in connection with restoration addressing, in particular, the form and manner in which applications are to be made, the information to be provided by the applicant, any and what additional education, training or other continuing professional development which may be required, fitness to practise matters and refusal of the application.

Article 42 lists the appealable registration decisions for the purposes of Parts 2 to 4 of the draft Order. It also provides that a decision is not an appealable registration decision if it is taken because of a failure to pay a prescribed registration fee or if the applicant is not appropriately qualified in circumstances where the applicant contends, in effect, that the qualifications he or she holds should be approved by the Society in accordance with provisions in article 12(1)(c)(i) or 23(1)(c)(i) related to preregistration qualifications etc. obtained outside Great Britain.

Article 43 makes provision with regard to the time limits for a valid appeal to the Registration Appeals Committee against an appealable registration decision and with regard to the functions of the Committee. Part 6 of the draft Order requires the Council to make rules about procedures to be followed and the rules of evidence to be observed in proceedings before the Registration Appeals Committee.

Article 44 provides for a person who has unsuccessfully appealed an appealable registration decision to the Registration Appeals Committee to appeal that decision to the relevant court provided that he or she does so within 28 days of the written notice of the reasons for the decision being sent. The article defines the term "relevant court" and provides the various options open to the court to dispose of the appeal.

5. Fitness to Practise

Article 45 requires the Council to prepare and from time to time publish guidance (electronically or otherwise) as to the standards of conduct, practice and performance expected of registrants. It further provides for the Council to keep the published guidance under review and, if the Council elects so to do, following consultation, to vary or withdraw its provisions whenever it considers it appropriate.

Article 46 provides for the Society, or its representatives, when carrying out its functions in regard to the fitness to practise of registrants, to require any registrant or any other person within the relevant jurisdiction who is able to supply information or produce a document which is relevant to the fitness to practise function to do so. The article outlines certain prohibitions with regard to disclosure and authorises the Society to seek an order of the “relevant court” to secure necessary information where it is not supplied on request.

Article 47 provides for the Society to disclose to any person or publish any information relating to a registrant’s fitness to practise, including historical information, where they consider it is in the public interest for that information to be disclosed. The decision to disclose may relate to information of a particular class in relation to any registrant as well as particular information in relation to an individual registrant.

Article 48 provides an exhaustive list of the grounds on which a person’s fitness to practise shall be considered as “impaired”. It also provides for the Society to make rules in connection with the information to be provided to the Registrar by registrants about any fitness to practise matter that occurs while he or she is registered. Failure to comply with such rules could be regarded as misconduct and be considered by the relevant fitness to practise committee.

Article 49 provides for the action to be taken when an allegation is made, or the Society has information to suggest, that a registrant’s fitness to practise is impaired. Except in cases prescribed in rules made by the Council, “allegations” would be referred to the Investigating Committee. In certain prescribed cases, the matter could be referred directly to the Disciplinary Committee or Health Committee where, if appropriate, an interim order could be made. The article outlines the information to be gathered and the steps to be taken once the matter has been referred to the appropriate committee. Where a registrant fails to comply with requirements laid upon him or her in terms of revealing information legitimately requested within the terms of the article, the matter may be regarded as misconduct, referred to the appropriate committee and referred to the relevant court for it to make an order requiring the information requested to be supplied.

Article 50 provides for the action to be taken when an allegation is referred to the Investigating Committee. The Investigating Committee may decide to refer the matter to the Disciplinary or Health Committee or may, in appropriate cases, issue a warning or advice to the person concerned or advice to any other person involved in the investigation on any issue arising out of, or related to, the allegation. The article provides, where the Investigating Committee considers it appropriate, for that committee to notify the Health or Disciplinary Committee that it should consider making an interim order in respect of the allegation being considered. The article also provides for the Investigating Committee to notify the Registrar if it thinks the Society should consider using any of its powers to bring criminal proceedings.

Article 51 provides for the action to be taken by the Health Committee where any allegation is referred to it. The Committee is required to consider whether the fitness to practise of the person about whom the allegation is made (“the person concerned”) is impaired. If it determines that the person concerned’s fitness to practise is not impaired, the Committee may, at the request, or with the consent, of that person, publish a statement to that effect. The Health Committee may also issue a warning or advice to the person concerned, or advice to any other person involved in the investigation on any issue arising out of, or related to, the allegation. The article also provides for the process to be followed and the options open to the Health Committee where it determines that the person concerned’s fitness to practise is impaired. In such situations, the Health Committee may issue a warning to the person concerned (to be recorded in the person’s entry in the register), give advice, or give a direction that the person’s registration be suspended for a specified period of up to 12 months. Alternatively, the Health Committee may direct that the person concerned’s registration should be, for a specified period not exceeding three years, subject to such conditions as the Committee thinks fit. The article also provides for the Health Committee to review its directions for suspension or conditional registration when the time limit specified in the original direction is reached and, if appropriate, change the nature of the direction or extend the time limit for a further specified period or indefinitely. Where the person concerned is registered in both the Society’s registers, the Health Committee is required, under this article, to make separate determinations in respect of each register. The Health Committee may then give directions in respect of one register only or different directions in relation to each register.

Article 52 provides for the action to be taken by the Disciplinary Committee where any allegation is referred to it. The Committee is required to consider whether the fitness to practise of the person about whom the allegation is made (“the person concerned”) is impaired. If it determines that the person concerned’s fitness to practise is not impaired, the Committee may, at the request, or with the consent, of that person, publish a statement to that effect. The Disciplinary Committee may also issue a warning or advice to the person concerned, or advice to any other person involved in the investigation on any issue arising

out of or related to the allegation. The article also provides for the process to be followed and the options open to the Disciplinary Committee where it determines that the person concerned's fitness to practise is impaired. In such situations, the Disciplinary Committee may issue a warning to the person concerned (to be recorded in the person's entry in the register), give advice, or give a direction that the person concerned be removed from the register. Alternatively, the Disciplinary Committee may issue a direction that the person's registration be suspended for a specified period of up to 12 months, or direct that the person concerned's registration should be, for a specified period not exceeding three years, subject to such conditions as the Committee thinks fit. The article also provides for the Disciplinary Committee to review its directions for suspension or conditional registration when the time limit specified in the original direction is reached and, if appropriate, to direct that the person concerned be removed from the register, change the nature of the direction, or extend the time limit for a further specified period or indefinitely. Where the person concerned is registered in both the Society's registers the Disciplinary Committee is required, under this article, to make separate determinations in respect of each register. The Disciplinary Committee may give directions in respect of one register only or different directions in relation to each register.

Article 53 provides for the Council to make rules authorising the Registrar and fitness to practise committees to give directions (including during the proceedings of the committee) requiring an assessment to be made by an assessment team of the standard of a registrant's professional performance. The article provides for rules to cover such areas as the composition, functions and procedures of the assessment teams.

Article 54 provides, where the Health or Disciplinary Committee is satisfied that it is necessary for the protection of members of the public, or is otherwise in the public interest, or the interest of the registrant themselves, for the registration of that person to be suspended, or made subject to conditions on an interim basis. The Committee may make an order that his or her registration be suspended for such period, not exceeding 18 months, as may be directed in the "interim suspension order" or that his or her registration may be made subject to conditions during such period, not exceeding 18 months, as may be directed in the "order for interim conditional registration". The article also provides that the Committee making the interim order shall review it in line with timescales set out in this article. The Committee may revoke its order or any condition imposed, vary the conditions or, in the light of its assessment of the need for public protection or in the public interest, replace an "interim suspension order" with an "order for interim conditional registration" or vice versa for the remainder of the time specified in the original order. The article also provides for the Health or Disciplinary Committee to apply to the relevant court for an "interim suspension order" or an "order for interim conditional registration" to be extended, or further extended, for a period of up to 12 months. Once a hearing of the allegations

occurs and the Health or Disciplinary Committee has determined whether or not the person concerned's fitness to practise is impaired, the Committee is required to revoke any interim order that remains in effect.

Article 55 provides for the Council to make rules concerning the applications for restoration of names to one or both of the Society's registers following removal by the Disciplinary Committee. The article provides that an application cannot be made for restoration before the expiration of five years from the date of removal or within 12 months of the date of an earlier application for restoration of that person. Rules made by the Council may include the form and manner in which application for restoration is to be made, the information to be provided by the applicant, any additional education, training or other continuing professional development requirement and any fitness to practise matters. The article provides that no application for restoration shall be granted unless the registrant provides such evidence as to his fitness to practise as the Disciplinary Committee directs. Where the Disciplinary Committee grants an application for restoration it may give a direction that it should be subject to conditions, for a period not exceeding three years, in the interests of public protection or of the person concerned. The article also provides that if, during a continuous period in which a person is not registered, they make two or more unsuccessful applications for restoration under this article, the Disciplinary Committee may direct that no further applications should be made.

Article 56 lists fitness to practise decisions that are appealable and describes the relevant court to which appeal may be made within the time limit of 28 days beginning with the date on which the written notice of the reasons for the decision was sent. The article lists the decisions open to the court, which are to dismiss the appeal; to allow the appeal and either quash the decision appealed against or quash the direction in respect of which the appeal was made; to substitute any other direction which the committee giving the direction could have made for the direction which was appealed against; or to remit or refer the case to the Registrar or appropriate committee for them to dispose of in accordance with the directions from the court.

Article 57 provides for the rules to be applied in determining when a particular direction in respect of an appealable fitness to practise decision comes into effect.

Article 58 provides for the use of interim measures in the interests of public protection or the public interest or the interest of the person who is the subject of the direction pending the coming into force of a direction for suspension or removal from the register. The measures may be an "interim suspension order" or an "order for interim conditional registration" and shall operate pending the coming into force of the direction for suspension or removal from the register. The interim measures will be appealable to the relevant court.

6. Proceedings

Article 59 provides for the Council by rules to set out such procedures to be followed and the rules of evidence to be observed by the Registration Appeals Committee and fitness to practise committees as it considers appropriate. The article stipulates specific areas that the rules made by the Council should and may include.

Article 60 provides for a fitness to practise committee or the Registration Appeals Committee to administer oaths and to issue summonses. It also provides for the procedure to be adopted for obtaining warrants and commissions in proceedings in Scotland. The article further provides that where multiple sittings of a committee are required the validity of the proceedings shall not be called into question merely because of the attendance or non-attendance of individual members of the committee at some but not other meetings.

Article 61 provides for the Council to appoint legal advisers. The article stipulates the qualifications necessary to be appointed as a legal adviser. Members of the Society's Council and of any of the Society's statutory committees are expressly excluded from being legal advisers. The article provides for the Council to make rules as to the functions of legal advisers.

Article 62 provides for the Council to appoint advisers for the purpose of giving clinical and other specialist advice on issues for which such advice is considered necessary. The article provides for clinical advisers to be appointed to give advice to the Health or Investigating Committees and to the Council or other of the Society's committees on health-related issues falling within their specialty. Specialist advisers shall be appointed for the purpose of giving advice to the Disciplinary or Registration Appeals Committees and to the Council or other of the Society's committees on issues falling within their specialty which are under consideration by those committees. Members of the Council and of any of the Society's statutory committees are expressly excluded from being clinical or specialist advisers. The article provides for the Council to make rules as to the functions of clinical or specialist advisers.

7. Miscellaneous

Article 63 provides that, subject to the specific provisions for charges for functions stipulated elsewhere in the draft Order, the Society may charge such fees in respect of its own, the Council's or its statutory committees' functions as it may determine.

Article 64 provides for the Society to fulfil various functions with regard to pharmaceutical education and training in the Channel Islands and the Isle of Man.

Article 65 provides for the time limits to be placed on the start of proceedings for an offence under the draft Order.

Article 66 provides additional clarification on the powers to make rules granted elsewhere in the draft Order. It specifies where and to what extent the Privy Council and Parliament are to be involved in the process.

Article 67 provides that the amendments, repeals and revocations to Primary Legislation contained in Part 1 and to Secondary Legislation contained in Part 2 of Schedule 1 to the draft Order shall have effect.

Article 68 provides that the transitional provisions contained in Part 1 (General), Part 2 (Registration of pharmacy technicians), Part 3 (Outstanding registration cases), Part 4 (Fitness to practise) and Part 5 (Transfer of responsibilities under the Medicines Act 1968) of Schedule 2 to the draft Order shall have effect. It further provides that the Privy Council may by order make such further transitional, transitory or saving provisions as it considers appropriate.

16. Supplemental matters in connection with articles 14 and 15
17. Form, manner and content of applications for registration in the Register of Pharmacists or retention in that register
18. Notification of decisions on applications for entry in the Register of Pharmacists
19. Relationship between registration in the Register of Pharmacists and membership of the Society
20. Offences in respect of the Register of Pharmacists and related certificates of registration

PART 3

Registration of pharmacy technicians

21. The Register of Pharmacy Technicians
22. Entitlement to registration in the Register of Pharmacy Technicians
23. Preregistration requirements for pharmacy technicians in respect of qualifications and additional education, training or experience
24. General functions of the Society in respect of pharmacy technicians' and prospective pharmacy technicians' education, training and the acquisition of experience
25. Specific obligations of the Society in respect of pharmacy technicians' and prospective pharmacy technicians' education, training and the acquisition of experience
26. Specific powers of the Society in respect of pharmacy technicians' and prospective pharmacy technicians' education, training and the acquisition of experience
27. Supplemental matters in connection with articles 25 and 26
28. Form, manner and content of applications for registration in the Register of Pharmacy Technicians or retention in that register
29. Restrictions relating to the Register of Pharmacy Technicians

PART 4

Matters common to both of the Society's Registers

30. The Society's registers
31. Specialisations
32. Certificates of registration
33. Registrants' duties with regard to their registration entries
34. Corrections of the register
35. Fitness to practise matters before registration
36. Moving between different parts of a register
37. Voluntary removal from the registers
38. Indemnity arrangements
39. Continuing professional development
40. Fees in connection with registration
41. Restoration to the Society's registers of persons removed under Parts 2 to 4
42. Appealable registration decisions
43. Appeals to the Registration Appeals Committee
44. Appeals from the Registration Appeals Committee

PART 5

Fitness to Practise

45. Guidance in respect of standards of conduct, practice and performance
46. Disclosure of information: general
47. Disclosure of fitness to practise matters in the public interest
48. Impairment of fitness to practise

49. Initial action in respect of allegations
50. Consideration by the Investigating Committee
51. Consideration by the Health Committee
52. Consideration by the Disciplinary Committee
53. Professional performance assessments
54. Interim Orders
55. Restoration of names to the register: fitness to practise
56. Appeals against appealable fitness to practise decisions
57. The taking effect of directions in respect of appealable fitness to practise decisions
58. Interim measures pending a direction taking effect

PART 6
Proceedings

59. Rules in respect of proceedings
60. Procedure of fitness to practise committees and the Registration Appeals Committee
61. Legal advisers
62. Clinical and other specialist advisers

PART 7
Miscellaneous

63. General fees
64. Providers of education and training in the Channel Islands and the Isle of Man
65. Prosecutions
66. Rules and orders
67. Amendments, repeals and revocations
68. Transitional provisions

SCHEDULE 1 — AMENDMENTS, REPEALS AND REVOCATIONS

PART 1 — Primary Legislation

PART 2 — Secondary Legislation

SCHEDULE 2 — TRANSITIONAL PROVISIONS

PART 1 — General

PART 2 — Registration of pharmacy technicians

PART 3 — Outstanding registration cases

PART 4 — Fitness to Practise

PART 5 — Transfer of responsibilities under the Medicines Act 1968

At the Court at Buckingham Palace, the *** day of ***

Present,

The Queen's Most Excellent Majesty in Council

This Order in Council is made in exercise of the powers conferred by sections 60 and 62(4) of, and Schedule 3 to, the Health Act 1999(a).

The Secretary of State published a draft Order and invited representations as required by paragraph 9(1) of Schedule 3 to that Act.

The period of three months mentioned in paragraph 9(4) of that Schedule expired before a draft of this Order in Council was laid before Parliament and the Scottish Parliament.

A draft of this Order in Council has been approved by resolution of each House of Parliament, in accordance with section 62(10)(a) of that Act.

Accordingly, Her Majesty, by and with the advice of Her Privy Council, makes the following Order in Council.

PART 1

Preliminary

Citation and commencement

1.—(1) This Order may be cited as the Pharmacists and Pharmacy Technicians Order 2006.

(2) As regards commencement—

- (a) this article shall come into force on the making of this Order;
- (b) the provisions of this Order which confer powers enabling rules to be made by the Council, or orders to be made by the Privy Council, shall come into force on the making of this Order, but for the purpose only of the exercise of those powers; and
- (c) otherwise, the provisions of this Order shall come into force on such days as the Secretary of State may specify.

(3) Different days may be specified under paragraph (2)(c) above for different purposes, and the Secretary of State shall cause to be published any day so specified in the London, Edinburgh and Belfast Gazettes not later than one week before that day.

Extent

2.—(1) Subject to paragraphs (2) and (3), this Order extends to Great Britain.

(2) The following provisions—

- (a) Part 3;
- (b) Parts 4 to 6 in so far as they relate to registered pharmacy technicians or applicants for restoration to the Register of Pharmacy Technicians; and
- (c) Part 2 of Schedule 2,

extend only to England and Wales.

(3) The extent of any amendment, revocation or repeal of any enactment or instrument set out in Schedule 1 is the same as that of the enactment or instrument amended, revoked or repealed.

(a) 1999 c.8. Section 62(4) applies section 126(4) and (5) of the National Health Service Act 1977 (c.49) in relation to powers to make Orders in Council conferred by the Health Act 1999. See therefore the said section 126(4) and (5), which have been amended by: the National Health Service and Community Care Act 1990 (c.19), section 65(2); the Health and Social Care Act 2001 (c.15), Schedule 5, paragraphs 5(1) and 13(b) and (d); the National Health Service Reform and Health Care Professions Act 2002 (c.17), section 6(3)(c) and Schedule 8, paragraph 10(a); and the Health and Social Care (Community Health and Standards) Act 2003 (c.43), Schedule 11, paragraphs 7 and 38, and Schedule 14, Part 4.

Interpretation

3.—(1) In this Order—

“the 1954 Act” means the Pharmacy Act 1954(a), as in force immediately before article 1 comes into force;

“annotation” means an annotation in one of the Society’s registers;

“appointments authority” means a Special Health Authority that has been directed under section 187 of the Health and Social Care (Community Health and Standards) Act 2003(b) (appointments to certain health and social care bodies) to exercise an appointments function;

“assessment team” means a team of persons that has the functions of an assessment team by virtue of rules under article 53;

“the Charter” means the Charter granted to the Society on 7th December 2004, as amended from time to time;

“the Council” means the Council of the Society;

“EEA State” means a member State, Norway, Iceland, Liechtenstein or Switzerland;

“enactment” includes an enactment comprised in, or an instrument made under, an Act of the Scottish Parliament;

“European Economic Area” means the territory of the member States, Norway, Iceland, Liechtenstein and Switzerland;

“exempt person” means—

- (a) a national of an EEA State other than the United Kingdom;
- (b) a national of the United Kingdom who is seeking to access the profession of pharmacists or pharmacy technicians by virtue of an enforceable Community right; or
- (c) a person who is not a national of an EEA State but who is, by virtue of an enforceable Community right, entitled to be treated, for the purposes of access to the profession of pharmacists or pharmacy technicians, no less favourably than a national of such a State;

“fitness to practise committee” means the Investigating Committee, the Disciplinary Committee or the Health Committee;

“the Pharmacy Acts” means the Pharmacy Act 1852(c), the Pharmacy Act 1868(d), the Poisons and Pharmacy Act 1908(e), the Pharmacy and Poisons Act 1933(f) and the 1954 Act;

“the Pharmacy Qualifications Directive” means Council Directive 85/433/EEC concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy(g), as amended(h);

“prescribed” means prescribed by the Council in rules under this Order, and “prescribes” shall be construed accordingly;

“the register” means, unless the context otherwise requires, as respects any registrant—

- (a) the one of the Society’s registers in which he is registered; or

(a) 1954 c.61

(b) 2003 c.43.

(c) 1852 c.56; repealed by the Pharmacy Act 1954.

(d) 1868 c.121; repealed by the Pharmacy Act 1954.

(e) 1908 c.55; repealed by the Pharmacy Act 1954.

(f) 1933 c.25; repealed by the Pharmacy Act 1954.

(g) OJ No. L 253, 24.9.1985, p.37.

(h) Council Directive 85/433/EEC has been amended by: Council Directive 85/584/EEC (OJ No. L 372, 31.12.1985, p.42); Council Directive 90/658/EEC (OJ No. L 353, 17.12.1990, p.73); the Act of Accession of Austria, Sweden and Finland (OJ No. L 1, 1.1.1995, p.1); Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1); the Agreement between the European Community and its Member States, of the one part, and the Swiss confederation, of the other, on the free movement of persons, signed at Luxembourg on 21st June 1999 (OJ No. L 114, 30.04.2002, p.36); and the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No. L 236, 23.9.2003, p.33). This Directive is repealed, prospectively, by Directive 2005/36/EC of the Parliament and of the Council on the recognition of professional qualifications (OJ No. L255, 30.9.2005, p.22).

(b) if he is registered in both of the Society’s registers, both registers;

“the register of pharmaceutical chemists for Northern Ireland” means the register maintained under Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976(a);

“registered pharmacist” means a person who is registered in the Register of Pharmacists;

“registered pharmacy technician” means a person who is registered in the Register of Pharmacy Technicians;

“registrant” means a registered pharmacist or a registered pharmacy technician;

“Registrar” shall, except where used in the expression “Registrar General”, be construed in accordance with article 9(1) and (4);

“Registrar General” means—

(a) the Registrar General for England and Wales appointed under section 1 of the Registration Service Act 1953(b) (Registrar General); or

(b) the Registrar General for Scotland appointed under section 1(1) of the Registration of Births, Deaths and Marriages (Scotland) Act 1965(c) (the Registrar General);

“regulatory body” means a regulatory body which has the function of authorising persons to practise as a member of a health or social care profession;

“the Second General System Directive” means Council Directive 92/51/EEC on a second general system for the recognition of professional education and training(d), as amended(e);

“the Second General System Regulations” means the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002(f);

“the Society” means the Royal Pharmaceutical Society of Great Britain;

“the Society’s registers” means the Register of Pharmacists and the Register of Pharmacy Technicians; and

“the statutory committees” means the Committees mentioned in article 7(1).

(2) For the purposes of this Order, a person practises as a pharmacist or a pharmacy technician if, whilst acting in the capacity of or holding himself out as a pharmacist or a pharmacy technician, he undertakes any work or gives any advice in relation to the dispensing or use of medicines, the science of medicines or the provision of health care.

The Society’s general duties

4.—(1) The main purpose of the Society (including its Council, its staff and its committees) in exercising its functions that affect the health and safety of the public is to protect, promote and maintain the health and safety of the public.

(2) In exercising its functions, the Society (including its Council, its staff and its committees) shall—

(a) have proper regard to the interests of—

(a) S.I. 1976/1213 (N.I. 22).

(b) 1953 c.37.

(c) 1965 c.49.

(d) OJ No. L 209, 24.7.1992, p.25.

(e) Council Directive 92/51/EEC has been amended by: Commission Directive 94/38/EC (OJ No. L 217, 23.8.1994, p.8); the Act of Accession of Austria, Sweden and Finland (OJ No. L 1, 1.1.1995, p.1); Commission Directive 95/43/EC (OJ No. L 184, 3.8.1995); Commission Directive 97/38/EC (OJ No. L 184, 12.7.1997, p.31); Commission Directive 2000/5/EC (OJ No. L 54, 26.2.2000, p.42); Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1); the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No. L 236, 23.9.2003, p.33); Regulation (EC) No. 1882/2003 (OJ No. L 284, 31.10.2003, p.1); and Commission Decision 2004/108/EC (OJ No. L 32, 5.2.2004, p.15). This Directive is repealed, prospectively, by Directive 2005/36/EC of the Parliament and of the Council on the recognition of professional qualifications (OJ No. L255, 30.9.2005, p.22).

(f) S.I. 2002/2934; relevant amendments are made by paragraph 27 of Schedule 1 to this Order.

- (i) persons using or needing the services of registered pharmacists in Great Britain,
 - (ii) persons using or needing the services of registered pharmacy technicians in England and Wales, and
 - (iii) all registrants and prospective registrants, and to any differing interests of registered pharmacists and registered pharmacy technicians or groups within those professions; and
- (b) co-operate, in so far as is appropriate and reasonably practicable, with public authorities or other bodies or persons concerned with—
- (i) the employment (whether or not under a contract of service) of registrants,
 - (ii) the education or training of registrants, prospective registrants or other health care professionals,
 - (iii) the regulation of, or the co-ordination of the regulation of, other health or social care professions, and
 - (iv) the regulation of, or carrying out activities in connection with the regulation of, health services.
- (3) In carrying out its duty to co-operate under paragraph (2)(b), the Society shall have regard to any differing considerations in relation to practising as—
- (a) a pharmacist which apply in England, Scotland or Wales; or
 - (b) a pharmacy technician which apply in England or Wales.

The Council

5.—(1) The Privy Council may by order vary the size and composition of the Council (in addition to its powers to do so under the Charter(a)), provided that—

- (a) the number of members of the Council who are registered pharmacists constitutes a majority of the total number of members of the Council; and
- (b) the total number of members of the Council does not exceed 35.

(2) In exercising its function of appointing persons to the Council(b), the Privy Council shall ensure that, at any time, at least one of the persons on the Council appointed by it lives or works wholly or mainly in each of England, Scotland and Wales.

(3) The Privy Council may enter into arrangements with an appointments authority for it to assist the Privy Council in its function of appointing persons to the Council, but those arrangements may not provide for that authority to exercise that function itself.

(4) The Council shall make regulations under the Charter(c) in respect of the suspension or removal from office of its members, and those regulations shall in particular provide for—

- (a) a member of the Council who is a registered pharmacist to be removed from office forthwith if he ceases to be registered in Part 1 of the Register of Pharmacists; and
- (b) a member of the Council who is a registered pharmacy technician to be removed from office forthwith if he ceases to be registered in Part 1 of the Register of Pharmacy Technicians.

(5) The Council shall—

- (a) establish and maintain a system for the declaration and registration of private interests of its members; and
- (b) publish in such manner as it sees fit entries recorded in the register of members' interests.

(a) See paragraph 8 of the Charter.

(b) See paragraph 8(4) of the Charter.

(c) See paragraph 8 of the Charter.

The Council's duties in respect of publications

6.—(1) The Council shall publish in such manner as it sees fit, at least once in each calendar year, by such date in each calendar year as the Privy Council shall determine—

- (a) a statistical report in respect of, and which includes a description of, the procedures which the Society has in place to protect the public from registrants whose fitness to practise is impaired, together with the Council's observations on the report;
- (b) a report, submitted to the Privy Council, on the Council's exercise of its functions, and the Privy Council shall lay before each House of Parliament a copy of the report submitted by the Council under this sub-paragraph.

(2) The Council shall—

- (a) keep accounts in such form as the Privy Council may determine;
- (b) prepare annual accounts in respect of each calendar year, in such form and by such date as the Privy Council may determine.

(3) Those annual accounts shall be audited by persons the Council appoints, but no person may be appointed as an auditor under this paragraph unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989^(a) (eligibility for appointment).

(4) As soon as is reasonably practicable after those annual accounts have been prepared, the Council shall—

- (a) cause them to be published together with any report on them made by the auditors appointed under paragraph (3); and
- (b) send a copy of those annual accounts and of any such report to the Privy Council,

and the Privy Council shall lay before each House of Parliament a copy of those annual accounts and any report on the accounts made by the auditors appointed under paragraph (3).

(5) The Society shall from time to time publish or provide in such a manner as it sees fit information about the regulation of pharmacists and pharmacy technicians.

(6) The Society may from time to time publish or provide in such manner as it sees fit guidance to registrants, employers and such other persons it considers appropriate in respect of the standards for the education, training, supervision and performance of persons who are not registrants but who provide services in connection with those provided by registrants.

The statutory committees

7.—(1) The Society shall have the following committees (in addition to any other committees established by regulations under the Charter^(b))—

- (a) the Continuing Professional Development Committee;
- (b) the Disciplinary Committee;
- (c) the Education Committee;
- (d) the Health Committee;
- (e) the Investigating Committee; and
- (f) the Registration Appeals Committee,

each having the functions assigned to them by or under this Order, any other enactment or the Charter.

(2) As regards each of the statutory committees, the Council shall by rules make provision with regard to—

- (a) its size and composition (which may vary according to the functions the committee is performing), but the number of members of a fitness to practise committee or the

^(a) 1989 c.40.

^(b) See paragraph 9 of the Charter.

Registration Appeals Committee who are registrants shall not exceed the number of other members on the committee by more than one;

- (b) the appointment, performance, suspension and removal from office of its members;
 - (c) the quorum at its meetings;
 - (d) its procedures; and
- (3) Rules under this article may in addition include provision with regard to—
- (a) the education and training of members of statutory committees, and the rules may provide that members are to meet competencies that the Council may determine from time to time;
 - (b) the attendance of members of statutory committees;
 - (c) requiring statutory committees to—
 - (i) establish and maintain a system for the declaration and registration of private interests of their members, and
 - (ii) publish in such manner as they see fit entries recorded in their register of members' interests; and
 - (d) what functions a statutory committee is to perform (including functions of the Society under this Order) and how it is to perform those functions.
- (4) Rules under this article shall provide that—
- (a) no person shall be a member of more than one fitness to practise committee;
 - (b) no person shall be both a member of the Council and of the Continuing Professional Development Committee, the Disciplinary Committee, the Health Committee or the Registration Appeals Committee;
 - (c) no person who is a member of a Disciplinary Committee or Health Committee that has made an interim order under article 54 in proceedings in any case shall sit as a member of the Committee in subsequent proceedings in that case; and
 - (d) the appointment, suspension or removal of the members, chairs and deputy chairs of the statutory committees shall be by the Council, except that the rules—
 - (i) may provide for the Council to enter into arrangements with another person, body or group, including a committee established under the Charter, for that person, body or group to carry out all or any of these functions on the Council's behalf, and
 - (ii) shall provide that the first chair of the Disciplinary Committee shall be the person who, immediately before the coming into force of this article, is the chair of the Statutory Committee of the Society.
- (5) Rules under this article may provide for a statutory committee to—
- (a) co-opt members onto the committee in such circumstances as may be specified in the rules; and
 - (b) discharge, in such circumstances and subject to such conditions as may be specified in the rules, functions of the Society.
- (6) The powers of a statutory committee may be exercised even though there is a vacancy on it.

Remuneration and allowances of Council members, committee members and specialist advisers

8. The Council may pay to—
- (a) its members;
 - (b) members of the statutory committees (including co-opted members);
 - (c) advisers advising the Council or one of the Society's committees on issues falling within the adviser's speciality which are under consideration by it, including legal advisers

appointed under article 61 and clinical and other specialist advisers appointed under article 62,

such remuneration and allowances as the Council may reasonably determine.

Appointment etc. of the Registrar and any Deputy Registrar

9.—(1) The Council shall appoint a fit and proper person to be Registrar for the purposes of this Order, and may, for those purposes, appoint a Deputy Registrar.

(2) The Council may pay, or make provision for the payment of, such remuneration, allowances, pension or gratuities as it determines to the Registrar or any Deputy Registrar.

(3) The Council may terminate the appointment of the Registrar or any Deputy Registrar.

(4) The Registrar may authorise a Deputy Registrar or any employee of the Society to act for him in any matter, and where he does so, a reference in this Order to the Registrar, if it relates to that matter, shall include reference to the person so authorised.

PART 2

Registration of Pharmacists

The Register of Pharmacists

10.—(1) The Registrar shall maintain, in accordance with the provisions of and rules under this Order, the register established in pursuance of the Pharmacy Act 1852(a) and maintained in accordance with section 2 of the 1954 Act (the registers and registration).

(2) The register maintained under paragraph (1)—

(a) formerly known as the Register of Pharmaceutical Chemists, shall be known as the Register of Pharmacists; and

(b) shall be divided into two parts, and—

(i) the first part shall be known as “Part 1 – Practising Pharmacists”, and

(ii) the second part shall be known as “Part 2 – Non-practising Pharmacists”.

Entitlement to registration in the Register of Pharmacists

11.—(1) Subject to the provisions of and rules under this Order, a person shall be entitled to be registered in the Register of Pharmacists if—

(a) he satisfies the Registrar that—

(i) he is appropriately qualified within the meaning given in article 12(1),

(ii) his fitness to practise is not impaired,

(iii) before registration, where necessary, he has met such requirements as to additional education, training or experience as are appropriate to his case, and

(iv) after registration, he meets such requirements as to continuing professional development as are appropriate to his case; and

(b) he has paid any fee prescribed under article 40(1)(a) or (b) that relates to his registration in that register.

(2) A person who is entitled to be registered in the Register of Pharmacists is to be registered in Part 1 of that register unless he has given to the Society, in the prescribed form, a commitment not to practise, in which case he is to be registered in Part 2 of that register.

(3) The Registrar shall treat a person who—

(a) 1852 c.56.

- (a) is—
 - (i) an exempt person who has qualified as a pharmacist in an EEA State, or
 - (ii) not an exempt person but who has qualified as a pharmacist in the United Kingdom;
- (b) applies to be registered in the Register of Pharmacists; and
- (c) is registered in the register of pharmaceutical chemists for Northern Ireland,

as meeting the requirements of paragraph (1)(a)(i).

Preregistration requirements for pharmacists in respect of qualifications and additional education, training or experience

12.—(1) For the purposes of article 11(1)(a)(i), a person is “appropriately qualified” if—

- (a) he has a qualification awarded in Great Britain which has been approved by the Society as attesting to a standard of proficiency which, in the Society’s opinion, indicates that he has reached an adequate level of understanding for practising as a pharmacist (and so is also a recognised pharmacy qualification within other EEA States);
- (b) he is an exempt person and he has a qualification which the Privy Council has by order designated as being an approved qualification for the purposes of registration in the Register of Pharmacists, or
- (c) he has, elsewhere than in Great Britain, undergone training as a pharmacist, and—
 - (i) he holds a qualification which has been approved by the Society as attesting to a standard of proficiency which, in the Society’s opinion, indicates that the person has reached an adequate level of understanding for practising as a pharmacist, or
 - (ii) he holds a qualification which, taken together with such additional education, training or experience as the Society may require, indicates, in the Society’s opinion, that he has reached an adequate level of understanding for practising as a pharmacist.

(2) An order under paragraph (1)(b) may provide that a qualification is only to be considered an approved qualification in such circumstances, or subject to such conditions, as are specified in the order.

(3) For the purposes of an application for entry in the Register of Pharmacists, the Registrar shall not require any exempt person to whom paragraph (1)(b) applies to meet any requirements as to additional education, training or experience, unless—

- (a) the application is for restoration to that register; and
- (b) in so doing the Registrar is acting in a manner that is consistent with the requirements of the Treaties and the Pharmacy Qualifications Directive.

(4) As regards any exempt person to whom paragraph (1)(c) applies, in formulating an opinion under paragraph (1)(c), the Society shall take into account—

- (a) if the person holds a qualification granted outside the European Economic Area which has been accepted by another EEA State as qualifying him to practise as a pharmacist in that State, the acceptance of that qualification; and
- (b) all other qualifications, knowledge or experience, wherever acquired, which are relevant to the determination of the application.

(5) As regards any person to whom paragraph (1)(a) or (c) applies, for the purposes of meeting the requirements of article 11(1)(a)(iii), the Registrar may require him to meet requirements as to additional education which comprise or include reaching an adequate standard of proficiency in the knowledge and use of English, unless he is an exempt person.

General functions of the Society in respect of pharmacists’ and prospective pharmacists’ education, training and the acquisition of experience

13. The Society shall have the general functions of—

- (a) promoting high standards of education and training, and in respect of the acquisition of experience, for pharmacists and prospective pharmacists; and
- (b) overseeing all stages of the education, training and acquisition of experience of pharmacists and prospective pharmacists in Great Britain, including—
 - (i) preregistration education, training and acquisition of experience, including both undergraduate and postgraduate education and training of prospective pharmacists;
 - (ii) post-registration education, training and acquisition of experience required for continuing professional development and required for education, training and acquisition of experience in respect of specialisations; and
 - (iii) education, training and acquisition of experience for persons seeking restoration to the Register of Pharmacists.

Specific obligations of the Society in respect of pharmacists’ and prospective pharmacists’ education, training and the acquisition of experience

14. In connection with discharging the functions mentioned in article 13, the Society shall—

- (a) determine—
 - (i) the nature of the knowledge and skills, and
 - (ii) the nature, extent and content of, and method of assessment for, the education, training and experience,
required for a person qualifying in Great Britain to be considered appropriately qualified for the purposes of article 11(1)(a)(i);
- (b) approve qualifications under article 12(1)(a);
- (c) accredit degree courses for prospective pharmacists (including degree courses in Northern Ireland) and approve providers of such courses;
- (d) approve providers, including tutors, of postgraduate education and training for prospective pharmacists which leads to an approved qualification, and approval under this sub-paragraph may be limited to education and training provided at specified premises;
- (e) determine the nature of the education, training or experience required of, and any assessment arrangements in respect of, persons who are to be tutors, as mentioned in sub-paragraph (d);
- (f) determine the arrangements for determining, in accordance with article 12(1)(c)(ii), that a person has reached an adequate level of understanding for practising as a pharmacist;
- (g) determine assessment arrangements for—
 - (i) postgraduate education and training for prospective pharmacists which leads to an approved qualification, or
 - (ii) any additional education, training or experience required for the purposes of article 11(1)(a)(iii); and
- (h) determine the nature, extent and content of the education, training, experience and continuing professional development required for the purposes of article 11(1)(a)(iii) and (iv), or for the purposes of obtaining annotations in respect of specialisations, including—
 - (i) preregistration programmes or courses in respect of, or any combination of, education, training or acquiring experience,
 - (ii) continuing professional development,
 - (iii) education, training and acquiring experience in respect of specialisations which are the subject of annotations,
 - (iv) education and training to address fitness to practise matters, and
 - (v) education, training and acquisition of experience in respect of persons seeking restoration to the Register of Pharmacists or to move from Part 2 to Part 1 of that register.

Specific powers of the Society in respect of pharmacists' and prospective pharmacists' education, training and the acquisition of experience

- 15.** In connection with discharging the functions mentioned in article 13, the Society may—
- (a) approve premises as being suitable for postgraduate education and training of prospective pharmacists;
 - (b) approve qualifications for the purposes of article 12(1)(c)(i);
 - (c) approve providers of particular types of education, training, experience or continuing professional development required for the purposes of article 11(1)(a)(iii) or (iv), or in respect of specialisations, and approval under this paragraph may be limited to activities at specified premises;
 - (d) hold or cause to be held assessments (including examinations) in respect of—
 - (i) approved qualifications, or any education, training or experience leading to an approved qualification,
 - (ii) additional education, training or experience required for the purposes of article 11(1)(a)(iii), or
 - (iii) becoming and being the tutors referred to in article 14(d),and determine the arrangements under which those assessments are to be held;
 - (e) appoint persons (“examiners”) to carry out assessments of the types mentioned in article 14(g), or sub-paragraph (d) of this article, and pay them such remuneration and allowances as the Council may determine;
 - (f) charge fees in respect of—
 - (i) commencing preregistration education or training, other than undergraduate education or training, which is co-ordinated by the Society,
 - (ii) assessments of the types mentioned in sub-paragraph (e) that the Society holds or causes to be held;
 - (g) determine the maximum number of times that a candidate may attempt any assessment arrangements in respect of any education, training or experience leading to an approved qualification; and
 - (h) determine the shortest and longest periods for successful completion of approved qualifications or particular types of additional education, training or experience (including accredited courses or programmes).

Supplemental matters in connection with articles 14 and 15

16.—(1) The Society may enter into arrangements with another body for that body to assist the Society in carrying out its functions under articles 14 and 15.

(2) Approval or accreditation may be granted under articles 14 and 15 in respect of a programme or course of education or training that only provides part of the education or training needed for an approved or accredited course or programme, or for an approved qualification, where the Society is satisfied that there are appropriate arrangements in place for persons participating in the education and training to receive the remainder of the education or training necessary for the approved or accredited course or programme, or for the approved qualification, elsewhere.

- (3) The Council may make such provision in rules in connection with—
- (a) the making, varying or revoking of any determination under articles 14 and 15;
 - (b) the granting, refusing or withdrawing of any approval or accreditation under articles 14 and 15; and
 - (c) appeals by candidates in relation to the assessment arrangements determined under articles 14 and 15,

as it considers appropriate, but the Council shall provide in rules for the procedure to be followed for withdrawing any approval or accreditation that the Society has granted under articles 14 and 15.

(4) In making, varying or revoking any determination mentioned in this article, or granting, refusing or withdrawing any accreditation or approval mentioned in this article, the Society shall ensure that the relevant requirements of—

- (a) the Treaties;
- (b) the Pharmacy Qualifications Directive; and
- (c) the Council Directive 85/432/EEC concerning the co-ordination of provisions laid down by law, regulation or administrative action in respect of certain activities in the field of pharmacy(a), as amended(b),

are met, and shall act in a manner which is consistent with those requirements.

(5) Determinations, approvals and accreditations mentioned in this article shall be published by the Society in such manner as it sees fit.

Form, manner and content of applications for registration in the Register of Pharmacists or retention in that register

17.—(1) The Council may make such provision in rules in connection with applications for registration in the Register of Pharmacists, or for retention in that register, as it considers appropriate, and may in particular make provision with regard to—

- (a) the form and manner in which applications are to be made (and the rules may provide that applicants shall apply using application forms and presenting certificates that are in such form as the Council may determine from time to time);
- (b) the information to be provided by or in respect of the applicant, including—
 - (i) the name under which he practises or intends to practise, or in the case of a person who does not intend to practise, the name by which he is generally known,
 - (ii) his home address, and
 - (iii) the information to be provided for the purposes of determining whether the applicant's fitness to practise is impaired; and
- (c) consultation, as regards the application, with a fitness to practise committee.

(2) The Registrar may—

- (a) refuse to register an applicant for entry in the Register of Pharmacists; or
- (b) refuse to retain in that register a person who wishes to be retained in that register, and so remove him from it,

if he fails to comply with, or if in respect of him there is a failure to comply with, rules made under paragraph (1).

(3) If a person who is registered in the Register of Pharmacists fails to comply with rules made under paragraph (1) in respect of applications for retention in that register, or there is a failure to comply with such rules in respect of him, that may be treated as misconduct for the purposes of article 48(1)(a) and the Registrar shall consider, in accordance with article 49(1), whether or not to refer the matter to the relevant fitness to practise committee.

(4) As regards an exempt person (“E”) who is making an application for entry in the Register of Pharmacists, the Registrar shall accept as sufficient evidence that his fitness to practise is not impaired a document—

- (a) to which paragraph (5) applies, as regards his physical or mental health; and
- (b) to which paragraph (6) applies, as regards his good character or repute,

(a) OJ No. L 253, 24.9.1985, p.34.

(b) Council Directive 85/432/EEC has been amended by Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1).

if it is presented to the Registrar within the period of three months beginning with its date of issue.

(5) This paragraph applies to a document that attests to E's good physical and mental health, and—

- (a) which is required in E's EEA State of origin or the EEA State from which he comes ("E's attesting State"), if he wishes to start practising as a pharmacist there; or
- (b) if—
 - (i) no such document as mentioned in sub-paragraph (a) is required in E's attesting State, and
 - (ii) rules under paragraph (1) require the presentation of a certificate attesting to an applicant's good physical and mental health in a particular form, which is issued by a competent authority in E's attesting State and which is in a form that corresponds to that particular form.

(6) This paragraph applies to a document that attests to E's good character or good repute—

- (a) which is required in E's attesting State, if he wishes to start practising as a pharmacist there; or
- (b) if no such document as mentioned in sub-paragraph (a) is required in E's attesting State—
 - (i) containing an extract from the judicial record issued by a competent authority in E's attesting State, or
 - (ii) which is a certificate issued by a competent authority in E's attesting State and which is equivalent to an extract from that State's judicial record,

unless that document may be or has been revised or rescinded as a consequence of an approach made by the Society to the competent authority which issued it, in accordance with article 8(3) of the Pharmacy Qualifications Directive.

Notification of decisions on applications for entry in the Register of Pharmacists

18.—(1) Where a person applies to have his name registered in the Register of Pharmacists, the Registrar shall, within the specified period, give the applicant notice—

- (a) of his decision on the application; and
- (b) if he refuses the application, of any right of appeal the applicant has to the Registration Appeals Committee.

(2) In this article, "the specified period" means—

- (a) the period of three months beginning with the date on which the Registrar receives the application with full supporting documentation and the relevant fee; or
- (b) in the case of an exempt person, such longer period as is permitted by article 12 of the Pharmacy Qualifications Directive.

Relationship between registration in the Register of Pharmacists and membership of the Society

19. If a person is registered in the Register of Pharmacists, he is a member of the Society, but if he ceases (whether permanently or because his registration is suspended) to be so registered, he also ceases to be a member of the Society.

Offences in respect of the Register of Pharmacists and related certificates of registration

20.—(1) A person commits an offence if—

- (a) he falsely represents that—
 - (i) he is registered in the Register of Pharmacists,
 - (ii) he is registered in a particular part of the Register of Pharmacists, or
 - (iii) his registration in the Register of Pharmacists has a particular annotation; or
- (b) he uses—
 - (i) the title “registered pharmacist” without being registered in the Register of Pharmacists, or
 - (ii) a title in respect of a particular annotation, which is a prescribed specialist title, where he does not have an entry in the Register of Pharmacists with that particular annotation.

(2) For the purposes of paragraph (1)(b)(ii), “prescribed specialist title” means a title for a pharmacist which the Council prescribes as being a title that is only to be used by a registrant with a particular annotation.

(3) A person commits an offence if he practises as a pharmacist whilst being registered in Part 2 of the Register of Pharmacists.

(4) A person who exhibits any certificate purporting to be a certificate of registration issued under—

- (a) article 32 in respect of a registered pharmacist but which is not a certificate of registration issued under that article in respect of a registered pharmacist; or
- (b) one of the Pharmacy Acts in respect of a pharmaceutical chemist but which is not a certificate of registration issued under one of those Acts in respect of a pharmaceutical chemist,

commits an offence.

(5) If a person—

- (a) uses, or lends to or allows to be used by any other person a certificate of registration in respect of a pharmacist or pharmaceutical chemist (whether issued under article 32 or one of the Pharmacy Acts); or
- (b) makes or has in his possession any document closely resembling such a certificate,

for fraudulent purposes, he commits an offence.

(6) If any person to whom a certificate of registration as a pharmacist has been issued under article 32, or as a pharmaceutical chemist has been issued under one of the Pharmacy Acts—

- (a) ceases to be a registered pharmacist, he shall before the expiration of fourteen days from so ceasing, supply his certificate of registration to the Registrar for cancellation; or
- (b) because he satisfied the Registrar that another certificate of registration was lost or destroyed, finds that other certificate of registration, he shall forthwith supply that other certificate of registration to the Registrar for cancellation,

and if he fails to do so, he commits an offence.

(7) Any person who commits an offence under—

- (a) paragraph (6) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale;
- (b) paragraph (4) or (5) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; or
- (c) paragraph (1) or (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

PART 3

Registration of pharmacy technicians

The Register of Pharmacy Technicians

21.—(1) The Registrar shall establish and maintain, in accordance with the provisions of and rules under this Order, a register of pharmacy technicians.

(2) The register established and maintained under paragraph (1)—

- (a) shall be known as the Register of Pharmacy Technicians; and
- (b) shall be divided into two parts, and—
 - (i) the first part shall be known as “Part 1 – Practising Pharmacy Technicians”, and
 - (ii) the second part shall be known as “Part 2 – Non-practising Pharmacy Technicians”.

Entitlement to registration in the Register of Pharmacy Technicians

22.—(1) Subject to the provisions of and rules under this Order, a person shall be entitled to be registered in the Register of Pharmacy Technicians if—

- (a) he satisfies the Registrar that—
 - (i) he is appropriately qualified within the meaning given in article 23(1),
 - (ii) his fitness to practise is not impaired,
 - (iii) before registration, where necessary, he has met such requirements as to additional education, training or experience as are appropriate to his case, and
 - (iv) after registration, he meets such requirements as to continuing professional development as are appropriate to his case; and
- (b) he has paid any fee prescribed under article 40(1)(a) or (b) that relates to his registration in that register.

(2) A person who is entitled to be registered in the Register of Pharmacy Technicians is to be registered in Part 1 of that register unless he has given to the Society, in the prescribed form, a commitment not to practise, in which case he is to be registered in Part 2 of that register.

(3) The Registrar shall treat a person who applies to be registered in the Register of Pharmacy Technicians who—

- (a) is registered in Part 1 of the Register of Pharmacists;
- (b) is registered in Part 2 of the Register of Pharmacists, and at any time during the period of four years before his application he has been registered in Part 1 of the Register of Pharmacists or in the register of pharmaceutical chemists maintained under section 2(1) of the 1954 Act; or
- (c) is not registered in the Register of Pharmacists but who has been registered in Part 1 of the Register of Pharmacists, or in the register of pharmaceutical chemists maintained under section 2(1) of the 1954 Act, at any time during the period of four years before his application,

as meeting the requirements of paragraph (1)(a)(i) and (iii).

Preregistration requirements for pharmacy technicians in respect of qualifications and additional education, training or experience

23.—(1) For the purposes of article 22(1)(a)(i), a person is “appropriately qualified” if—

- (a) he has a qualification awarded in England or Wales which has been approved by the Society as attesting to a standard of proficiency which, in the Society’s opinion, indicates that he has reached an adequate level of understanding for practising as a pharmacy technician;

- (b) he is an exempt person and he has a right to practise as a pharmacy technician by virtue of the Second General System Regulations (having successfully completed any adaptation period or aptitude test that he may be required to complete pursuant to those Regulations); or
- (c) he has, elsewhere than in England or Wales, undergone training as a pharmacy technician, and—
 - (i) he holds a qualification which has been approved by the Society as attesting to a standard of proficiency which, in the Society’s opinion, indicates that the person has reached an adequate level of understanding for practising as a pharmacy technician, or
 - (ii) he holds a qualification which, taken together with such additional education, training or experience as the Society may require, indicates, in the Society’s opinion, that he has reached an adequate level of understanding for practising as a pharmacy technician.

(2) For the purposes of an application for entry in the Register of Pharmacy Technicians, the Registrar shall not require any exempt person to whom paragraph (1)(b) applies to meet any requirements as to additional education, training or experience, unless—

- (a) the application is for restoration to the Register of Pharmacy Technicians; and
- (b) in so doing the Registrar is acting in a manner that is consistent with the requirements of the Treaties and the Second General Systems Directive.

(3) As regards any exempt person to whom paragraph (1)(c) applies, in formulating an opinion under paragraph (1)(c), the Society shall take into account—

- (a) if the person holds a qualification granted outside the European Economic Area which has been accepted by another EEA State as qualifying him to practise as a pharmacy technician in that State, the acceptance of that qualification; and
- (b) all other qualifications, knowledge or experience, wherever acquired, which are relevant to the determination of the application.

(4) As regards any person to whom paragraph (1)(a) or (c) applies, for the purposes of meeting the requirements of article 22(1)(a)(iii), the Registrar may require him to meet requirements as to additional education which comprise or include reaching an adequate standard of proficiency in the knowledge and use of English, unless he is an exempt person.

General functions of the Society in respect of pharmacy technicians’ and prospective pharmacy technicians’ education, training and the acquisition of experience

24. The Society shall have the general functions of—

- (a) promoting high standards of education and training, and in respect of the acquisition of experience, for pharmacy technicians and prospective pharmacy technicians; and
- (b) overseeing all stages of the education, training and acquisition of experience of pharmacy technicians and prospective pharmacy technicians in England and Wales, including—
 - (i) preregistration education, training and acquisition of experience;
 - (ii) post-registration education, training and acquisition of experience required for continuing professional development and required for education, training and acquisition of experience in respect of specialisations; and
 - (iii) education, training and acquisition of experience for persons seeking restoration to the Register of Pharmacy Technicians.

Specific obligations of the Society in respect of pharmacy technicians’ and prospective pharmacy technicians’ education, training and the acquisition of experience

25. In connection with discharging the functions mentioned in article 24, the Society shall—

- (a) determine—

- (i) the nature of the knowledge and skills, and
- (ii) the nature, extent and content of, and method of assessment for, the education, training and experience,
required for a person qualifying in Great Britain to be considered appropriately qualified for the purposes of article 22(1)(a)(i);
- (b) approve qualifications under article 23(1)(a);
- (c) approve or accredit programmes or courses of education and training for prospective pharmacy technicians;
- (d) determine the arrangements for determining, in accordance with article 23(1)(c)(ii), that a person has reached an adequate level of understanding for practising as a pharmacy technician;
- (e) determine assessment arrangements for any additional education, training or experience required for the purposes of article 22(1)(a)(iii); and
- (f) determine the nature, extent and content of the education, training, experience and continuing professional development required for the purposes of article 22(1)(a)(iii) and (iv), or for the purposes of obtaining annotations in respect of specialisations, including—
 - (i) preregistration programmes or courses in respect of, or any combination of, education, training or acquiring experience,
 - (ii) continuing professional development,
 - (iii) education, training and acquiring experience in respect of specialisations which are the subject of annotations,
 - (iv) education and training to address fitness to practise matters, and
 - (v) education, training and acquisition of experience in respect of persons seeking restoration to the Register of Pharmacy Technicians or to move from Part 2 to Part 1 of that register.

Specific powers of the Society in respect of pharmacy technicians’ and prospective pharmacy technicians’ education, training and the acquisition of experience

26. In connection with discharging the functions mentioned in article 24, the Society may—

- (a) approve providers of the programmes or courses mentioned in article 25(c), and approval under this sub-paragraph may be limited to programmes or courses provided at specified premises;
- (b) approve premises as being suitable for education and training of prospective pharmacy technicians;
- (c) approve qualifications for the purposes of article 23(1)(c)(i);
- (d) approve providers of particular types of education, training, experience or continuing professional development required for the purposes of article 22(1)(a)(iii) or (iv), or in respect of specialisations, and approval under this paragraph may be limited to activities at specified premises;
- (e) hold or cause to be held assessments (including examinations) in respect of—
 - (i) approved qualifications, or any education, training or experience leading to an approved qualification, or
 - (ii) additional education, training or experience required for the purposes of article 22(1)(a)(iii),
 and determine the arrangements under which those assessments are to be held;
- (f) appoint persons (“examiners”) to carry out assessments of the types mentioned in article 25(e), or sub-paragraph (e) of this article, and pay them such remuneration and allowances as the Council may determine;
- (g) charge fees in respect of —

- (i) commencing preregistration education or training which is co-ordinated by the Society,
- (ii) assessments of the types mentioned in sub-paragraph (f) that the Society holds or causes to be held;
- (h) determine the maximum number of times that a candidate may attempt any assessment arrangements in respect of any education, training or experience leading to an approved qualification; and
- (i) determine the shortest and longest periods for successful completion of approved qualifications or particular types of additional education, training or experience (including accredited courses or programmes).

Supplemental matters in connection with articles 25 and 26

27.—(1) The Society may enter into arrangements with another body for that body to assist the Society in carrying out its functions under articles 25 and 26.

(2) Approval or accreditation may be granted under articles 25 and 26 in respect of a programme or course of education or training that only provides part of the education or training needed for an approved or accredited course or programme, or for an approved qualification, where the Society is satisfied that there are appropriate arrangements in place for persons participating in the education and training to receive the remainder of the education or training necessary for the approved or accredited course or programme, or for the approved qualification, elsewhere.

(3) The Council may make such provision in rules in connection with—

- (a) the making, varying or revoking of any determination under articles 25 and 26;
- (b) the granting, refusing or withdrawing of any approval or accreditation under articles 25 and 26; and
- (c) appeals by candidates in relation to the assessment arrangements determined under articles 25 and 26,

as it considers appropriate, but the Council shall provide in rules for the procedure to be followed for withdrawing any approval or accreditation that the Society has granted under articles 25 and 26.

(4) In making, varying or revoking any determination mentioned in this article, or granting, refusing or withdrawing any accreditation or approval mentioned in this article, the Society shall ensure that the relevant requirements of—

- (a) the Treaties and;
- (b) the Second General System Directive,

are met, and shall act in a manner which is consistent with those requirements.

(5) The determinations, approvals and accreditations mentioned in this article shall be published by the Society in such manner as it sees fit.

Form, manner and content of applications for registration in the Register of Pharmacy Technicians or retention in that register

28.—(1) The Council may make such provision in rules in connection with applications for registration in the Register of Pharmacy Technicians, or for retention in that register, as it considers appropriate, and may in particular make provision with regard to—

- (a) the form and manner in which applications are to be made (and the rules may provide that applicants shall apply using application forms and presenting certificates that are in such form as the Council may determine from time to time);
- (b) the information to be provided by or in respect of the applicant, including—
 - (i) the name under which he practises or intends to practise, or in the case of a person who does not intend to practise, the name by which he is generally known,

- (ii) his home address, and
- (iii) the information to be provided for the purposes of determining whether the applicant's fitness to practise is impaired; and

(c) consultation, as regards the application, with a fitness to practise committee.

(2) The Registrar may—

- (a) refuse to register an applicant for entry in the Register of Pharmacy Technicians; or
- (b) refuse to retain in that register a person who wishes to be retained in that register, and so remove him from it,

if he fails to comply with, or if in respect of him there is a failure to comply with, rules made under paragraph (1).

(3) If a person who is registered in the Register of Pharmacy Technicians fails to comply with rules made under paragraph (1) in respect of applications for retention in that register, or there is a failure to comply with such rules in respect of him, that may be treated as misconduct for the purposes of article 48(1)(a) and the Registrar shall consider, in accordance with article 49(1), whether or not to refer the matter to the relevant fitness to practise committee.

Restrictions relating to the Register of Pharmacy Technicians

29.—(1) A person commits an offence if—

- (a) he falsely represents that—
 - (i) he is registered in the Register of Pharmacy Technicians,
 - (ii) he is registered in a particular part of the Register of Pharmacy Technicians, or
 - (iii) his registration in the Register of Pharmacy Technicians has a particular annotation; or
- (b) he uses—
 - (i) subject to paragraph (3), the title “pharmacy technician” or “registered pharmacy technician” without being registered in the Register of Pharmacy Technicians, or
 - (ii) a title in respect of a particular annotation, which is a prescribed specialist title, where he does not have an entry in the Register of Pharmacy Technicians with that particular annotation.

(2) For the purposes of paragraph (1)(b)(ii), “prescribed specialist title” means a title for a pharmacy technician which the Council prescribes as being a title that is only to be used by a registrant with a particular annotation.

(3) A person may use the title “pharmacy technician” without committing an offence under paragraph (1)(b)(i) until—

- (a) the end of a period of two years beginning on the day this article comes into force; or
- (b) if he has applied to be registered in the Register of Pharmacy Technicians during that period, his application (including any appeal) has been disposed of.

(4) A person commits an offence if he practises as a pharmacy technician whilst being registered in Part 2 of the Register of Pharmacy Technicians.

(5) A person who exhibits any certificate purporting to be a certificate of registration issued under article 32 in respect of a registered pharmacy technician but which is not a certificate of registration issued under that article in respect of a registered pharmacy technician commits an offence.

(6) If a person—

- (a) uses, or lends to or allows to be used by any other person a certificate of registration in respect of a pharmacy technician issued under article 32; or
- (b) makes or has in his possession any document closely resembling such a certificate,

for fraudulent purposes, he commits an offence.

(7) If any person to whom a certificate of registration as a pharmacy technician has been issued under article 32—

- (a) ceases to be a registered pharmacy technician, he shall before the expiration of fourteen days from so ceasing, supply his certificate of registration to the Registrar for cancellation; or
- (b) because he satisfied the Registrar that another certificate of registration was lost or destroyed, finds that other certificate of registration, he shall forthwith supply that other certificate of registration to the Registrar for cancellation,

and if he fails to do so, he commits an offence.

(8) Any person who commits an offence under—

- (a) paragraph (7) shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale;
- (b) paragraph (5) or (6) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; or
- (c) paragraph (1) or (4) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

PART 4

Matters common to both of the Society's Registers

The Society's registers

30.—(1) The Council may make such provision in rules in connection with the Society's registers as it considers appropriate, and may in particular make provision with regard to—

- (a) the form and keeping of the Society's registers and the making of entries, alterations and corrections to them;
- (b) the entry or entries for persons using more than one name;
- (c) the recording of the date of a person's registration;
- (d) the recording of addresses (including home addresses);
- (e) the recording of titles, qualifications and specialisations (including the recording of those titles, qualifications or specialisations in Welsh, where appropriate);
- (f) the recording of continuing professional development matters; and
- (g) the recording of fitness to practise matters, including warnings issued by a fitness to practise committee.

(2) The Registrar shall cause to be published from time to time in such manner as he sees fit lists comprising information in or derived from entries in the Society's registers, but the lists published in accordance with this paragraph shall not include information in or derived from entries in respect of a person whose registration, at the time of publication, is suspended.

(3) The Council shall determine the form and manner of the publication of the lists mentioned in paragraph (2) and the information that the lists are to contain, which may include—

- (a) a note specifying in which part of the Society's registers a person is registered;
- (b) a person's registration number;
- (c) the area (by reference to a city, town or district) in which a person lives and contact details, but a person's home address shall not be published without his consent;
- (d) a note in respect of fitness to practise matters, including in respect of—
 - (i) any conditions to which a person's registration is subject, and
 - (ii) any warnings regarding his future conduct or performance; and

- (e) a note in respect of a person's specialisations which are the subject of annotations.
- (4) Except—
 - (a) for the purposes of articles 33 to 35 and 39 and Part 5 (and rules under or that relate to those provisions); and
 - (b) in such circumstances or for such other purposes as the Council may prescribe,

if a person's registration in one of the Society's Registers is suspended, he shall be treated as not being registered in it, notwithstanding that his name still appears in it.

(5) Accordingly, a pharmacist whose registration in the Register of Pharmacists is suspended is not a registered pharmacist for the purposes of either other legislation or the Charter.

Specialisations

31.—(1) The Council may make such provision in rules in connection with annotations to entries in the Society's registers to denote specialisations as it considers appropriate, and may in particular make provision with regard to—

- (a) the types of specialisations that are to be subject to annotations;
- (b) the form and manner in which applications for entering annotations in respect of specialisations are to be made (and the rules may provide that applicants shall apply using application forms that are in such form as the Council may determine from time to time); and
- (c) the circumstances in which annotations in respect of specialisations are to be entered, retained, removed or restored by the Registrar.

(2) Where the Registrar refuses to enter or removes an annotation in respect of a specialisation, he shall send the person making the application for entering an annotation, or in respect of whom an annotation was removed, at his last known home address a statement in writing notifying him of—

- (a) the reasons for the decision; and
- (b) any right of appeal he has to the Registration Appeals Committee under article 43.

Certificates of registration

32.—(1) Subject to paragraph (3), the Registrar shall, where requested to do so by a registrant or when an application for registration is granted, issue to the registrant free of charge a certificate of registration.

(2) Certificates of registration issued under this article shall be in such form as the Council shall determine from time to time.

(3) The Registrar is not under a duty to issue a further certificate of registration to a person to whom a certificate has already been issued, whether under this article or one of the Pharmacy Acts (even if, in the case of a registrant registered in Part 1 of one of the Society's registers, the certificate which he has does not state the part of the register in which he is registered), unless the person—

- (a) satisfies the Registrar that the original certificate, and any further certificate already issued by him, has been lost or destroyed;
- (b) changes the name under which he practises, or if he does not practise, the name by which he is generally known; or
- (c) has moved to a different part of a register,

and pays to the Society such fee (if any) in respect of the further certificate as is prescribed under article 40(1)(g).

(4) A certificate of registration issued to any person under this article shall state in which part of the register the person is registered.

- (5) The Council may make such provision in rules as it considers appropriate in connection with the return of certificates of registration which—
- (a) in the case of registrants registered in Part 1 of one of the Society's registers, incorrectly state the part of the register in which he is registered;
 - (b) in the case of registrants registered in Part 2 of one of the Society's registers, do not state, or incorrectly state, the part of the register in which a registrant is registered; or
 - (c) incorrectly state the name under which a person practises, or if he does not practise, the name by which he is generally known.
- (6) A certificate issued under this article shall be evidence, and in Scotland sufficient evidence, of the matters certified.

Registrants' duties with regard to their registration entries

33.—(1) The Council may make such provision in rules in connection with the information to be provided by registrants with regard to their entries in the register as it considers appropriate (provided they are consistent with paragraph (2)), and may in particular make provision with regard to a registrant's obligations to inform the Registrar of—

- (a) the name under which he practises, or if he does not practise the name by which he is generally known, and of any changes to that name; and
- (b) his home address and of any changes to it.

(2) If the Registrar—

- (a) sends by post to any registrant a notice addressed to him at his home address on the register enquiring whether he has—
 - (i) ceased to practise as a pharmacist or, as the case may be, a pharmacy technician, or
 - (ii) has changed his address,and receives no reply within a period of one month beginning on the day of posting the notice; and
- (b) upon the expiration of that period sends to the registrant a second similar notice and receives no reply within one month beginning on the day of posting the notice,

the Registrar may remove the registrant from the register.

(3) If a registrant fails to comply with rules made under paragraph (1), the Registrar may remove him from the register.

(4) Where the Registrar removes a person from the register pursuant to paragraph (2) or (3), he shall send to the person at his last known home address a statement in writing notifying him of—

- (a) the reasons for removing him from the register; and
- (b) his right of appeal to the Registration Appeals Committee under article 43.

Corrections of the register

34.—(1) The Registrar shall keep the Society's registers correct, and in so doing—

- (a) shall remove from the Society's registers any registrant who has died; and
- (b) from time to time, shall make any necessary alterations to any of the particulars in a registrant's entry.

(2) The Registrar General shall, on registering the death of a pharmacist or a pharmacy technician, forthwith notify the Registrar of the death.

(3) If the Registrar determines that a person's entry in the register has been fraudulently procured or incorrectly made, he may remove that person from the register.

(4) The Council may make such provision in rules in connection with determinations by the Registrar under paragraph (3) as it considers appropriate.

(5) Where the Registrar removes a person from the register pursuant to paragraph (3), he shall send to the person at his last known home address a statement in writing notifying him of—

- (a) the reasons for removing him from the register; and
- (b) his right of appeal to the Registration Appeals Committee under article 43.

Fitness to practise matters before registration

35.—(1) If it is shown to the satisfaction of the Registrar that—

- (a) the fitness to practise of a registrant was impaired at the time of his registration, because of his involvement in a serious matter, or a problem with his physical or mental health; and
- (b) he had not informed the Registrar of that matter or problem before his registration,

the Registrar may remove him from the register.

(2) The Council may make such provision in rules as it considers appropriate in connection with the information to be provided to the Registrar by or in respect of a registrant for the purposes of determining whether his fitness to practise was impaired at the time of his registration because of his involvement in a serious matter, or a problem with his physical or mental health.

(3) If a registrant fails to comply, or if in respect of him there is a failure to comply, with rules made under paragraph (2), the Registrar may remove him from the register.

(4) Where the Registrar removes a person from a register pursuant to paragraph (1) or (3), he shall send to the person at his last known home address a statement in writing notifying him of the reasons for removing him from the register and his right of appeal to the Registration Appeals Committee under article 43.

Moving between different parts of a register

36.—(1) The Council may make such provision in rules in connection with applications for moving to a different part of one of the Society's registers as it considers appropriate, and may in particular make provision with regard to—

- (a) the form and manner in which applications are to be made (and the rules may provide that applicants shall apply using application forms that are in such form as the Council may determine from time to time);
- (b) the information to be provided by the applicant;
- (c) whether any, and if so what, additional education or training is required before a person may move from Part 2 to Part 1 of one of the Society's Registers (and the rules may make provision for these issues to be determined by the Continuing Professional Development Committee);
- (d) fitness to practise matters; and
- (e) refusal of applications, in such cases and circumstances as may be prescribed in the rules (including where the applicant has not paid the fee prescribed under article 40(1)(e)).

(2) Where the Registrar refuses an application for moving to a different part of one of the Society's registers, he shall send to the applicant at his last known home address a statement in writing notifying him of—

- (a) the reasons for the decision; and
- (b) any right of appeal he has to the Registration Appeals Committee under article 43.

Voluntary removal from the registers

37.—(1) The Council may make such provision in rules in connection with applications for voluntary removal from one of the Society's registers as it considers appropriate, and may in particular make provision with regard to—

- (a) the form and manner in which applications are to be made (and the rules may provide that applicants shall apply using application forms that are in such form as the Council may determine from time to time);
- (b) the information to be provided by the applicant;
- (c) fitness to practise matters; and
- (d) refusal of applications, in such cases and circumstances as may be prescribed in the rules (including where the applicant has not paid any fee prescribed under article 40(1)(f) or where there is in respect of him an outstanding fitness to practise matter).

(2) Where the Registrar refuses an application for voluntary removal from one of the Society's registers, he shall send to the applicant at his last known home address a statement in writing notifying him of the reasons for the decision.

Indemnity arrangements

38.—(1) A registrant who is registered in Part 1 of one of the Society's registers must have in force in relation to him an adequate and appropriate indemnity arrangement which provides cover in respect of liabilities which may be incurred in carrying out work as a pharmacist or pharmacy technician.

(2) For these purposes an "indemnity arrangement" may comprise—

- (a) a policy of insurance;
- (b) an arrangement made for the purposes of indemnifying a person; or
- (c) a combination of a policy of insurance and an arrangement made for the purposes of indemnifying a person.

(3) The Council may make rules about what is an adequate and appropriate indemnity arrangement for the purposes of this article.

(4) The Council may make such provision in rules as it considers appropriate in connection with the information to be provided to the Registrar—

- (a) by or in respect of any person seeking to be registered in Part 1 of one of the Society's registers (including applications for restoration) for the purposes of determining whether, if he is registered, there will be in force in relation to him an adequate and appropriate indemnity arrangement which commences, at the latest, on the date on which he is registered;
- (b) by or in respect of a person who is registered in Part 1 of one of the Society's registers for the purposes of determining whether there is in force in relation to him an adequate and appropriate indemnity arrangement.

(5) Rules under paragraph 4(b) may require the information mentioned there to be provided by particular registrants or registrants in general on such dates or at such intervals as the Registrar may determine.

(6) The Council may also make rules requiring a person who is registered in Part 1 of one of the Society's registers to inform the Registrar if there ceases to be in force in relation to him an adequate and appropriate indemnity arrangement.

(7) The Registrar may refuse to register any person who fails to comply, or in respect of whom there is a failure to comply, with rules made under paragraph (4)(a) above.

(8) If a person who is registered in Part 1 of one of the Society's registers is in breach of paragraph (1), or fails to comply with rules made under paragraphs (4)(b) or (6), or there is a failure to comply with rules made under paragraph (4)(b) in respect of him—

- (a) the Registrar may remove him from the register; or
- (b) that may be treated as misconduct for the purposes of article 48(1)(a) and the Registrar shall consider, in accordance with article 49(1), whether or not to refer the matter to the relevant fitness to practise committee.

(9) Where the Registrar—

- (a) refuses to register a person pursuant to paragraph (7); or
- (b) removes a person from a register pursuant to paragraph (8)(a),

he shall send to the person at his last known home address a statement in writing notifying him of the reasons for the decision and his right of appeal to the Registration Appeals Committee under article 43.

Continuing professional development

39.—(1) The Council shall make such provision in rules in connection with requiring registrants who are registered in Part 1 of one of the Society’s registers to undertake such continuing professional development as it considers appropriate.

(2) Rules under paragraph (1) shall in particular make provision with regard to—

- (a) the amount and type of continuing professional development that a registrant is required to undertake (as determined in accordance with article 14(h)(ii) and 25(f)(ii));
- (b) the information to be provided by the registrant in respect of the continuing professional development that they have undertaken, and the form and manner in which that information is provided (and the rules may provide that registrants shall provide the information using forms that are in such form as the Continuing Professional Development Committee may determine from time to time);
- (c) the removal of registrants from the register where a registrant has breached rules under paragraph (1) or such other remedial measures as may be prescribed (and the rules may provide for those measures, and for decisions on removal, to be made by the Continuing Professional Development Committee); and
- (d) suspending a person’s registration pending the outcome of any appeal against a decision to remove the person from one of the Society’s registers (and the rules may provide for decisions to suspend being made by the Continuing Professional Development Committee).

(3) Where the Registrar removes a person from one of the Society’s registers pursuant to rules made under paragraph (1), he shall send to the person at his last known home address a statement in writing notifying him of—

- (a) the reasons for the decision (whether they are his reasons or the reasons of the Continuing Professional Development Committee); and
- (b) any right of appeal he has to the Registration Appeals Committee under article 43.

Fees in connection with registration

40.—(1) The Council may make rules with respect to the charging of fees in connection with registration, and in particular in connection with—

- (a) applications for registration in one of the Society’s registers, including applications for restoration to the register pursuant to article 41 or 55;
- (b) retention in one of the Society’s registers;
- (c) applications for entering annotations in one of the Society’s registers;
- (d) retention of annotations in one of the Society’s registers;
- (e) applications in respect of moving to a different part of the one of the Society’s registers;
- (f) applications in respect of voluntary removal from one of the Society’s registers; and
- (g) issuing further certificates of registration pursuant to article 32(3),

and shall publish any such rules in such manner as it sees fit.

(2) Rules under paragraph (1) may—

- (a) provide for a fee not to be charged, or to be waived in whole or in part, in prescribed cases or circumstances (including at the discretion of the Registrar);

- (b) provide for the removal of registrants from the Society's registers where a prescribed fee in respect of their retention in one of the Society's registers has not been paid, after such warnings as may be prescribed; and
 - (c) provide for removing annotations where a prescribed fee in respect of retaining an annotation has not been paid, after such warnings as may be prescribed.
- (3) Where the Registrar removes a person from a register pursuant to rules under paragraph (1), he shall send to the person at his last known home address a statement in writing notifying him of the reasons for the decision.
- (4) Before making rules under paragraph (1), the Council shall consult such registrants or classes of registrants as it considers appropriate.

Restoration to the Society's registers of persons removed under Parts 2 to 4

41.—(1) Where a person has been removed from a register pursuant to—

- (a) article 17(2)(b) (refusal to retain in the Register of Pharmacists);
- (b) article 28(2)(b) (refusal to retain in the Register of Pharmacy Technicians);
- (c) article 33(2) or (3) (failures to provide information with regard to registration entries);
- (d) article 34(3) (entries fraudulently procured or incorrectly made);
- (e) article 35(1) or (3) (fitness to practise matters before registration);
- (f) rules made under article 37(1) (voluntary removal from the registers);
- (g) article 38(8)(a) (failures to comply with requirements relating to indemnity arrangements);
- (h) rules made under article 39(1) (failures to comply with requirements relating to continuing professional development); or
- (i) rules made under article 40(1) (non-payment of fees),

the Registrar may restore him to the register in such circumstances as may be prescribed.

(2) The Council may make such provision in rules in connection with applications for restoration by the Registrar pursuant to paragraph (1) as it considers appropriate, and may in particular make provision with regard to—

- (a) the form and manner in which applications for restoration are to be made (and the rules may provide that applicants shall apply using application forms that are in such form as the Council may determine from time to time);
- (b) the information to be provided by the applicant;
- (c) whether any, and if so what, additional education, training, experience or other continuing professional development is required before restoration (as determined in accordance with article 14(h)(iii) and (v) and 25(f)(iii) and (iv), and the rules may make provision for these issues to be determined by the Continuing Professional Development Committee);
- (d) fitness to practise matters; and
- (e) refusal of applications (including where the applicant has not paid the fee prescribed under article 40(1)(a)).

(3) Where the Registrar refuses an application for restoration to one of the Society's registers, he shall send to the applicant at his last known home address a statement in writing notifying him of—

- (a) the reasons for the decision; and
- (b) any right of appeal he has to the Registration Appeals Committee under article 43 or to a relevant court under article 56.

Appealable registration decisions

42.—(1) Subject to paragraph (2), the following are appealable registration decisions for the purposes of article 43—

- (a) a decision to refuse to register a person in the Register of Pharmacists (excluding restoration cases), but only if the person’s application for registration, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 17(1);
 - (b) a decision to refuse to retain a person in the Register of Pharmacists, and so to remove him from it, pursuant to article 17(2)(b), but only if the person’s application for retention in the register, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 17(1);
 - (c) a failure to give any notice required by article 18(1) within the specified period;
 - (d) a decision to refuse to register a person in the Register of Pharmacy Technicians (excluding restoration cases), but only if the person’s application for registration, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 28(1);
 - (e) a decision to refuse to retain a person in the Register of Pharmacy Technicians, and so to remove him from it, pursuant to article 28(2)(b), but only if the person’s application for retention in the register, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 28(1);
 - (f) a decision to refuse to enter or restore an annotation in respect of a specialisation, but only if the registrant’s application for the annotation, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 31(1);
 - (g) a decision to remove an annotation in respect of a specialisation pursuant to rules under article 31(1);
 - (h) a decision to remove a registrant from one of the Society’s registers pursuant to article 33(2) or (3) (failures to provide information with regard to registration entries);
 - (i) a decision to remove a registrant from one of the Society’s registers pursuant to article 34(3) (entries fraudulently procured or incorrectly made);
 - (j) a decision to remove a person from one of the Society’s registers pursuant to article 35(1) or (3) (fitness to practise matters before registration);
 - (k) a decision to refuse an application for moving to a different part of one of the Society’s registers, but only if the application, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 36(1);
 - (l) a decision to refuse to register a person pursuant to article 38(7) or to remove a person from one of the Society’s registers pursuant to article 38(8)(a) (failures to comply with requirements relating to indemnity arrangements);
 - (m) a decision to remove a person from one of the Society’s registers pursuant to rules under article 39(1), but only if the person has provided a return in respect of his continuing professional development that, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 39(1);
 - (n) a decision to refuse an application for restoration of a person to one of the Society’s registers, but only if—
 - (i) the application, in its form and manner and as regards the information to be provided with it, complies with the requirements of rules under article 41, and
 - (ii) the decision is for a reason that does not relate to the person’s fitness to practise.
- (2) A decision is not an appealable registration decision if it was taken because—
- (a) of a failure to pay any fee prescribed under article 40(1); or

- (b) the applicant is not appropriately qualified, in circumstances where the applicant contends, in effect, that the qualifications he has should be approved by the Society pursuant to article 12(1)(c)(i) or 23(1)(c)(i).

Appeals to the Registration Appeals Committee

43.—(1) A person in respect of whom an appealable registration decision has been made may appeal against it to the Registration Appeals Committee, provided that he gives notice of the appeal to the Registrar within 28 days—

- (a) beginning with the date on which he is sent the written statement of the reasons for the decision; or
- (b) in the case of an appeal relating to a failure to give notice under article 18(1), beginning with the date on which the specified period expires.

(2) Where the Registrar is satisfied, on an application from a person in respect of whom an appealable registration decision to which paragraph (1)(a) relates has been made, that the person did not receive the written statement of the reasons for the decision within 14 days of the statement being sent, the Registrar may by authorisation in writing extend the time for giving notice of appeal under paragraph (1)(a).

(3) Where an appealable registration decision to remove a person from one of the Society's registers, or to remove an annotation, has been taken, the decision shall not take effect—

- (a) until the period for bringing an appeal in respect of the decision has expired, but if the period for bringing an appeal has been extended under sub-paragraph (2), that extended period shall for the purposes of this paragraph be treated as the period for bringing an appeal (notwithstanding that this may require reversal of action taken); and
- (b) where an appeal is brought within the period for bringing an appeal, until the date on which the appeal is finally disposed of, or is abandoned or fails by reason of its non-prosecution.

(4) Having considered the appeal, the Registration Appeals Committee may—

- (a) dismiss the appeal;
- (b) allow the appeal and quash the decision appealed against;
- (c) substitute for the decision appealed against any other decision that the person taking the decision could have taken; or
- (d) remit the case to the Registrar or (if it took the decision) the Continuing Professional Development Committee to dispose of the matter in accordance with the Registration Appeals Committee's directions.

(5) The Registration Appeals Committee shall, as soon as is reasonably practicable, give the person bringing the appeal a written notice of—

- (a) the Committee's decision and its reasons for its decision; and
- (b) any right of appeal that the person has under article 44(1).

(6) Subject to paragraph (7), the Registration Appeals Committee shall, as soon as reasonably practicable, publish in such manner as it sees fit its decision and the reasons for it.

(7) If the Registration Appeals Committee has allowed the appeal, or taken a decision or issued a direction that has the effect of allowing the appeal, it is not required to publish its decision and the reasons for it unless the person making the appeal so requests.

Appeals from the Registration Appeals Committee

44.—(1) Except where the Registration Appeals Committee has allowed an appeal or has taken a decision or issued a direction that has the effect of allowing the appeal, a person in respect of whom a decision of the Registration Appeals Committee has been taken may appeal that decision 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 written notice of the reasons for the decision was sent to him.

(2) In this article, “the relevant court” means—

- (a) the county court (the central London county court if the person making the appeal is not domiciled in England or Wales); or
- (b) if—
 - (i) the person making the appeal is domiciled in Scotland, and
 - (ii) the appeal relates to registration in the Register of Pharmacists, the sheriff in whose sheriffdom the person making the appeal is domiciled.

(3) Having considered an appeal under this paragraph, the relevant court may—

- (a) dismiss the appeal;
- (b) allow the appeal and quash the decision appealed against;
- (c) substitute for the decision appealed against any other decision that the Registration Appeals Committee could have taken; or
- (d) remit the case to the Registrar or (if it took the original decision) the Continuing Professional Development Committee to dispose of the matter in accordance with directions from the relevant court,

and may make such order as to costs or, in Scotland, expenses as the relevant court thinks fit.

PART 5

Fitness to Practise

Guidance in respect of standards of conduct, practice and performance

45.—(1) The Council shall prepare and from time to time publish in such manner as it sees fit guidance as to the standards of conduct, practice and performance expected of registrants.

(2) The Council shall keep guidance published under this article under review and may vary or withdraw its provisions whenever it considers it appropriate to do so.

(3) Before issuing, varying or withdrawing guidance published under this article, the Council shall consult such registrants or classes of registrants as it considers appropriate.

(4) The Society may charge reasonable fees for copies of guidance published under this article.

Disclosure of information: general

46.—(1) For the purpose of assisting the Society (including its Council, its staff and its committees) in carrying out functions in respect of the fitness to practise of—

- (a) a registered pharmacist, a person authorised by the Society may require—
 - (i) any registered pharmacist (except the registered pharmacist against whom the information or document is sought), or
 - (ii) any other person,in Great Britain who in his opinion is able to supply information or produce any document which appears relevant to the discharge of any such function, to supply the information or produce the document; or
- (b) a registered pharmacy technician, a person authorised by the Society may require—
 - (i) any registered pharmacy technician (except the registered pharmacy technician against whom the information or document is sought), or
 - (ii) any other person,

in England or Wales who in his opinion is able to supply information or produce any document which appears relevant to the discharge of any such function, to supply the information or produce the document.

(2) Nothing in paragraph (1) shall require or permit—

- (a) any disclosure of information which is prohibited by or under any enactment, but where that prohibition arises because the information is in a form which allows for the identification of an individual, the person authorised by the Society may require that information be put in a form which does not allow for the identification of that individual; or
- (b) the supplying of information or production of a document which a person could not be compelled to produce in civil proceedings in the High Court or the Court of Session under article 56.

(3) In determining for the purposes of paragraph (2)(a) whether a disclosure of personal data is prohibited, it shall be assumed, for the purposes of section 35(1) of the Data Protection Act 1998(a) (disclosures required by law or made in connection with legal proceedings etc.), that disclosure of the personal data is required by paragraph (1).

(4) If a person fails to supply any information or produce any document within 14 days of his being required to do so under paragraph (1), the Society may seek an order of the relevant court requiring the information to be supplied or the document to be produced.

(5) For the purposes of this article, the “relevant court” means—

- (a) the county court; or
- (b) if—
 - (i) the information or document relates to the fitness to practise of a registered pharmacist, and
 - (ii) the person against whom the order is sought is domiciled in Scotland, the sheriff in whose sheriffdom that person is domiciled.

Disclosure of fitness to practise matters in the public interest

47. The Society may disclose to any person or publish any information—

- (a) which relates to a pharmacist’s or pharmacy technician’s fitness to practise, whether it relates to a matter that arose before or after his registration and wherever the matter arose, if they consider it to be in the public interest to do so; or
- (b) of a particular description, which relates to fitness to practise, in relation to any pharmacist or pharmacy technician, if they consider it to be in the public interest to do so (without needing to decide whether it is in the public interest to do so in relation to a particular pharmacist or pharmacy technician, once a decision has been taken to disclose or publish information of that particular description in relation to any pharmacist or pharmacy technician).

Impairment of fitness to practise

48.—(1) A person’s fitness to practise shall be regarded as “impaired” for the purposes of this Order only by reason of—

- (a) misconduct;
- (b) deficient professional performance (which includes competence);
- (c) adverse physical or mental health;
- (d) failure to comply with a reasonable requirement imposed by an assessment team;
- (e) a conviction in the British Islands for a criminal offence;

(a) 1998 c.29.

- (f) a conviction elsewhere than in the British Islands for an offence which, if committed in England and Wales would constitute a criminal offence;
- (g) an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995(a) (admonition and absolute discharge) discharging him absolutely;
- (h) having accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal);
- (i) having agreed to pay a penalty under section 115A of the Social Security Administration Act 1992(b) (penalty as alternative to prosecution);
- (j) a police caution in the British Islands; or
- (k) a determination made by a regulatory body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that his fitness to practise as a member of a profession regulated by that body is impaired, or a determination by a regulatory body elsewhere to the same effect.

(2) References in this article to a conviction include a conviction by court martial.

(3) A person's fitness to practise may be regarded as impaired because of matters arising—

- (a) outside the United Kingdom; and
- (b) at any time.

(4) The Council may make such provision in rules as it considers appropriate in connection with the information to be provided to the Registrar by a registrant about fitness to practise matters that arise while he is registered.

(5) If a registrant fails to comply with rules under paragraph (4), that may be treated as misconduct for the purposes of paragraph (1)(a) and the Registrar shall consider, in accordance with article 49(1), whether to refer the matter to the relevant fitness to practise committee.

Initial action in respect of allegations

49.—(1) Where—

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

the Registrar shall, 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 in addition provide—

- (a) for the allegation to be referred instead, in prescribed cases, to the Disciplinary Committee or the Health Committee; and
- (b) that where the Registrar is to refer a case to the Disciplinary or Health Committee and is of the opinion that that Committee should consider making an interim order under article 54, for the Committee to be notified accordingly,

and where the Registrar does decide to refer an allegation to the Disciplinary or Health Committee under such rules, the Registrar shall inform the registrant who is the subject of the allegation and the person who made the allegation (if any) of that decision.

(3) Once a decision has been taken to refer the allegation to the Investigating Committee, or where rules so provide to the Disciplinary or Health Committee, the Registrar shall, as soon as is reasonably practicable—

(a) 1995 c.46; section 246 has been amended by the Crime and Punishment (Scotland) Act 1997 9c.48), Schedule 1, paragraph 21(31).
 (b) 1992 c.5; section 115A was inserted by section 15 of the Social Security Administration (Fraud) Act 1997 (c.47).

- (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 he has arrangements to do so;
 - (b) notify the Secretary of State, the Scottish Ministers, the Department of Health, Social Services and Public Safety in Northern Ireland and the National Assembly for Wales of the investigation of the registrant's fitness to practise;
 - (c) if the registrant is a registered pharmacist, notify any person in Great Britain of whom the Registrar is aware—
 - (i) by whom the registrant concerned is employed or engaged to provide services in, or in relation to, any area of pharmacy, or
 - (ii) with whom he has arrangements to do so,of the investigation of the registrant's fitness to practise; and
 - (d) if the registrant is a registered pharmacy technician, notify any person in England or Wales of whom the Registrar is aware—
 - (i) by whom the registrant concerned is employed or engaged to provide services in, or in relation to, any area of pharmacy, or
 - (ii) with whom he has arrangements to do so,of the investigation of the registrant's fitness to practise.
- (4) Where a registrant fails to comply with a requirement imposed on him under paragraph (3)(a)—
- (a) that may be treated as misconduct for the purposes of article 48(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.
- (5) For the purposes of this article, the “relevant court” means—
- (a) the county court (the central London county court in the case of a registered pharmacist who is not domiciled in Great Britain or a registered pharmacy technician who is not domiciled in England or Wales); or
 - (b) if the registrant is a registered pharmacist domiciled in Scotland, the sheriff in whose sheriffdom that registrant is domiciled.

Consideration by the Investigating Committee

50.—(1) Where an allegation or a matter has been referred to the Investigating Committee under this Order by the Registrar (referred to in this article as “the allegation”), it shall decide whether the allegation ought to be considered by the Disciplinary Committee or the Health Committee.

(2) If the Investigating Committee decides that the allegation need not be considered by the Disciplinary Committee or the Health Committee, unless the person who is the subject of the allegation (referred to in this article as “the person concerned”) has requested a referral under paragraph (3)—

- (a) the Investigating Committee may issue—
 - (i) a warning or advice to the person concerned in connection with any matter arising out of or related to the allegation, and
 - (ii) advice to any other person or other body involved in its investigation of the allegation on any issue arising out of or related to the allegation; and
- (b) the Registrar shall inform the person concerned and the person who made the allegation, if any, of the Committee's decision and any action it is taking under sub-paragraph (a).

(3) If the Investigating Committee decides that the allegation ought to be considered by the Disciplinary Committee or the Health Committee or the person concerned has requested a referral under this paragraph—

- (a) the Investigating Committee shall refer the allegation—
 - (i) in the case of an allegation that the person concerned’s fitness to practise is impaired by reason of adverse physical or mental health, to the Health Committee,
 - (ii) in the case of an allegation that the person concerned’s fitness to practise is impaired by reason of adverse physical or mental health and by reason of other matters, to the Health Committee or the Disciplinary Committee, whichever one the Investigating Committee considers more appropriate, or
 - (iii) in any other case, to the Disciplinary Committee;
- (b) where the Investigating Committee is of the opinion that the committee to which it is referring the allegation should consider making an interim order under article 54, it shall notify the committee accordingly; and
- (c) the Registrar shall inform the person concerned and the person who made the allegation, if any, of the Investigating Committee’s decision to refer the allegation to the Health Committee or the Disciplinary Committee.

(4) If, having considered an allegation, the Investigating Committee is of the opinion that the Society should consider exercising any of its powers to bring criminal proceedings under any enactment, it shall notify the Registrar accordingly.

Consideration by the Health Committee

51.—(1) Where an allegation is referred to the Health Committee by—

- (a) the Registrar under rules made under article 49(2)(a);
- (b) the Investigating Committee under article 50(3)(a)(i) or (ii); or
- (c) the Disciplinary Committee under rules made under article 59(3)(f),

the Committee shall, except in such circumstances as may be prescribed, determine whether or not the fitness to practise of the person in respect of whom the allegation is made (referred to in this article as “the person concerned”) is impaired.

(2) If the Health Committee determines that the person concerned’s fitness to practise is not impaired—

- (a) the Committee may issue—
 - (i) a warning or advice to the person concerned in connection with any matter arising out of or related to the allegation, and
 - (ii) advice to any other person or other body involved in its investigation of the allegation on any issue arising out of or related to the allegation or matter;
- (b) the Registrar shall inform the person concerned and the person who made the allegation, if any, of the Committee’s decision and any action it is taking under sub-paragraph (a); and
- (c) the Committee shall, if the person concerned so requests, publish in such manner as it sees fit a statement summarising its determination, or may publish such a statement if he consents.

(3) If the Health Committee determines that the person concerned’s fitness to practise is impaired by reason of adverse physical or mental health, it may—

- (a) issue—
 - (i) a warning to the person concerned in connection with any matter arising out of or related to the allegation and give a direction that details of the warning must be recorded in the person concerned’s entry in the register, and

- (ii) advice to any other person or other body involved in its investigation of the allegation on any issue arising out of or related to the allegation or matter;
 - (b) give a direction that the person concerned's registration shall be suspended, for such period not exceeding twelve months as may be specified in the direction; or
 - (c) give a direction that the person concerned's registration shall be conditional on his compliance, during a period specified in the direction not exceeding three years, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or in the person concerned's interests.
- (4) Where the Health Committee has given a direction under this article, following a review it may if it thinks fit—
- (a) where the person concerned's registration is suspended, give a direction that—
 - (i) the suspension be extended for such further period not exceeding twelve months as may be specified in the direction, starting from the time when the suspension would otherwise expire,
 - (ii) on expiry or termination of the period of suspension (including a period of suspension that was expressed to be indefinite), the person concerned's registration shall be conditional on his compliance, during a period specified in the direction not exceeding three years, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or in the person concerned's interests,
 - (iii) the person concerned be suspended indefinitely, if the suspension has already been in force throughout a period of at least two years, or
 - (iv) in the case of an indefinite suspension, terminate the suspension, provided that the review takes place in the circumstances provided for in paragraph (5);
 - (b) where a person concerned's registration is conditional on his compliance with requirements specified in a direction given under this article, give a direction—
 - (i) that the period specified in the direction for compliance with the requirements shall be extended for such further period not exceeding three years as may be specified in the direction, starting from the time when the earlier period would otherwise expire,
 - (ii) that the requirements be added to, reduced, removed or otherwise varied in such manner as is specified in the direction, or
 - (iii) that the person concerned's registration shall instead be suspended, for such period not exceeding twelve months as may be specified in the direction; or
 - (c) where a person concerned's registration is conditional on his compliance with requirements specified in a direction given under this article and the Committee determines that the person concerned has failed to comply, whether wholly or partly, with the conditions, give a direction that the person concerned's registration shall be suspended for such period not exceeding twelve months as may be specified in the direction.
- (5) If the Health Committee gives a direction under paragraph (4)(a)(iii), the Committee shall review the direction if—
- (a) the person concerned asks them to do so; and
 - (b) at least two years have elapsed—
 - (i) since the direction took effect, or
 - (ii) if the direction has already been reviewed by the Committee, since the conclusion of the last review by the Committee.
- (6) If a person concerned is registered in both of the Society's registers, the Health Committee—
- (a) shall make separate determinations under this article in relation to each register; and
 - (b) may give a direction under paragraph (3) or (4) in relation to only one of the registers or different directions in relation to each register,

but may otherwise deal with the matter as a single case.

(7) If the Health Committee issues a warning or gives a direction under this article, the Registrar shall on its behalf send to the person concerned at his last known home address a statement in writing notifying him of—

- (a) the reasons for the warning or the direction; and
- (b) any right of appeal he has under article 56.

Consideration by the Disciplinary Committee

52.—(1) Where an allegation is referred to the Disciplinary Committee by—

- (a) the Registrar under rules made under article 49(2)(a);
- (b) the Investigating Committee under article 50(3)(a)(ii) or (iii);
- (c) an assessment team under rules made under article 53(2)(b); or
- (d) the Health Committee under rules made under article 59(3)(g),

the Committee shall, except in such circumstances as may be prescribed, determine whether or not the fitness to practise of the person in respect of whom the allegation is made (referred to in this article as “the person concerned”) is impaired.

(2) If the Disciplinary Committee determines that the person concerned’s fitness to practise is not impaired—

- (a) the Committee may issue—
 - (i) a warning or advice to the person concerned in connection with any matter arising out of or related to the allegation, and
 - (ii) advice to any other person or other body involved in its investigation of the allegation on any issue arising out of or related to the allegation or matter;
- (b) the Registrar shall inform the person concerned and the person who made the allegation, if any, of the Committee’s decision and any action it is taking under sub-paragraph (a); and
- (c) the Committee shall, if the person concerned so requests, publish in such manner as it sees fit a statement summarising its determination, or may publish such a statement if he consents.

(3) If the Disciplinary Committee determines that the person concerned’s fitness to practise is impaired, it may—

- (a) issue—
 - (i) a warning to the person concerned in connection with any matter arising out of or related to the allegation and give a direction that details of the warning must be recorded in the person concerned’s entry in the register, and
 - (ii) advice to any other person or other body involved in its investigation of the allegation on any issue arising out of or related to the allegation or matter;
- (b) give a direction that the person concerned be removed from the register;
- (c) give a direction that the person concerned’s registration shall be suspended, for such period not exceeding twelve months as may be specified in the direction; or
- (d) give a direction that the person concerned’s registration shall be conditional on his compliance, during a period specified in the direction not exceeding three years, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or in the person concerned’s interests.

(4) Where the Disciplinary Committee has given a direction under this article, other than a direction that a person concerned be removed from the register, following a review it may if it thinks fit—

- (a) where the person concerned’s registration is suspended, give a direction that—

- (i) the person concerned be removed from the register,
 - (ii) the suspension be extended for such further period not exceeding twelve months as may be specified in the direction, starting from the time when the suspension would otherwise expire,
 - (iii) on expiry or termination of the period of suspension (including a period of suspension that was expressed to be indefinite), the person concerned's registration shall be conditional on his compliance, during a period specified in the direction not exceeding three years, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or in the person concerned's interests,
 - (iv) the person concerned be suspended indefinitely, if the suspension has already been in force throughout a period of at least two years, or
 - (v) in the case of an indefinite suspension, terminate the suspension, provided that the review takes place in the circumstances provided for in paragraph (5);
- (b) where a person concerned's registration is conditional on his compliance with requirements specified in a direction given under this article, give a direction—
- (i) that the period specified in the direction for compliance with the requirements shall be extended for such further period not exceeding three years as may be specified in the direction, starting from the time when the earlier period would otherwise expire,
 - (ii) that the requirements be added to, reduced, removed or otherwise varied in such manner as is specified in the direction, or
 - (iii) that the person concerned's registration shall instead be suspended, for such period not exceeding twelve months as may be specified in the direction; or
- (c) where a person concerned's registration is conditional on his compliance with requirements specified in a direction given under this article and the Committee determines that the person concerned has failed to comply, whether wholly or partly, with the conditions, give a direction that—
- (i) the person concerned be removed from the register, or
 - (ii) the person concerned's registration shall be suspended for such period not exceeding twelve months as may be specified in the direction.
- (5) If the Disciplinary Committee gives a direction under paragraph (4)(a)(iv), the Committee shall review the direction if—
- (a) the person concerned asks them to do so; and
 - (b) at least two years have elapsed—
 - (i) since the direction took effect, or
 - (ii) if the direction has already been reviewed by the Committee, since the conclusion of the last review by the Committee.
- (6) If a person concerned is registered in both of the Society's registers, the Disciplinary Committee—
- (a) shall make separate determinations under this article in relation to each register; and
 - (b) may give a direction under paragraph (3) or (4) in relation to only one of the registers or different directions in relation to each register,
- but may otherwise deal with the matter as a single case.
- (7) If the Disciplinary Committee issues a warning or gives a direction under this article, the Registrar shall on its behalf send to the person concerned at his last known home address a statement in writing notifying him of—
- (a) the reasons for the warning or the direction; and
 - (b) any right of appeal he has under article 56.

Professional performance assessments

53.—(1) The Council may make rules authorising the Registrar and fitness to practise committees to give directions, in such circumstances as may be prescribed (including during proceedings of the committee), requiring an assessment of the standard of a registrant’s professional performance by an assessment team.

(2) The Council may make such provision in rules in connection with composition and functions of, and procedures to be followed by, assessment teams as it considers appropriate, and may in particular make provision with regard to—

- (a) allowing an assessment by an assessment team to include an assessment of the standard of a registrant’s professional performance both at any time prior to the assessment and at the time of the assessment; and
- (b) referring to the Investigating Committee or the Disciplinary Committee a case where an assessment team considers that a registrant has failed to comply with a reasonable requirement that it has imposed on him.

(3) An assessment team, in connection with carrying out an assessment of the standard of a registrant’s professional performance—

- (a) may require the production of, inspect and take copies of any records (in whatever form they are held) arising out of or relating to the registrant’s professional practice; and
- (b) where such records are kept otherwise than in legible form, may require a copy of them to be given to the team in a legible form.

(4) Nothing in, or in rules under, this article shall require or permit—

- (a) any disclosure of information which is prohibited by or under any enactment, but where that prohibition arises because the information is in a form which allows for the identification of an individual, an assessment team, when requiring the production of records under paragraph (3)(a), may require the records be put in a form which does not allow for the identification of that individual; or
- (b) the production of records which a person could not be compelled to produce in civil proceedings in the High Court or the Court of Session under article 56.

(5) In determining for the purposes of paragraph (4)(a) whether a disclosure of personal data is prohibited, it shall be assumed, for the purposes of section 35(1) of the Data Protection Act 1998^(a) (disclosures required by law or made in connection with legal proceedings etc.), that disclosure of the personal data is required by paragraph (3).

(6) If a person fails to produce any records within 14 days of his being required to do so under paragraph (3), the Registrar or the committee on whose behalf the assessment team is carrying out the assessment in connection with which the records are being sought may seek an order of the relevant court requiring the records to be produced.

(7) For the purposes of this article, the “relevant court” means—

- (a) the county court; or
- (b) if—
 - (i) the records are being sought in relation to a registered pharmacist, and
 - (ii) the registered pharmacist is domiciled in Scotland,
 the sheriff in whose sheriffdom that registered pharmacist is domiciled.

Interim Orders

54.—(1) Where the Health Committee or the Disciplinary 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

(a) 1998 c.29.

the interests of a registrant, for the registration of that registrant to be suspended or to be made subject to conditions, the Committee may make an order—

- (a) that his registration be suspended during such period not exceeding eighteen months as may be specified in the order (an “interim suspension order”); or
- (b) that his registration shall be conditional on his compliance, during such period not exceeding eighteen months as may be specified in the order, with such requirements specified in the direction as the Committee thinks fit to impose (an “order for interim conditional registration”).

(2) Subject to paragraph (7), where the Health Committee or the Disciplinary Committee has made an order under paragraph (1), the Committee that made the order—

- (a) shall review it within the period of six months beginning on the date on which the order was made, and shall thereafter, for so long as the order continues in force, further review it—
 - (i) before the end of the period of six months beginning on the date of the decision of the immediately preceding review, or
 - (ii) if after the end of the period of three months beginning on 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 registration has been made in relation to any person under any provision of this article (including this paragraph) the committee making the order may—

- (a) revoke the order or revoke any condition imposed by 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 registration with an interim suspension order having effect for the remainder of the term of the former order, or
 - (ii) replace an interim suspension order with an order for interim conditional registration having effect for the remainder of the term of the former order.

(4) If an order is made under any provision of this article, the Registrar shall without delay send a notification of the order to the person to whose registration it relates at his last known home address.

(5) The Society may apply to the relevant court for an order made by the Health Committee or the Disciplinary Committee under paragraph (1) or (3)—

- (a) to be extended;
- (b) that has been extended to be further extended,

and on such an 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 registration, 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 Health Committee or the Disciplinary Committee, or after a replacement order made by the Health Committee or the Disciplinary Committee under paragraph (3)(c), shall 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 six months beginning on the date (“the relevant date”) on which the relevant court ordered the extension or on which a replacement order under paragraph (3)(c) was made; and

- (b) if the order has been reviewed under paragraph (2), within the period of three months beginning on the relevant date.

(8) A registrant who is aggrieved by a decision of the Health Committee or the Disciplinary 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 registration, revoke 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 shall remain in force pending the outcome of the appeal.

(9) The decision of the relevant court on any application under paragraph (8) shall be 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 51(1) or 52(1), the committee considering that allegation shall revoke the order once it has 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 registered pharmacist who is domiciled in Scotland, the Court of Session; and
- (b) in any other case, the High Court.

Restoration of names to the register: fitness to practise

55.—(1) Subject to paragraph (2)—

- (a) a person whose name has been removed from one or both of the Society's registers in accordance with a direction under article 52(3)(b) or (4)(a)(i) or (c)(i) may apply to the Registrar for his name to be restored to any register from which he has been removed; and
- (b) the Registrar shall refer that application to the Disciplinary Committee.

(2) An application may not be made under paragraph (1)—

- (a) before the expiration of five years from the date of removal; or
- (b) within 12 months of the date of an earlier application under paragraph (1) in respect of that person.

(3) The Council may make such provision in rules in connection with applications for restoration by virtue of paragraph (1) as it considers appropriate, and may in particular make provision with regard to—

- (a) the form and manner in which applications for restoration are to be made (and the rules may provide that applicants shall apply using application forms that are in such form as the Council may determine from time to time);
- (b) the information to be provided by the applicant, including—
 - (i) the name under which he intends to practise, or in the case of a person who does not intend to practise, the name by which he is generally known, and
 - (ii) his home address;
- (c) whether any, and if so what, additional education, training or other continuing professional development is required before restoration (as determined in accordance with article 14(h)(iii) and (v) and 25(f)(iii) and (iv), and the rules may make provision for these issues to be determined by the Continuing Professional Development Committee);
- (d) fitness to practise matters; and

(e) refusal of applications (including where the applicant has not paid the fee prescribed under article 40(1)(a)).

(4) An application under this article shall not be granted unless the person applying for his name to be restored to the register provides such evidence of his fitness to practise as the Disciplinary Committee directs.

(5) Where the Disciplinary Committee refuses an application for restoration to one of the Society's registers, the Registrar shall send to the applicant at his last known home address a statement in writing notifying him of the reasons for the decision.

(6) If the Disciplinary Committee grants the application, it may give a direction that the person's registration shall be conditional on his compliance, during a period specified in the direction not exceeding three years, with such requirements specified in the direction as the Committee thinks fit to impose for the protection of the public or in the person's interests.

(7) Where the Disciplinary Committee gives a direction under paragraph (6), that direction shall, for the purposes of article 52(4), be treated as a direction under article 52.

(8) If, during a continuous period when a person is not registered, a person makes two or more applications under this article and the applications are refused, the Disciplinary Committee may direct that he may make no further applications under this article.

(9) If the Disciplinary Committee gives a direction under paragraph (6) or (8), the Registrar shall on its behalf send to the person concerned at his last known home address a statement in writing notifying him of—

- (a) the reasons for the direction; and
- (b) his right of appeal under article 56.

Appeals against appealable fitness to practise decisions

56.—(1) The following decisions are appealable fitness to practise decisions for the purposes of this Part—

- (a) a decision of the Registrar under article 41 to refuse an application for restoration to one of the Society's registers for a reason that relates to the applicant's fitness to practise;
- (b) a decision of the Health Committee under article 51 to give a direction for suspension or for conditional registration or varying the conditions imposed by a direction for conditional registration (including a decision to give such a direction that extends an earlier direction);
- (c) a decision of the Disciplinary Committee under article 52 to give a direction—
 - (i) to remove a person from a register, or
 - (ii) for suspension or conditional registration or for varying the conditions imposed by a direction for conditional registration (including a decision to give such a direction that extends an earlier direction);
- (d) a decision of the Disciplinary Committee under article 55(6) to give a direction for conditional registration; and
- (e) a decision of the Disciplinary Committee to give a direction under article 55(8) that a person may make no further applications under that article.

(2) A person in respect of whom an appealable fitness to practise decision has been made may appeal that decision 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 written notice of the reasons for the decision was sent to him.

(3) In this article and article 57, "the relevant court" means—

- (a) the High Court; or
- (b) as regards an application relating to registration in the Register of Pharmacists, if the person making the appeal is domiciled in Scotland, the Court of Session.

(4) Having considered an appeal under this paragraph, the relevant court may—

- (a) dismiss the appeal;
- (b) allow the appeal, and—
 - (i) quash the decision appealed against, or
 - (ii) in the case of an appeal in respect of a direction, quash the direction in respect of which the appeal is made;
- (c) in the case of an appeal in respect of a direction, substitute for the direction any other direction that the committee or person giving the direction could have given; or
- (d) remit or refer the case to the Registrar, the Health Committee or the Disciplinary Committee for him or it to dispose of the matter in accordance with directions from the relevant court,

and may make such order as to costs or, in Scotland, expenses as the relevant court thinks fit.

The taking effect of directions in respect of appealable fitness to practise decisions

57.—(1) Where an appealable fitness to practise decision is taken in respect of a direction, that direction shall not take effect—

- (a) until the period for bringing an appeal in respect of the direction has expired; and
- (b) where an appeal is brought within the period for bringing an appeal, until the date on which the appeal is finally disposed of, or is abandoned or fails by reasons of its non-prosecution.

(2) Where an appeal is brought, within the period for bringing an appeal, against an appealable fitness to practise decision in respect of a direction (“the later direction”) that extends, varies or replaces an earlier direction, the earlier direction shall continue to have effect until the date on which the appeal is finally disposed of, or is abandoned or fails by reason of its non-prosecution.

(3) Where, as a result of the extension of an earlier direction pursuant to paragraph (2), a later direction takes effect on a date after it was due to take effect, the time period for which the later direction was originally expressed to have effect (howsoever expressed) shall be treated as commencing—

- (a) on the date on which it was originally due to take effect; or
- (b) if this would mean that the later direction would in practice expire before it commences, on the date on which the appeal is finally disposed of, or is abandoned or fails by reason of its non-prosecution.

Interim measures pending a direction taking effect

58.—(1) Where—

- (a) the Health Committee gives a direction for suspension under article 51; or
- (b) the Disciplinary Committee gives a direction for suspension, or to remove a person from a register, under article 52,

if the Committee is satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the best interests of the person who is the subject of the direction, it may order that his registration in the register shall be suspended forthwith, pending the coming into force of the direction.

(2) Where—

- (a) the Health Committee gives a direction for conditional registration under article 51; or
- (b) the Disciplinary Committee gives a direction for conditional registration under article 52 or 46(6),

if the committee is satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the best interests of the person who is the subject of the direction, it may order that his registration in the register shall be conditional on his

compliance, pending the coming into force of the direction, with such requirements specified in the order as the Committee thinks fit to impose.

(3) Where the Health Committee or the Disciplinary Committee, as the case may be, makes an order under paragraph (1) or (2), the Registrar shall send to the person who is the subject of the order at his last known home address a statement in writing notifying him of the contents of the order and his right of appeal under paragraph (4).

(4) A registrant who is aggrieved by a decision of the Health Committee or the Disciplinary Committee to make an order under this article may appeal against that decision to the relevant court, and the court may—

- (a) dismiss the appeal;
- (b) in the case of an order under paragraph (1), terminate the suspension; and
- (c) in the case of an order under paragraph (2), revoke or vary any condition imposed by the order,

and the decision of the relevant court on any application under this paragraph shall be final.

(5) In this article “the relevant court” means—

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

PART 6

Proceedings

Rules in respect of proceedings

59.—(1) Subject to the following provisions of this Part, the Council shall make such provision in rules in connection with the procedure to be followed and rules of evidence to be observed by—

- (a) the Registration Appeals Committee; and
- (b) fitness to practise committees (whether exercising functions under this Order or the Medicines Act 1968),

as it considers appropriate.

(2) The rules under paragraph (1) above in respect of the Health Committee, the Disciplinary Committee or the Registration Appeals Committee shall, and in respect of the Investigating Committee may, include provision—

- (a) for securing that, where a hearing is to be held, notice of when and where the hearing is to be held is given, at such time and in such manner as may be specified in the rules, to any person to whom the proceedings relate;
- (b) for securing that the person concerned and the Society shall, if they so require, be entitled to be heard by the committee—
 - (i) at any hearing, or
 - (ii) on any other occasion when the committee is considering making an interim suspension order or an order for interim conditional registration;
- (c) for enabling the person concerned and the Society to be represented at the hearing, or on any other occasion when the committee is considering making an interim suspension order or an order for interim conditional registration, by—
 - (i) a person with a general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990),
 - (ii) an advocate in Scotland, or a solicitor entitled to appear in the Court of Session and the High Court of Justiciary, or

- (iii) a person of such other description as may be specified in rules, if the rules so allow and the person concerned or the Society so elects;
 - (d) for proceedings before the committee to be held in public, except and to the extent that rules provide otherwise; and
 - (e) in respect of reviewing directions under article 51 or 52—
 - (i) which are due to expire, or
 - (ii) in circumstances where the committee is considering varying the requirements specified in the direction.
- (3) The rules under paragraph (1) may include provision—
- (a) in respect of the preliminary consideration of a case before a committee (including considering representations from the person concerned and the Society during its preliminary consideration);
 - (b) following preliminary consideration of a case—
 - (i) in the case of an appeal before the Registration Appeals Committee, allowing the Committee, in prescribed circumstances, to allow the appeal or take a decision that has the effect of allowing the appeal, and
 - (ii) in the case of an allegation before a fitness to practise committee, allowing the committee, in prescribed circumstances, to make a finding that the person concerned's fitness to practise is not impaired;
 - (c) in respect of consensual disposal of a fitness to practise case following preliminary consideration of it, including provision—
 - (i) enabling a fitness to practise committee, in such circumstances as may be specified in the rules, to agree with the person concerned that he will comply with such undertakings as the committee considers appropriate, and
 - (ii) with respect to the procedure to be followed where any such undertakings are breached;
 - (d) in respect of case management meetings (and the rules may provide that the preliminary consideration of a case is to take place at a case management meeting) and directions, including provision with respect to the procedure to be followed where case management directions are breached;
 - (e) in respect of cancelling hearings and staying proceedings in appropriate circumstances;
 - (f) enabling the Disciplinary Committee to refer a case before it to the Health Committee, in such circumstances as may be prescribed—
 - (i) for advice, or
 - (ii) for the Health Committee to dispose of the case;
 - (g) enabling the Health Committee to refer a case before it to the Disciplinary Committee, in such circumstances as may be prescribed—
 - (i) for advice, or
 - (ii) for the Disciplinary Committee to dispose of the case;
 - (h) enabling the Registration Appeals Committee to refer a case before it to a fitness to practise committee for advice;
 - (i) enabling the committee to draw such inference as seems appropriate to it in the particular circumstances of the case if the person concerned fails—
 - (i) to submit to any examination or assessment required or directed to be carried out in accordance with rules made under this article or article 53, or
 - (ii) to co-operate with the committee;
 - (j) enabling the committee, at any time during the course of proceedings, to make such inquiries as it considers appropriate; and

- (k) for the award of, and in respect of the assessment of, costs or expenses, and may require the committee to have regard to a person's ability to pay when considering the making of an award against him under the rules.

(4) An award of costs may by leave of the High Court be enforced in the same manner as an order of the High Court to the same effect.

(5) An award of expenses may by leave of the Court of Session be enforced in the same manner as a decree of the Court of Session to the same effect.

(6) The rules under paragraph (1) above may make provision—

- (a) as to the form which is to be used for any document (and may provide that specified documents are to be in such form as the Council may determine from time to time); and
- (b) for documents and certificates to be sent or received as an electronic communication.

Procedure of fitness to practise committees and the Registration Appeals Committee

60.—(1) For the purposes of proceedings under this Order in England and Wales—

- (a) a fitness to practise committee or the Registration Appeals Committee may administer oaths; and
- (b) a fitness to practise committee, the Registration Appeals Committee or any party to proceedings before them may issue a writ of sub poena ad testificandum or duces tecum.

(2) No person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

(3) Section 36 of the Supreme Court Act 1981(a) (subpoena issued by High Court to run throughout the United Kingdom) shall apply in relation to any such proceedings in England and Wales as it applies in relation to causes and matters in the High Court.

(4) For the purposes of any such proceedings in Scotland, the committee may administer oaths and the Court of Session shall on the application of any party to the proceedings have the like power as in any action in that court—

- (a) to grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the committee, and for the issue of letters of second diligence against any witness or havers failing to appear after due citation;
- (b) to grant warrant for the recovery of documents; and
- (c) to grant commissions to persons to take the evidence of witnesses or to examine havers and receive their exhibits and productions.

(5) Where—

- (a) several sittings of a fitness to practise committee are required to enable the committee to dispose of a case; or
- (b) on an appeal to the relevant court under article 56, the case is remitted to a fitness to practise committee to dispose of the case in accordance with directions given by the court,

the validity of the proceedings on the case before the committee shall not be called into question by reason only that members of the committee who were present at a former meeting were not present at a later meeting of the committee or that members present at a later meeting were not present at a former meeting of the committee.

Legal advisers

61.—(1) The Council shall appoint persons to be legal advisers, except that the Council may make rules which provide for it to enter into arrangements with another person, body or group,

(a) 1981 c.54; section 36 has been amended by the Courts and Legal Services Act 1990 (c.41), Schedule 17, paragraph 13.

including a committee established under the Charter, for that person, body or group to appoint persons to be legal advisers on its behalf.

(2) To be qualified for appointment as a legal adviser, a person must—

- (a) have at least a five year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); or
- (b) be an advocate or solicitor in Scotland of at least five years standing.

(3) A legal adviser shall not be a member of the Council or a statutory committee.

(4) Legal advisers appointed under this article may be appointed either generally or for any particular class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument under which they are appointed.

(5) The Council may make rules as to the functions of legal advisers appointed under this article.

Clinical and other specialist advisers

62.—(1) In connection with proceedings under this Order, the Council—

- (a) shall appoint registered medical practitioners to be clinical advisers, except that the Council may make rules which provide for it to enter into arrangements with another person or body, including a committee established under the Charter, for that person or body to appoint registered medical practitioners to be clinical advisers on its behalf; and
- (b) may appoint persons to act as specialist advisers on issues on which, in the Council's opinion, specialist knowledge is required, and the Council may make rules which provide for it to enter into arrangements with another person or body, including a committee established under the Charter, for that person or body to appoint persons to be specialist advisers on its behalf.

(2) Persons appointed to be—

- (a) clinical advisers must have specialist expertise in a particular field or fields; and
- (b) specialist advisers must have particular expertise in the specialty for which they are appointed.

(3) Clinical advisers shall be appointed for the purpose of giving advice to the Health Committee or the Investigating Committee on health related issues under consideration by the Committee in the course of proceedings before it and may also be appointed to give advice to the Council or the Society's committees on other health related issues.

(4) If specialist advisers are appointed under paragraph (1)(b) above, their appointment shall be for the purpose of giving advice to the Disciplinary Committee and the Registration Appeals Committee on issues falling within their specialty which are under consideration by the Committee in the course of proceedings before it and may also be for the purpose of giving advice to the Council or the Society's committees on other issues falling within their speciality.

(5) Advisers appointed under this article must not be members of the Council or a statutory committee.

(6) Advisers appointed under this article may be appointed either generally or for any particular class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument under which they are appointed.

(7) The Council may make rules as to the functions of advisers appointed under this article.

PART 7

Miscellaneous

General fees

63.—(1) Subject to paragraph (2), the Society may charge such fees in connection with the exercise of its, the Council's or its statutory committees' functions as it may reasonably determine.

(2) No fee may be charged, pursuant to paragraph (1), in connection with the exercise of a function where provision is made for the charging of a fee in connection with the exercise of that function elsewhere in this Order.

Providers of education and training in the Channel Islands and the Isle of Man

64.—(1) The Society may enter into arrangements with bodies in the Channel Islands and the Isle of Man to assist them in the performance of the following functions or to perform the following functions on their behalf—

- (a) accreditation of degree courses for prospective pharmacists and approval of providers of such courses;
- (b) approval or accreditation of programmes or courses of education and training for prospective pharmacy technicians;
- (c) approval of providers, including tutors, of postgraduate education and training for prospective pharmacists, which may be limited to providing education and training at specified premises;
- (d) approval of premises as being suitable for postgraduate education and training of prospective pharmacists; and
- (e) approval of providers, including tutors, of particular types of preregistration and post registration additional education, training or experience for pharmacists, prospective pharmacists, pharmacy technicians and prospective pharmacy technicians, which may be limited to activities at specified premises.

(2) Approval or accreditation pursuant to arrangements made in accordance with this article may be in respect of a programme or course of education or training that only provides part of the education or training needed for an approved or accredited course or programme, or for an approved qualification, where the Society is satisfied that there are appropriate arrangements in place for persons participating in the education and training to receive the remainder of the education or training necessary for the approved or accredited course or programme, or for the approved qualification, elsewhere.

Prosecutions

65. Notwithstanding anything in any enactment, proceedings for an offence under this Order may be begun—

- (a) in England and Wales, at any time within the period of six months beginning with the date on which evidence sufficient in the opinion of the Society to justify a prosecution came to the Society's knowledge;
- (b) in Scotland, at any time within the period of six months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify a prosecution came to the prosecutor's knowledge; or
- (c) within a period of two years beginning with the date of the commission of the offence,

whichever period first expires.

Rules and orders

66.—(1) Any power to make rules under this Order may be exercised—

- (a) so as to make different provision—
 - (i) with respect to different cases or different classes of cases, or
 - (ii) in respect of the same case or class of case for different purposes;
- (b) in relation to all cases to which the power extends or in relation to all those cases subject to specified exceptions; or
- (c) so as to make any supplementary, incidental, consequential, transitional, transitory or saving provision which the Council considers necessary or expedient.

(2) The Council shall ensure that its rule making powers under this Order are exercised in such a way so as to ensure that its rules are and remain consistent with the requirements of the Treaties, the Pharmacy Qualifications Directive and the Second General System Directive.

(3) Before making rules under Part 6 of this Order, the Council shall consult—

- (a) Primary Care Trusts in England;
- (b) Local Health Boards in Wales; and
- (c) Health Boards in Scotland.

(4) No rules made under this Order, apart from rules made solely under article 40 (or article 40 together with paragraph (1)), shall come into force until approved by order of the Privy Council.

(5) The Privy Council may approve rules submitted to them for approval either in the form submitted to them or subject to such modifications as appear to them requisite.

(6) Any power of the Privy Council to make an order under this Order shall be exercisable by statutory instrument, and except for an order made solely in respect of—

- (a) approving byelaws under paragraph 4(1) of Schedule 2; or
- (b) approving rules under—
 - (i) article 16 (or article 16 together with paragraph (1)),
 - (ii) article 27 (or article 27 together with paragraph (1)), or
 - (iii) article 30 (or article 30 together with paragraph (1)),

an order of the Privy Council under this Order shall be subject to annulment in pursuance of a resolution of either House of Parliament (but this article does not preclude the inclusion of rules under article 16, 27, 30 or 40 in a set of rules which are subject to annulment in pursuance of a resolution of either House of Parliament).

(7) For the purposes of section 1 of the Statutory Instruments Act 1946^(a) (definition of “Statutory Instrument”), paragraph (6) shall have effect as if contained in an Act of Parliament.

(8) Any power vested in the Privy Council to make an order under this Order may be exercised by any two or more members of the Privy Council.

(9) Any act of the Privy Council under this Order shall be sufficiently signified by an instrument signed by the Clerk of the Privy Council, and an order or act signified by an instrument purporting to be signed by the Clerk of the Privy Council—

- (a) shall be deemed to have been duly made or done by the Privy Council;
- (b) shall be evidence, and in Scotland sufficient evidence, of—
 - (i) the fact that the instrument was duly made, or the act duly done, and
 - (ii) the instrument’s terms.

(a) 1946 c.36; section 1 has been amended by the Government of Wales Act 1998 (c.38), Schedule 12, paragraph 2.

Amendments, repeals and revocations

67. The amendments, repeals and revocations contained in Schedule 1 shall have effect.

Transitional provisions

68.—(1) The transitional provisions contained in Schedule 2 shall have effect.

(2) The Privy Council may by order make such further transitional, transitory or saving provisions as it considers appropriate.

A.K. Galloway
Clerk of the Privy Council

SCHEDULE 1

Article 67

AMENDMENTS, REPEALS AND REVOCATIONS

PART 1

Primary Legislation

Repeal of the Pharmacy Act 1954

1. The Pharmacy Act 1954(a) is repealed.

Amendment of the Medicines Act 1968

2.—(1) The Medicines Act 1968(b) is amended as follows.

(2) In section 40(c) (medicated animal feeding stuffs), in subsection (12), for the definition of “the registrar” substitute the following definition—

““the registrar” means the person appointed under article 9(1) of the Pharmacists and Pharmacy Technicians Order 2006 as Registrar for the purposes of that Order.”.

(3) In section 57(d) (power to extend or modify exemptions), in subsection (2D), for the definition of “the registrar” substitute the following definition—

““the registrar” means the person appointed under article 9(1) of the Pharmacists and Pharmacy Technicians Order 2006 as Registrar for the purposes of that Order.”.

(4) In section 69(e) (general provisions for Part 4), in subsection (3)—

(a) after the definition of “the Council” insert the following definitions—

““the Disciplinary Committee” means the Disciplinary Committee established under article 7(1)(b) of the Pharmacists and Pharmacy Technicians Order 2006;

“EEA State” means a member State, Iceland, Liechtenstein, Switzerland or Norway;”;

(b) in the definition of “the registrar”, for “appointed under section 1 of the Pharmacy Act 1954 as registrar for the purposes of that Act,” substitute “appointed under article 9(1) of the Pharmacists and Pharmacy Technicians Order 2006 as Registrar for the purposes of that Order;”;

(a) 1954 c.61.

(b) 1968 c.67.

(c) Section 40 was substituted by the Animal Health and Welfare Act 1984 (c.40), section 13(1).

(d) Section 57(2D) was inserted by the Animal Health and Welfare Act 1984, section 14.

(e) Section 69(3) has been amended by the Statute Law Repeals Act 1993 (c.50), Schedule 1, Part XII, and by S.I. 1976/1213.

(c) in the definition of “the Statutory Committee” omit “in relation to Great Britain means the committee appointed under section 7 of the Pharmacy Act 1954, and in relation to Northern Ireland”.

(5) In section 70(a) (business carried on by individual pharmacist or by partners)—

(a) in subsection (1) for “section 4A of the Pharmacy Act 1954 (qualification by European diploma), or any corresponding provision applying to Northern Ireland,” substitute “a formal qualification in pharmacy awarded in an EEA State other than the United Kingdom”; and

(b) in subsection (3), after “Pharmacy Act 1954” insert “or the Pharmacists and Pharmacy Technicians Order 2006”.

(6) In section 71(b) (bodies corporate), in subsection (1), for “section 4A of the Pharmacy Act 1954, or any corresponding provision applying to Northern Ireland,” substitute “a formal qualification in pharmacy awarded in an EEA State other than the United Kingdom,”.

(7) In section 72(c) (representative of pharmacist in case of death or disability), in subsection (3), for “the Statutory Committee” substitute “the Disciplinary Committee (in relation to Great Britain) or the Statutory Committee (in relation to Northern Ireland)”.

(8) In section 80(d) (power for Statutory Committee to disqualify and direct removal from register)—

(a) in subsections (1) (twice), (2) (twice), (3) and (4) (twice), for “the Statutory Committee” insert “the Disciplinary Committee (in relation to Great Britain) or the Statutory Committee (in relation to Northern Ireland)”; and

(b) in subsection (5), after “the Pharmacy Act 1954,” insert “the Pharmacists and Pharmacy Technicians Order 2006,”.

(9) In section 81 (grounds for disqualification in certain cases), in subsection (1), for “the Statutory Committee” substitute “the Disciplinary Committee (in relation to Great Britain) or the Statutory Committee (in relation to Northern Ireland)”.

(10) In section 82 (procedure relating to disqualification), in subsections (1) and (5), for “the Statutory Committee” substitute “the Disciplinary Committee (in relation to Great Britain) or the Statutory Committee (in relation to Northern Ireland)”.

(11) In section 83 (revocation of disqualification), in subsections (1) and (2), for “the Statutory Committee” substitute “the Disciplinary Committee (in relation to Great Britain) or the Statutory Committee (in relation to Northern Ireland)”.

(12) In section 132(e) (general interpretation provisions), in subsection (1), in the definition of “pharmacist” for “the register of pharmaceutical chemists established in pursuance of the Pharmacy Act 1852 and maintained in pursuance of section 2(1) of the Pharmacy Act 1954,” substitute “Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006,”.

Poisons Act 1972

3.—(1) The Poisons Act 1972(f) is amended as follows.

(2) In section 9(g) (inspection and enforcement)—

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- (a) In section 70, subsection (1) has been amended by S.I. 1987/2202 and subsection (3) by S.I. 1976/1213.
 (b) Section 71(1) has been amended by S.I. 1987/2202.
 (c) Section 72(3) has been amended by the Adults with Incapacity (Scotland) Act 2000 (asp.), Schedule 5, paragraph 12(b) and Schedule 6.
 (d) Section 80(5) has been amended by the Misuse of Drugs Act 1971 (c.38), section 12(7), and by S.I. 1976/1213.
 (e) Section 132(1) has been amended by: the National Health Reorganisation Act 1973 (c.32), Schedule 4, paragraph 128(3); the National Health Service Act 1977 (c.49), Schedule 15, paragraph 50; the Medical Act 1983 (c.54), Schedule 5, paragraph 5; the Dentists Act 1984 (c.24); Schedule 5, paragraph 2; the Animal Health and Welfare Act 1984, section 13(3); the Food Safety Act 1990 (c.16), Schedule 3, paragraph 11, and Schedule 5; and by S.I. 1976/1213, 1992/3271, 1996/1496, 2002/236, 2003/232 and 2004/1031.
 (f) 1972 c.66.
 (g) There are no relevant amendments to section 9.

- (a) in subsection (1)—
 - (i) in paragraph (a), for “subsections (2) and (3) of section 20 of the Pharmacy Act 1954 (offences relating to certificates)” substitute “articles 20 and 29 of the Pharmacists and Pharmacy Technicians Order 2006 (restrictions relating to the Register of Pharmacists and the Register of Pharmacy technicians)”, and
 - (ii) for “such number of inspectors as the Privy Council may direct” substitute “inspectors”;
 - (b) in subsection (2), omit “, and every such appointment shall be subject to the approval of the Privy Council”;
 - (c) in subsection (3) omit “with the approval of the Privy Council”; and
 - (d) in subsection (4)(a), for the words “subsections (2) and (3) of section 20 of the Pharmacy Act 1954” substitute “articles 20 and 29 of the Pharmacists and Pharmacy Technicians Order 2006”.
- (3) In section 11(a) (interpretation), in subsection (2), for the definition of “pharmacist” substitute the following definition—
- ““pharmacist” means a person registered in Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006;”.

Amendment of the National Health Service Act 1977

- 4.—**(1) The National Health Service Act 1977(b) is amended as follows.
- (2) In section 42(c) (regulations as to pharmaceutical services), in subsection (3)(ba), for “under the Pharmacy Act 1954 by virtue of section 4A of that Act (qualification by European diploma)” substitute “in the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006 by virtue of a formal qualification in pharmacy awarded in a member State other than the United Kingdom, or in Iceland, Liechtenstein, Norway or Switzerland.”.
- (3) In section 43(d) (persons authorised to provide pharmaceutical services), after subsection (3) insert the following subsection—
- “(3A) Where—
- (a) arrangements for the provision of pharmaceutical services have been made with a registered pharmacist; and
 - (b) his registration is suspended by virtue of any direction or order under the Pharmacists and Pharmacy Technicians Order 2006,
- he shall not provide pharmaceutical services during the period of the suspension.”.
- (4) In section 128(e) (interpretation and construction), in subsection (1), for the definition of “registered pharmacist” substitute the following definition—
- ““registered pharmacist” means a pharmacist registered in Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006;”.

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- (a) Section 11(2) has been amended by: the Local Government (Scotland) Act 1973 (c.65), Schedule 24, paragraph 47; the Medical Act 1983, Schedule 5, paragraph 12; the Dentists Act 1984, Schedule 5, paragraph 4; the Local Government (Wales) Act 1994 (c.19), Schedule 16, paragraph 39; the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 89; and S.I. 1996/1496.
 - (b) 1977 c.49.
 - (c) Section 42(3) has been amended by: the National Health Service and Community Care Act 1990 (c.19), section 12(3); the Health Authorities Act 1995 (c.17), Schedule 1, paragraph 30(c); the Health and Social Care Act 2001 (c.15), sections 20(6) and 23(5)(a), and Schedule 6, Part 1; the National Health Service Reform and Health Care Professions Act 2002 (c.17), Schedule 2, paragraph 16(4); and S.I. 1987/2202.
 - (d) As a consequence of the repeal of the Pharmacists (Fitness to Practise) Act 1997 (c.19), the subsections (4) and (5) of section 43 to be inserted by paragraph 6 of the Schedule to that Act will not be so inserted.
 - (e) There are no relevant amendments to section 128(1).

Amendment of the National Health Service (Scotland) Act 1978

5.—(1) The National Health Service (Scotland) Act 1978(a) is amended as follows.

(2) In section 28(b) (persons authorised to provide pharmaceutical services), after subsection (2B) insert the following subsection—

“(2C) Where—

- (a) arrangements have been made under this Part with a registered pharmacist; and
- (b) his registration is suspended by virtue of any direction or order under the Pharmacists and Pharmacy Technicians Order 2006,

he shall not provide services under those arrangements during the period of the suspension.”.

(3) In section 108(c) (interpretation and construction), for the definition of “registered pharmacist” substitute the following definition—

““registered pharmacist” means a pharmacist registered in Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006;”.

Amendment of the Value Added Tax Act 1994

6.—(1) The Value Added Tax Act 1994(d) is amended as follows.

(2) In Part II of Schedule 8 (zero rating – the Groups: drugs, medicines, aids for the handicapped), in item 1 in Group 12, for “the register of pharmaceutical chemists kept under the Pharmacy Act 1954 or” substitute “one of the registers maintained under articles 10(1) and 21(1) of the Pharmacists and Pharmacy Technicians Order 2006 or in the register of pharmaceutical chemists kept under”.

(3) In Part II of Schedule 9 (exemptions – the Groups: health and welfare), in item 3 in Group 7, for “the register of pharmaceutical chemists kept under the Pharmacy Act 1954 or” substitute “one of the registers maintained under articles 10(1) and 21(1) of the Pharmacists and Pharmacy Technicians Order 2006 or in the register of pharmaceutical chemists kept under”.

Repeal of the Pharmacists (Fitness to Practise) Act 1997

7. The Pharmacists (Fitness to Practise) Act 1997(e) is repealed.

Amendment of the Data Protection Act 1998

8. In section 69 of the Data Protection Act 1998(f) (meaning of “health professional”), in subsection (1)(d), for “a registered pharmaceutical chemist as defined by section 24(1) of the Pharmacy Act 1954” substitute “a registered pharmacist or registered pharmacy technician within the meaning of the Pharmacists and Pharmacy Technicians Order 2006”.

Amendment of the National Health Service Reform and Health Care Professions Act 2002

9.—(1) The National Health Service Reform and Health Care Professions Act 2002(g) is amended as follows.

(2) In section 26 (powers and duties of the Council for the Regulation of Health Care Professionals: general), in subsection (5)—

(a) 1978 c.29.
 (b) Subsection (2B) was inserted by...
 (c) There are no relevant amendments to section 108(1).
 (d) 1994 c.23; there have been no previous amendments to the items amended by this Order.
 (e) 1997 c.19; this Act has never been brought into force.
 (f) 1998 c.29; section 69(1) has been amended by S.I. 2002/243 and 254, 2003/1590, and 2005/848.
 (g) 2002 c.17.

- (a) for “or an officer or committee of the Society”, at the first place where it occurs, substitute “a member of its staff or one of its committees”;
 - (b) for paragraph (a) substitute the following paragraph—
 - “(a) conferred on the Society (or its Council, a member of its staff or one of its committees) by or by virtue of the Pharmacists and Pharmacy Technicians Order 2006.”; and
 - (c) for paragraph (c) substitute the following paragraph—
 - “(c) otherwise conferred as mentioned in paragraph (a) and relate to the regulation of the professions regulated by the Pharmacists and Pharmacy Technicians Order 2006.”.
- (3) In section 29(a) (references of disciplinary cases by Council to court), in subsection (1), for paragraph (a) substitute the following paragraph—
- “(a) a direction of the Disciplinary Committee of the Royal Pharmaceutical Society of Great Britain under article 52 of the Pharmacists and Pharmacy Technicians Order 2006 (which gives the Disciplinary Committee powers to direct suspension of registration, the attachment of conditions to registration or removal from the registers) or section 80 of the Medicines Act 1968 (power to disqualify and direct removal from register),”.

Amendment of the Income Tax (Earnings and Pensions) Act 2003

10. In the Table in subsection (2) of section 343 of the Income Tax (Earnings and Pensions) Act 2003(b) (deduction for professional membership fees), for paragraph 1(l) substitute the following paragraph—

- “(l) the registers maintained under articles 10(1) and 21(1) of the Pharmacists and Pharmacy Technicians Order 2006 and the register kept under Article 6 of the Pharmacy (Northern Ireland) Order 1976.”.

PART 2

Secondary legislation

Amendment of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

11. In Schedule 1 to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(c) (excepted professions, offices, employments, work and occupations)—

- (a) in Part 1 (professions), for paragraph 8 substitute the following paragraph—
 - “**8.** Registered pharmacist, registered pharmacy technician.”; and
- (b) in Part 4 (interpretation), after the definition of “registered osteopath” insert the following definitions—
 - ““registered pharmacist” means a person who is registered in the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006;
 - “registered pharmacy technician” means a person who is registered in the register maintained under article 21(1) of the Pharmacists and Pharmacy Technicians Order 2006.”.

(a) Section 29(1) has been amended by S.I. 2002/3135, 2004/1771 and 2005/848 and XXX.

(b) 2003 c.1.

(c) S.I. 1975/1023; a relevant amendment was made by the Osteopaths Act 1993 (c.21), section 39(4).

Amendment of the Medicines (Sale or Supply) (Miscellaneous Provisions) Regulations 1980

12. In regulation 1 of the Medicines (Sale or Supply) (Miscellaneous Provisions) Regulations 1980(a) (citation, commencement and interpretation), in the definition of “relevant register” in paragraph (2), for “the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954” substitute “Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006”.

Amendment of the Medicines (Pharmacy and General Sale – Exemption) Order 1980

13. In regulation 1 of the Medicines (Pharmacy and General Sale – Exemption) Order 1980(b) (citation, commencement and interpretation), in the definition of “relevant register” in paragraph (2), for “the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954” substitute “Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006”.

Amendment of the Pharmaceutical Qualifications (EEC Recognition) Order 1987

14. Omit article 2 of the Pharmaceutical Qualifications (EEC Recognition) Order 1987(c) (amendment of the Pharmacy Act 1954).

Amendment of the National Health Service (Pharmaceutical Services) Regulations 1992

15. In the National Health Service (Pharmaceutical Services) Regulations 1992(d)—

- (a) in regulation 2 (interpretation), in paragraph (1)—
 - (i) in the definition of “relevant register” for “the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954 (the registers and registration)” substitute “Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006”, and
 - (ii) in the definition of “supplementary prescriber”, for paragraph (ii) substitute the following paragraph—
 - “(ii) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006,”; and
- (b) in regulation 4 (pharmaceutical lists), in paragraph (5), for “to have his name registered under the Pharmacy Act 1954 by virtue of section 4A of that Act (qualification by European diploma)” substitute “as a pharmacist in an member State other than the United Kingdom, or in Iceland, Liechtenstein, Norway or Switzerland.”.

Amendment of the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994

16. In regulation 1 of the Medicines for Human Use (Marketing Authorisations Etc.) Regulations 1994(e) (citation, commencement and interpretation), in the definition of “relevant register” in paragraph (2), for “the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954” substitute “Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006”.

(a) S.I. 1980/1923; the definition of “relevant register” was inserted by S.I. 2003/698.

(b) S.I. 1980/1924; the definition of “relevant register” was inserted by S.I. 2004/1.

(c) S.I. 1987/2202.

(d) S.I. 1992/662; these Regulations have been revoked in relation to England and now only apply in relation to Wales, *see* S.I. 2005/641. Relevant amendments have been made by S.I. 2005/916 and 1013.

(e) S.I. 1994/3144; the definition of “relevant register” was inserted by S.I. 2005/768.

Amendment of the Health Authorities (Membership and Procedure) Regulations 1996

17. In regulation 2 of the Health Authorities (Membership and Procedure) Regulations 1996(a) (membership of authorities) as it applies in relation to England, in paragraph (2), for “pursuant to section 2 of the Pharmacy Act 1954” substitute “under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006”.

Revocation of the Pharmaceutical Qualifications (Recognition) Regulations 1996

18. The Pharmaceutical Qualifications (Recognition) Regulations 1996(b) are hereby revoked.

Amendment of the Prescription Only Medicines (Human Use) Order 1997

19. In article 1 of the Prescription Only Medicines (Human Use) Order 1997(c) (citation, commencement and interpretation), in the definition of “relevant register” in paragraph (2), for “the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954” substitute “Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006”.

Amendment of the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999

20. In the Schedule to the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999(d) (functions transferred from the Lord Advocate to the Secretary of State), omit “Pharmacy Act 1954 (c.61), Schedule 1C, paragraph 3;”.

Amendment of the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999

21. In Schedule 1 to the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999(e) (functions exercisable in or as regards Scotland: general), omit paragraph 2 (Pharmacy Act 1954 (c.61)).

Amendment of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999

22. In Schedule 1 to the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999(f) (enactments conferring functions transferred to the Scottish Ministers)—

- (a) in column 1 (enactment), omit “The Pharmacy Act 1954 (c.61), Schedule 1C, paragraph 3(4)(b)”;
- and
- (b) in column 2 (restrictions and requirements), opposite the entry to be omitted by virtue of sub-paragraph (a), omit “Functions of the Secretary of State only.”.

Amendment of the National Health Service (Charges for Drugs and Appliances) Regulations 2000

23. In regulation 2 of the National Health Service (Charges for Drugs and Appliances) Regulations 2000(g) (interpretation), in sub-paragraph (a) of the definition of “supplementary prescriber” in paragraph (1), for paragraph (ii) substitute the following paragraph—

(a) S.I. 1996/707; a relevant amendment was made in relation to England by S.I. 2002/556.

(b) S.I. 1996/1405.

(c) S.I. 1997/1830; the definition of “relevant register” was inserted by S.I. 2003/696 and has been amended by S.I. 2004/1189 and 1771 and 2005/765.

(d) S.I. 1999/678; a relevant amendment was made by S.I. 2002/3135..

(e) S.I. 1999/1748; there are no relevant amending instruments.

(f) S.I. 1999/1750; there are no relevant amending instruments.

(g) S.I. 2000/620; the definition of “supplementary prescriber” is as substituted by S.I. 2005/578.

“(ii) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006;”.

Amendment of the National Health Service (Charges for Drugs and Appliances) (Wales) Regulations 2001

24. In regulation 2 of the National Health Service (Charges for Drugs and Appliances) (Wales) Regulations 2001(a) (interpretation), in the definition of “supplementary prescriber” in paragraph (1), for sub-paragraph (b) substitute the following sub-paragraph—

“(b) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006; or”.

Amendment of the Council for the Regulation of Health Care Professionals (Appointment etc.) Regulations 2002

25. In regulation 4 of the Council for the Regulation of Health Care Professionals (Appointment etc.) Regulations 2002(b) (condition of appointment applicable to certain appointments), in paragraph (2)(b), for “the Pharmacy Act 1954” substitute “the Pharmacists and Pharmacy Technicians Order 2006”.

Amendment of the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002

26. In Part 1 of Schedule 2 to the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002(c) (regulated professions – professions regulated by law or public authority)—

- (a) in the column headed “Profession”, after “licensed waterman” insert “pharmacy technician”; and
- (b) in the column headed “Designated Authority”, opposite “pharmacy technician” in the column headed “Profession” insert “Royal Pharmaceutical Society of Great Britain”.

Amendment of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003

27. In Schedule 4 to the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003(d) (excepted professions, offices, employments, and occupations)—

- (a) in Part 1 (professions), for paragraph 8 substitute the following paragraph—

“8. Registered pharmacist.”; and
- (b) in Part 4 (interpretation), after the definition of “registered osteopath” insert the following definition—

““registered pharmacist” means a person who is registered in the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006;”.

Amendment of the European Qualifications (Health Care Professions) Regulations 2003

28. In the European Qualifications (Health Care Professions) Regulations 2003(e)—

- (a) in regulation 1 (citation, commencement, interpretation and extent), in paragraph (2), omit the definition of “the Pharmacy Act”; and

(a) S.I. 2001/1358; the definition of “supplementary prescriber” is as substituted by S.I. 2004/1771.
(b) S.I. 2002/2376.
(c) S.I. 2002/2934; the relevant amending instruments are S.I. 2004/1771 and 2033.
(d) S.S.I. 2003/231; there are no relevant amending instruments.
(e) S.I. 2003/3148.

- (b) omit regulation 8 (Pharmacy Act) and Schedule 3 (pharmacists).

Amendment of the Medicines (Child Safety) Regulations 2003

29. In regulation 1 of the Medicines (Child Safety) Regulations 2003(a) (citation, commencement and interpretation), in the definition of “relevant register” in paragraph (2), for “the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954” substitute “Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006”.

Amendment of the National Health Service (General Medical Services Contracts) Regulations 2004

30. In regulation 2 of the National Health Service (General Medical Services Contracts) Regulations 2004(b) (interpretation), in paragraph (1)—

- (a) in the definition of “relevant register” for “the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954” substitute “Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006”; and
- (b) in sub-paragraph (b) of the definition of “supplementary prescriber”, for paragraph (ii) substitute the following paragraph—

“(ii) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006.”.

Amendment of the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004

31. In regulation 2 of the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004(c) (interpretation), in paragraph (1)—

- (a) in the definition of “relevant register” for “the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954” substitute “Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006”; and
- (b) in sub-paragraph (b) of the definition of “supplementary prescriber”, for paragraph (ii) substitute the following paragraph—

“(ii) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006, or”.

Amendment of the National Health Service (Personal Medical Services Agreements) Regulations 2004

32. In regulation 2 of the National Health Service (Personal Medical Services Agreements) Regulations 2004(d) (interpretation), in paragraph (1)—

- (a) in the definition of “relevant register” for “the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954 (the registers and registration)” substitute “Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006”; and
- (b) in sub-paragraph (b) of the definition of “supplementary prescriber”, for paragraph (ii) substitute the following paragraph—

“(ii) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006.”.

(a) S.I. 2003/2317; the definition of “relevant register” has been amended by S.I. 2004/1771 and 2005/1520.
(b) S.I. 2004/291; a relevant amendment was made by S.I. 2005/893.
(c) S.I. 2004/478; there are no relevant amending instruments.
(d) S.I. 2004/627; a relevant amendment was made by S.I. 2005/893.

Amendment of the Medicines for Human Use (Clinical Trials) Regulations 2004

33. In regulation 2 of the Medicines for Human Use (Clinical Trials) Regulations 2004(a) (interpretation), in paragraph (1), for sub-paragraph (a) of the definition of “pharmacist” substitute the following sub-paragraph—

“(a) in relation to Great Britain, a person registered in Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006, and”.

Amendment of the European Qualifications (Health and Social Care Professions and Accession of New Member States) Regulations 2004

34. Omit regulation 13 of the European Qualifications (Health and Social Care Professions and Accession of New Member States) Regulations 2004(b) (Pharmacy Act 1954).

Cosmetic Products (Safety) Regulations 2004

35. In regulation 9 of the Cosmetic Products (Safety) Regulations 2004(c) (product information)—

(a) in paragraph (5), for sub-paragraph (a) substitute the following sub-paragraph—

“(a) a person who—

- (i) qualified as pharmacist wholly or mainly in a Member State, or in Iceland, Liechtenstein, Norway or Switzerland, or
 - (ii) has spent at least three years lawfully practising as a pharmacist in one of those states and his professional experience has been certified by a competent authority in one of those states (being a state which recognised a diploma or other evidence of qualification obtained elsewhere than in one of those states);
- ”; and

(b) in paragraph (6) for “(5)(a) or (b) substitute “(5)(b)”.

Amendment of the National Health Service (Pharmaceutical Services) Regulations 2005

36. In the National Health Service (Pharmaceutical Services) Regulations 2005(d)—

(a) in regulation 2 (interpretation), in paragraph (1)—

(i) in the definition of “relevant register” for “the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954 (the registers and registration)” substitute “Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006”, and

(ii) in the definition of “supplementary prescriber”, for paragraph (ii) substitute the following paragraph—

“(ii) Part 1 of the Register of Pharmacists maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006,”;

(b) in regulation 11 (refusal: general provisions), in paragraph (1), for “to have his name registered under the Pharmacy Act 1954 by virtue of section 4A of that Act (qualification by European diploma)” substitute “as a pharmacist in a member State other than the United Kingdom, or in Iceland, Liechtenstein, Norway or Switzerland,”; and

(c) in paragraph (6) of regulation 54 (temporary provision of services during a period of suspension) for “to have his name registered under the Pharmacy Act 1954 by virtue of section 4A (qualification by appropriate European diploma for registration) of that Act”

(a) S.I. 2004/1031; there are no relevant amending instruments.

(b) S.I. 2004/1947.

(c) S.I. 2004/2152; there are no relevant amending instruments.

(d) S.I. 2005/641; there are no relevant amending instruments.

substitute “as a pharmacist in an member State other than the United Kingdom, or in Iceland, Liechtenstein, Norway or Switzerland.”.

Amendment of the Medicines for Human Use (Prescribing) Order 2005

37. In article 1 of the Medicines for Human Use (Prescribing) Order 2004(**a**) (citation, commencement, extent and interpretation), in the definition of “relevant register” in paragraph (4), for “the register maintained in pursuance of section 2(1) of the Pharmacy Act 1954” substitute “Part 1 of the register maintained under article 10(1) of the Pharmacists and Pharmacy Technicians Order 2006”.

Amendment of the Gender Recognition (Disclosure of Information) (England, Wales and Northern Ireland) (No. 2) Order 2005

38. In article 5 of the Gender Recognition (Disclosure of Information) (England, Wales and Northern Ireland) (No. 2) Order 2005(**b**) (disclosure for medical purposes), in paragraph (3)(c), for “a registered pharmaceutical chemist within the meaning of section 24(1) of the Pharmacy Act 1954” substitute “a pharmacist or pharmacy technician registered in Part 1 of one of the registers maintained under articles 10(1) and 21(1) of the Pharmacists and Pharmacy Technicians Order 2006”.

SCHEDULE 2

Article 68(1)

TRANSITIONAL PROVISIONS

PART 1

General

Interpretation of this Schedule

1.—(1) In this Schedule—

“appointed day” means—

(a) except in Part 2, the day appointed under article 1 for the coming into force of article 10; and

(b) in Part 2, the day appointed 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, as they continue in being by virtue of paragraph 3;

“relevant court” has the meaning given in section 4B(2) of the 1954 Act(**c**);

“Register of Pharmacists” means, as the context requires, either the register maintained under article 10(1) of this Order or the register maintained under section 2(1) of the 1954 Act;

“specified period” has the meaning given in section 2(2C) of the 1954 Act(**d**);

(a) S.I. 2005/765.

(b) S.I. 2005/916.

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

(d) Section 2(2C) was inserted by S.I. 2003/3148.

“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) In this Schedule, the “old rules” means the regulations, rules and byelaws 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(a); 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 such modifications as the Council considers appropriate in the circumstances of a case.

(3) Where provision is made in this Schedule for appeals to be disposed of in accordance with sections 10 and 11 of the 1954 Act, 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.

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 solely for the purposes of exercising the functions it retains by virtue of this Schedule; and
- (b) the Statutory Committee shall continue in being solely 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 paragraph (1) shall come into force until approved by order of the Privy Council.

(a) S.I. 1978/20.

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.

Entry in the Register of Pharmacy Technicians: non-practising pharmacists

6. For four years after the appointed day, article 22(3)(b) and (c) shall apply as if the words "Part 1 of" were omitted.

Transitional arrangements in respect of persons practising as pharmacy technicians before the Register of Pharmacy Technicians is opened

7.—(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 article 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 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 paragraph (2)(b).

PART 3

Outstanding registration cases

Outstanding referrals to, and cases before, the Statutory Committee where no direction has been given

8.—(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 Council—

- (a) may, in such cases as it considers it appropriate to do so, determine the application in accordance with section 12(2) and (3) of the 1954 Act; and
- (b) shall in any event dispose of the matter in such manner as it considers just.

Outstanding appeals to the Council

9.—(1) Where, before the appointed day, a person was entitled, by virtue of section 2(2) or (2B) of the 1954 Act(a), 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—

(a) Subsection (2) was amended by S.I. 1987/2202 and subsection (2B) was inserted by S.I. 2003/3148.

- (i) may determine that his name is to be entered in the Register of Pharmacists, and
- (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 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^(a) shall apply to an appeal under paragraph (2) as they apply to an appeal under section 4B(1) of that Act.

Outstanding appeals to the county court or the sheriff

10. 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

11.—(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, the Statutory Committee shall dispose of the case in accordance with the old rules and the 1954 Act (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, the Chairman of the Statutory Committee and the Statutory Committee shall dispose of the matter in accordance with the old rules and the 1954 Act (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 that Act.

(2) Where—

- (a) a case of alleged misconduct or in respect of a conviction for a criminal offence is before the Statutory Committee; and
- (b) the Statutory 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.

(3) Where a matter is referred to the Health Committee under sub-paragraph (2), 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.

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

Applicants for registration or restoration who are subject to directions given by the Statutory Committee

12.—(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 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 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 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

13. 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 shall continue to apply for the purpose 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

14.—(1) Where, in proceedings under Part 4 of the Medicines Act 1968, before the appointed day—

(a) if the matter relates to—

- (i) alleged misconduct, if it has been referred by the Infringements Committee to the Statutory Committee, the Statutory Committee shall dispose of the matter, and any appeal shall be disposed of, in accordance with the old rules and the provisions of Part 4 of the Medicines Act 1968 as they had effect immediately before the appointed day, or
- (ii) conviction for a criminal offence, and information about that has been submitted to the Chairman of the Statutory Committee by the Secretary of the Committee, the Chairman of the Statutory Committee and the Statutory Committee shall dispose of the matter, and any appeal shall be disposed of, in accordance with the old rules and the provisions of Part 4 of the Medicines Act 1968 as they had effect immediately before the appointed day; and

(b) in any other case, the matter shall be referred to the Disciplinary Committee for it to dispose of the matter in accordance with Part 4 of the Medicines Act 1968.

(2) Except in connection with the bringing and disposing of an appeal by virtue of subparagraph (1)(a), 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.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order sets out the arrangements for the professional regulation of pharmacists in Great Britain and pharmacy technicians in England and Wales. The arrangements for pharmacists replace those set out in the Pharmacy Act 1954, which is repealed.

This Order contains the necessary legislative framework for the implementation, in Great Britain, of Council Directive 85/432/EEC concerning the co-ordination of provisions laid down by law, regulation or administrative action in respect of certain activities in the field of pharmacy(a), as amended(b), and Council Directive 85/433/EEC concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications in pharmacy(c), as amended(d). The implementing measures in respect of these directives were previously set out in the Pharmacy Act 1954. It also contains measures relating to the implementation in England and Wales, as regards pharmacy technicians, of Council Directive 92/51/EEC on a second general system for the recognition of professional education and training(e), as amended(a).

(a) OJ No. L 253, 24.9.1985, p.34.

(b) Council Directive 85/432/EEC has been amended by Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1) and is repealed by Directive 2005/36/EC (OJ No. L 255, 30.9.2005, p.22).

(c) OJ No. L 253, 24.9.1985, p.37.

(d) Council Directive 85/433/EEC has been amended by: Council Directive 85/584/EEC (OJ No. L 372, 31.12.1985, p.42); Council Directive 90/658/EEC (OJ No. L 353, 17.12.1990, p.73); the Act of Accession of Austria, Sweden and Finland (OJ No. L 1, 1.1.1995, p.1); Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1); and the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No. L 236, 23.9.2003, p.33). Directive 85/433/EEC is also repealed by Directive 2005/36/EC.

(e) OJ No. L 209, 24.7.1992, p.25.

Part 1 contains preliminary matters. These include the commencement arrangements and the interpretation provisions (articles 1 and 3). Parts 1, 2 and 7 of the Order extend to Great Britain, but Part 3, which relates to the registration of pharmacy technicians, only extends to England and Wales – and Parts 4 to 6, in so far as they relate to registered pharmacy technicians or applicants for restoration to their register, also only extend to England and Wales. In addition, where other legislation is amended, the amendments have the same territorial extent as the provisions being amended (article 2).

Article 4 contains general duties of the Royal Pharmaceutical Society of Great Britain (“the Society”). These include the main purpose of the Society, when exercising functions that affect the health and safety of the public, which is to protect, promote and maintain the health and safety of the public. There are also duties to have proper regard to specified interests, and in respect of co-operation with specified bodies (article 4).

There are new powers in respect of the composition, membership and functions of Council of the Society (“the Council”), and the Council is given various duties in respect of publications, including publication of annual accounts and an annual report (articles 5 and 6).

The Society is to have six statutory committees, and provision is made for the Council to make rules in connection with such matters as their size, composition, membership, procedures and functions (article 7). There is also provision for the Council to determine remuneration and allowances for its own members, members of the statutory committees, and for specialist advisers (article 8). The Council of the Society is to keep appointed a Registrar and may also appoint a Deputy Registrar (article 9).

Part 2 contains provisions relating to registration of pharmacists in Great Britain. The Registrar is to continue to maintain the Society’s existing register of pharmacists, which is to be divided into two parts: a practising part and a non-practising part (article 10). There are provisions relating to entitlement to registration: registrants must be appropriately qualified, be fit to practise, and where appropriate have met additional requirements as to education training, experience and continuing professional development (article 11). There is also provision in respect of the recognition of qualifications and of additional education, training and experience (article 12). There are also a range of functions relating to the education and training of pharmacists and those wanting to join these professions, including the approval of qualifications, premises and providers of education and training (articles 13 to 15). There are also supplemental provisions, including a rule making power in respect of the process underpinning the carrying out of the Society’s various functions under articles 14 and 15 (article 16).

There are rule making powers in respect of applications for registration, or retention in the registers, and provision in respect of notification of decisions and the time limits within which certain applications by pharmacists need to be processed (articles 17 and 18). There are a number of restrictions relating to registration and the unlawful use of certificates of registration, and these include restricting the professional title “registered pharmacist” to registrants (article 20).

Part 3 contains parallel provisions relating to the registration of pharmacy technicians in England and Wales. The Registrar is to establish and maintain a new statutory register of pharmacy technicians, which is to be in two parts, a practising and a non-practising part, and which is to replace the existing voluntary register (article 21). There are transitional arrangements allowing for the transfer of certain pharmacy technicians from the existing voluntary register to the new statutory register, and for allowing persons who have been practising as pharmacy technicians onto the statutory register, even if they do not have the approved qualifications, provided they satisfy certain other criteria (Part 2 of Schedule 2). There are provisions relating to entitlement to

(a) Council Directive 92/51/EEC has been amended by: Commission Directive 94/38/EC (OJ No. L 217, 23.8.1994, p.8); the Act of Accession of Austria, Sweden and Finland (OJ No. L 1, 1.1.1995, p.1); Commission Directive 95/43/EC (OJ No. L 184, 3.8.1995); Commission Directive 97/38/EC (OJ No. L 184, 12.7.1997, p.31); Commission Directive 2000/5/EC (OJ No. L 54, 26.2.2000, p.42); Directive 2001/19/EC (OJ No. L 206, 31.7.2001, p.1); the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded (OJ No. L 236, 23.9.2003, p.33); Regulation (EC) No. 1882/2003 (OJ No. L 284, 31.10.2003, p.1); and Commission Decision 2004/108/EC (OJ No. L 32, 5.2.2004, p.15). Directive 92/51/EEC is also repealed by Directive 2005/36/EC.

registration: registrants must be appropriately qualified, be fit to practise, and where appropriate have met additional requirements as to education training, experience and continuing professional development (article 22). There is also provision in respect of the recognition of qualifications and of additional education, training and experience (article 23), and a range of functions relating to the education and training of pharmacy technicians and those wanting to join these professions, including the approval of qualifications, premises and providers of education and training (articles 24 to 26). Again, as in Part 2, there are also supplemental provisions (article 27).

There are rule making powers in respect of applications for registration, or retention in the registers (article 28), and a number of restrictions relating to registration and the unlawful use of certificates of registration. These include restricting the professional titles “pharmacy technician” and “registered pharmacy technician” to registrants, although those applying for registration under the transitional arrangements may continue to use these titles for two years or, if later, until their application has been disposed of (article 29).

Part 4 contains provisions relating to matters common to both registers. The Council is to make rules relating to the form and keeping of the registers, and the Registrar is to publish lists of pharmacists and pharmacy technicians containing information derived from the entries in the registers (article 30). There is also provision in respect of the making annotations in the registers to denote specialisations (article 30), and in respect of certificates of registration (article 32). Registrants have continuing obligations with regards to their registration entries, which will be set out in rules (article 33). The Registrar also has obligations to keep the registers correct, and has powers, which will be supplemented by rules, to deal with fraudulent and incorrect entries (article 34). Provision is made to enable the Registrar to take action where he finds out, after a person is registered, about a fitness to practise matter arising before that person was registered, including powers to remove such a person from the registers. Rules will provide him with information gathering powers to assist him in finding out about such matters (article 35). Provision is also made for rules to deal with moving between the practising and non-practising parts of the registers, and for voluntary removal from the registers (articles 36 and 37).

All registrants in the practising parts of the registers are required to have adequate and appropriate professional indemnity cover, and again there are information gathering powers in respect of this requirement (article 38). All registrants in the practising parts of the registers must also undertake continuing professional development, and rules will provide for sanctions where continuing professional development obligations are not met (article 39). Provision is also made for the Council to make rules which will allow them to charge fees in connection with registration functions, and non-payment of fees may lead to applications being refused or removal from the register (article 40). There is provision for the restoration of registrants to the registers where they have been removed under this Parts 2 to 4 (article 41), and for appeals to the Registration Appeals Committee against appealable registration decisions. These decisions are thereafter appealable through the courts (articles 42 to 44). There are also transitional arrangements for dealing with outstanding registration applications, including those which are under appeal (Part 3 of Schedule 2).

Part 5 contains measures relating to the fitness to practise of registrants. The Council is to publish guidance on the professional standards expected of registrants (article 45), and the Society is given powers to obtain information from third parties about a particular registrant (article 46). They may also publish any information about the fitness to practise of registrants where it is in the public interest to do so (article 47).

Provision is made about what it means for fitness to practise to be impaired (article 48) – and the framework within which allegations of impairment are to be considered is set out. Usually, cases will be considered first by the Registrar, who will then refer them on to the Investigating Committee. The Investigating Committee has power to deal with the case itself by way of warnings or advice, or may refer the matter on to the Health Committee or the Disciplinary Committee. As well as giving advice and warnings, these Committees may suspend registrants or attach conditions to their registration – and in the case of the Disciplinary Committee, may direct that the registrant be removed from the registers. There is also provision for the review of earlier decisions to suspend or impose conditions (articles 49 to 52).

The Council may also establish a scheme of professional performance assessments to assist the Registrar and the fitness to practise committees (article 53). Provision is also made for interim orders suspending registration or attaching temporary conditions to registration while an investigation is ongoing (article 54).

If a registrant has been removed from the registers for fitness to practise reasons, there are arrangements for allowing him to be restored to the registers in defined circumstances (article 55). Provision is also made for appeals to the courts against appealable fitness to practise decisions (article 56), and in respect of when fitness to practise decisions are to take effect – including provision for temporary measures pending the outcome of an appeal, if a decision is being appealed (articles 57 and 58). There are also arrangements for dealing with outstanding disciplinary proceedings under the Pharmacy Act 1954 in respect of criminal convictions or misconduct, including cases which are under appeal (Part 4 of Schedule 2).

Part 6 contains provisions relating to proceedings before a fitness to practise committee or the Registration Appeals Panels. Essentially, these matters are to be covered in rules, but there are particular provisions relating to the use of legal, clinical and other specialist advisers. There are also provisions for dealing with witness summonses and orders for the production of documents, which may be enforced through the courts (articles 59 to 62).

Part 7 contains miscellaneous measures. The Society is given a general power to charge fees, but this must not be used in areas where there are specific charging arrangements under the Order (article 63). There are arrangements for the Society to enter into arrangements to approve qualifications, premises and providers of education and training for pharmacists, pharmacy technicians and those wanting to join these professions in the Channel Islands and the Isle of Man (article 64). The time limits for bringing prosecutions are extended (article 65), and provision is made in respect of the procedural aspects of rules and orders under the Order (article 66).

Consequential amendments, revocations and repeals are made in respect of other legislation, and the amendments to the Poisons Act 1972 also remove the responsibilities of the Privy Council in respect of the appointment of the Society's inspectors (article 67 and Schedule 1). Provision is also made for further transitional provisions to supplement the provisions in Schedule 2 (article 68). As well as the transitional provisions noted above, Schedule 2 also provides for certain outstanding business and premises cases to be dealt with by the Statutory Committee, established under the Pharmacy Act 1954, instead of the Disciplinary Committee (Part 5 of Schedule 2), and for the Council to deal with consequential modification of the Society's byelaws (paragraph 4 of Schedule 2).



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