

## SCHEDULE 5

Article 69(1)

### Transitional Provisions

#### Interpretation

**1.** In this Schedule—

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

“the 2007 registers” means—

(a) Parts 1 and 3 of the register maintained under article 10 of the 2007 Order;

(b) Parts 1 and 3 of the register maintained under article 21 of that Order; and

“the premises register” means the register of premises in Great Britain kept under section 75 of the 1968 Act as that section has effect immediately before the amendments made to that section by paragraph 1(8) of Schedule 4 come into force.

#### Members of committees

**2.—**(1) Members of the committees referred to in article 7(1)(b) and (d) of the 2007 Order immediately before the appointed day are to be treated as having been appointed to the Fitness to Practise Committee in accordance with rules under paragraph 5 of Schedule 1.

(2) Members of the committee referred to in article 7(1)(e) of the 2007 Order immediately before the appointed day are to be treated as having been appointed to the Investigating Committee in accordance with rules under paragraph 5 of Schedule 1.

(3) Members of the committee referred to in article 7(1)(f) of the 2007 Order immediately before the appointed day are to be treated as having been appointed to the Appeals Committee in accordance with rules under paragraph 5 of Schedule 1.

(4) In this paragraph, “the appointed day” means the day appointed for the coming into force of article 4(6).

#### Transfer of information to the Register

**3.—**(1) The Society and the Council must enter into arrangements to facilitate the introduction of arrangements for the entry of pharmacists, pharmacy technicians and premises in the Register by the Council by virtue of this Order.

(2) The arrangements entered into under sub-paragraph (1) are to include arrangements to ensure that all the names of persons entered in the 2007 registers and all premises entered in the premises register which are to be entered in the Register with effect from the appointed day are so entered.

(3) If, immediately before the appointed, day a person’s name is included in the 2007 registers, the Registrar must enter that name in the part of the Register in which it is appropriate for that person’s name to be included, with effect from the appointed day.

(4) If, immediately before the appointed day, premises are included in the premises register, the Registrar must enter those premises in Part 3 of the Register with effect from the appointed day.

(5) Where the home address of a person entered in the 2007 registers appears in those registers and the entry for that person is transferred to the Register, the home address of that person must not be published in the Register without the consent of that person.

(6) Entries made in the Register pursuant to sub-paragraph (3) are, for the purposes of article 25, to be treated as having been made on 1 January 2010 pursuant to an application under article 23.

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(1) 1968 c.67.

(7) Entries made in Part 3 of the Register pursuant to sub-paragraph (4) are, for the purposes of section 74A of the 1968 Act as inserted by paragraph 1(8) of Schedule 4, to be treated as having been made on 1 January 2010 pursuant to subsection (2) of that section.

(8) In this paragraph and in paragraphs 4 and 5, “the appointed day” means the day appointed by order for the coming into force of article 19.

### **The register**

4.—(1) Where immediately before the appointed day there are outstanding applications for—

- (a) entry in the 2007 registers or the premises register;
- (b) retention in those registers;
- (c) the recording of annotations in the 2007 registers; and
- (d) any entry in the 2007 registers or in the premises register to be altered, removed or restored,

the Council must dispose of the applications in accordance with sub-paragraph (2).

(2) The applications must be disposed of in accordance with—

- (a) in the case of the 2007 registers, the relevant provisions of the 2007 Order as if those provisions remained in force;
- (b) in the case of the premises register, sections 75 and 76 of the 1968 Act as in force immediately before the amendments to that Act in Schedule 4 have effect; or
- (c) in either case, in such other manner as the Council considers just.

(3) The Council may direct the Registrar to make such amendments (if any) of the Register as are necessary in consequence of the disposal of the applications referred to in sub-paragraph (1).

### **Appealable registration decisions**

5.—(1) Proceedings in respect of an appealable registration decision within the meaning of article 42 of the 2007 Order which, immediately before the appointed day—

- (a) are pending before the Registration Appeals Committee by virtue of article 43 of the 2007 Order; or
- (b) have begun but in respect of which that committee has not communicated its decision to the person who is the subject of the proceedings,

must be referred to the Appeals Committee established under article 4(6)(c).

(2) Proceedings referred to in sub-paragraph (1) must be disposed of by that committee—

- (a) in accordance with the relevant provisions of the 2007 Order as if those provisions remained in force; or
- (b) in such other manner as it considers just.

6.—(1) The revocation of article 44 of the 2007 Order (appeals from the Registration Appeals Committee) does not affect the application of that article—

- (a) in relation to any appeal that is pending before the relevant court immediately before the appointed day; or
- (b) in any case where, immediately before the appointed day, the period of 28 days within which an appeal could be brought in respect of a decision of the Registration Appeals Committee has not expired.

(2) Article 44 of the 2007 Order also applies in relation to any decision of the Appeals Committee established under article 4(6)(c) of this Order that is made by virtue of paragraph 5; and in its

application by virtue of this sub-paragraph any reference in article 44 of the 2007 Order to the Registration Appeals Committee is to be read as a reference to the Appeals Committee.

(3) In this paragraph, “the appointed day” means the day appointed for the coming into force of Part 6.

### **Transitional arrangements: pharmacy technicians**

7.—(1) This paragraph applies to a person (“P”) who, for the purpose of article 20(1)(a)(i), is not appropriately qualified within the meaning of article 22 but who, no later than 30 June 2011, applies to be entered in Part 2 of the Register.

(2) The Registrar may enter P’s name in Part 2 of the Register where P has—

- (a) undergone education and training which, in the opinion of the Registrar, has provided P with a reasonable foundation for future employment as a pharmacy technician; and
- (b) demonstrated to the satisfaction of the Registrar that P possesses the requisite knowledge, skill and experience for being entered in the Register as a pharmacy technician in Great Britain,

provided that, in so doing, the Registrar is acting in a manner which is consistent with the requirements of the Directive and the General Systems Regulations.

(3) The Council must 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 purpose of determining—

- (a) whether or not, for the purposes of sub-paragraph (2)(a), a particular course of education or training provides, or would provide, a person with a reasonable foundation for future employment as a pharmacy technician; and
- (b) whether or not, for the purposes of sub-paragraph (2)(b), a person possesses the requisite knowledge, skill and experience for being entered in the Register as a pharmacy technician.

(4) Until such time as the criteria referred to in sub-paragraph (3) are published, the Registrar must have regard to the criteria established by the Society under paragraph 6(3) of Schedule 2 to the 2007 Order for the purpose of determining the matters referred to in sub-paragraph (3)(a) and (b).

(5) Where, under this paragraph, the Registrar refuses to enter P’s name in the Register, the Registrar must send to P at P’s last known home address a statement in writing giving P notice of the decision and the reasons for it and of the right of appeal to the Appeals Committee under article 40.

### **Offences relating to the Register: pharmacy technicians**

8.—(1) A person may, before the relevant date, use the title “pharmacy technician” or “technegydd fferylliaeth” (its equivalent in the Welsh language), or practise as a pharmacy technician, without committing an offence under article 38(2)(b) or (4)(b).

(2) In this paragraph, “the relevant date” means 1 July 2011 except that in relation to a person who has applied to be registered as a pharmacy technician before that date and whose application has not been disposed of before that date, it means the date on which that application (including any appeal) is finally disposed of.

(3) For the purposes of sub-paragraph (2), an appeal is finally disposed of once all rights in relation to the appeal have been exhausted.

### **Education and training**

9.—(1) Anything determined, approved or accredited by the Society under articles 14, 15, 25 and 26 of the 2007 Order immediately before the appointed day, except the approval or accreditation of

providers of continuing professional development, is to be treated as having been set or approved by the Council under, as the case may be, article 42(1)(b)(ii), (4) or (5) as from the appointed day.

(2) An appeal as provided for in rules under article 16(3)(c)(iii) or (d) or (4) or 27(3)(c)(iii) or (d) or (4) of the 2007 Order which is pending or proceeding immediately before the day the 2007 Order is revoked must be dealt with as if those articles remained in force.

(3) In this paragraph, “the appointed day” means the day appointed for the coming into force of Part 5.

### **Premises**

**10.** Sections 74A(4) to (7), 74B(1) to (5), 74C to 74I and 74L of the 1968 Act, as inserted by paragraph 1(8) of Schedule 4, have effect in relation to premises which are entered in the Register pursuant to paragraph 3(4) as they have effect in relation to premises entered in the Register under section 74A of that Act as inserted by that provision of that Schedule.

### **Fees**

**11.**—(1) Any fees which are payable by virtue of—

- (a) rules under article 40 of the 2007 Order;
- (b) article 63(1) of that Order; or
- (c) regulations under section 75 or 76 of the 1968 Act,

but which are outstanding immediately before the appointed day remain payable and are to be paid to the Council.

(2) In sub-paragraph (1), “the appointed day” means the day appointed for the coming into force of article 4(1).

### **Fitness to practise proceedings**

**12.**—(1) Proceedings in respect of an allegation relating to fitness to practise which, immediately before the appointed day—

- (a) are pending before the Society or any of its committees; or
- (b) have begun but in respect of which the Society or the committee dealing with the case has not communicated its decision to the person who is the subject of the proceedings,

must be referred to the Council.

(2) Proceedings referred to in sub-paragraph (1) must be disposed of by the Council—

- (a) in accordance with the relevant provisions of the 2007 Order as if those provisions remained in force; or
- (b) in such other manner as it considers just.

**13.**—(1) The revocation of Part 5 of and Part 4 of Schedule 2 to the 2007 Order does not affect the application of those provisions—

- (a) in relation to any appeal that is pending before the relevant court immediately before the appointed day; or
- (b) in any case where, immediately before the appointed day, the period of 28 days within which an appeal could be brought before the relevant court in respect of a decision of the Society or any of its committees has not expired.

(2) Part 5 of, and Part 4 of Schedule 2 to, the 2007 Order applies in relation to any decision of the Council that is made by virtue of paragraph 12; and in its application by virtue of this sub-paragraph any references—

- (a) to the Society, are to be treated as references to the Council;
- (b) to the Investigating Committee, are to be treated as references to the Investigating Committee established under article 4(6)(a);
- (c) to the Disciplinary Committee or to the Health Committee, are to be treated as references to the Fitness to Practise Committee established under article 4(6)(b);
- (d) to the Registrar, are to be treated as references to the Registrar for the purposes of this Order.

(3) In this paragraph “the appointed day” means the day appointed for the coming into force of Part 6.

#### **Proceedings under section 80 of the 1968 Act**

**14.**—(1) Sub-paragraph (2) applies to matters referred to, but not dealt with by, the Disciplinary Committee established under article 7(1)(b) of the 2007 Order by virtue of section 80 of the 1968 Act immediately before the day appointed for the coming into force of paragraph 1(14) and (15) of Schedule 4.

(2) Those matters are to be dealt with by the Fitness to Practise Committee established under article 4(6)(b) as if the amendments to sections 80 and 81 of that Act made by paragraph 1(14) and (15) of Schedule 4 had not come into force.

#### **Supply of information**

**15.** For the purpose of enabling the Council to discharge its functions under the preceding provisions of this Schedule, the Society must supply such information and documentation to the Council as is relevant to the discharge of those functions.

#### **Application of TUPE**

**16.** The transfer of the functions of the Society to the Council by virtue of this Order is to be treated as a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006(2), whether or not, apart from this paragraph, it would be considered such a transfer.

#### **Transfer of property, rights and liabilities**

**17.** The Privy Council may by order provide for the transfer from the Society to the Council of any property, rights and liabilities.

#### **Grants and loans**

**18.** The Privy Council may by order make provision authorising the Society to make grants or loans to any person in connection with the implementation or preparations for the implementation of this Order.

**Cancellation of elections to, and transitional measures relating to, the Council of the Society**

19.—(1) Elections which would have been held by virtue of regulations under article 8 of the Charter, are not to be held in respect of the vacancies that would have arisen in respect of the members of the Council of the Society who were due to vacate office at the end of 20 May 2010.

(2) The members of the Council of the Society referred to in sub-paragraph (1) are to remain in office until the end of —

- (a) the day before the day on which the first order under article 4(2) comes into force; or
- (b) 31 May 2011,

whichever first occurs.

(3) In sub-paragraph (1), “the Charter” means the Charter granted to the Society on 7 December 2004 as amended from time to time.