

SCHEDULE

The Royal Pharmaceutical Society of Great Britain (Fitness to Practise and Disqualification etc.) Rules 2007

PART 1

Preliminary matters

Citation and commencement

1. These Rules may be cited as the Royal Pharmaceutical Society of Great Britain (Fitness to Practise and Disqualification etc.) Rules 2007 and shall come into force on 30th March 2007.

Interpretation

2.—(1) In these Rules—

“the Act” means the Medicines Act 1968;

“allegation”, unless the context otherwise requires, means a criminal conduct allegation, a disqualification allegation or a fitness to practise allegation;

“applicant concerned” means an applicant for registration whose application has been referred to the Health or Disciplinary Committee for advice (or, where appropriate their representatives);

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

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

“fitness to practise allegation” means an allegation which is an allegation for the purposes of article 49(1), 50(1), 51(1) or 52(1) of the Order, as appropriate;

“interim order” means an interim order under article 54 of the Order;

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

“the Order” means the Pharmacists and Pharmacy Technicians Order 2007;

“parties” means the Society and the applicant or registrant concerned (or, where appropriate, their representatives);

“prescribed fee” means a fee prescribed in rules under article 40(1) of the Order;

“the presenter” means the representative of the Society presenting the case at a hearing (and includes employees of the Society);

“principal hearing” means—

(a) in fitness to practise proceedings, a hearing of the Health or Disciplinary Committee held in connection with making a determination under article 51(2) or (3) or 52(2) or (3) of the Order (as opposed to any further hearing to consider varying or revoking any direction given as a consequence of a finding of impairment); and

(b) in disqualification proceedings, a hearing of the Disciplinary Committee held in connection with making a direction under section 80 of the Act;

“register of premises” means the register kept under section 75(1) of the Act;

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“registrant”, in relation to the register of premises, means the person whose premises (that is, the premises at which he carries on a retail pharmacy business) are entered in the register of premises;

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

“Registration Rules” means the Royal Pharmaceutical Society of Great Britain (Registration Rules) 2007(1);

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

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

- (a) reviewing directions issued by the Disciplinary Committee or the Health Committee under article 51 or 52 of the Order; or
- (b) revoking a direction by virtue of section 83(1) of the Act;

“the standards” means the standards of conduct, practice and performance (including the Society’s Code of Ethics and the related guidance) published by the Council under article 45(1) of the Order.

(2) For the purposes of these Rules—

- (a) a meeting or hearing of the Health or Disciplinary Committee, other than when it is deliberating in private, is considered to be “in private” if it is held in the presence of—
 - (i) the parties and any person representing a party (where present),
 - (ii) the person acting as secretary to the Committee,
 - (iii) any witness giving evidence,
 - (iv) any legal, clinical or specialist adviser,
 - (v) any person responsible for the recording of the proceedings, or
 - (vi) any other person whose presence is deemed necessary by the chair of the Committee, but otherwise excluding everyone else; and
- (b) a meeting of the Investigating Committee and the private deliberations of the Health or Disciplinary Committee are considered to be “in private” if they are held in the presence of—
 - (i) the person acting as secretary to the Committee,
 - (ii) any legal, clinical or specialist adviser, or
 - (iii) any person responsible for the recording of the proceedings, but otherwise excluding everyone else.

(3) Pending the coming into force of article 21 of the Order, these Rules shall apply as if references to—

- (a) the register were only to the Register of Pharmacists and the register of premises; and
- (b) registrants were only to persons registered in the Register of Pharmacists or persons whose premises are entered in the register of premises.

(1) These Rules have been Scheduled to [S.I. 2007/441](#).

Service of documents

3.—(1) Any notice or document required to be served by the Society under these Rules shall be in writing and shall be served by sending it by a postal service or another delivery service (including by electronic mail) or by leaving it at—

- (a) in the case of a registrant, subject to paragraph (2), the address of the registrant that appears in the register or any electronic mail address of the registrant that the registrant has notified to the Society as an address for communications; or
- (b) in the case of an applicant who is not a registrant, his last known home address or any electronic mail address of the applicant that the applicant has notified to the Society as an address for communications.

(2) If the registrant or applicant so requests, notices or documents may be sent to or left at—

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

(3) Where any notice or document is sent by post, it shall be treated (unless sent by second class post) as having been served on the day after it was posted, or where a notice or document has been sent by electronic mail or left at an address, it shall be treated as having been served on the day at which it was sent to, or left at, that address.

Venue of proceedings

4.—(1) The procedures as regards proceedings set out in these Rules shall apply to all proceedings of fitness to practise committees irrespective of where in Great Britain the proceedings take place.

Duty to notify the Registrar of changes in information

5. A registrant shall notify the Registrar in writing within 7 days of its occurrence, if he—

- (a) is convicted of any criminal offence;
- (b) accepts a police caution;
- (c) has, in summary proceedings in Scotland in respect of an offence, been the subject of an order discharging him absolutely (without proceeding to conviction);
- (d) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995⁽²⁾ (fixed penalty: conditional offer by procurator fiscal);
- (e) has agreed to pay a penalty under section 115A of the Social Security Administration Act 1992⁽³⁾ (penalty as an alternative to prosecution);
- (f) is notified by a regulatory body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession of a determination to the effect that his fitness to practise is impaired, or a determination by a regulatory body elsewhere to the same effect;
- (g) becomes subject to an investigation into his fitness to practise by another regulatory body (apart from the Society);
- (h) becomes the subject of any fraud investigation by a body responsible for investigating fraud in relation to the health service (for example, the Counter Fraud and Security

(2) 1995 c.46.

(3) 1992 c.5; section 115A was inserted by the Social Security Administration (Fraud) Act 1997 (c.47), section 15.

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Management Service Division of the NHS Business Services Authority or NHSScotland Counter Fraud Services, which is part of the Common Services Agency); and

- (i) he is removed, contingently removed or suspended from, refused admission to or conditionally included in any list held by a health service body of performers or providers of pharmaceutical services on fitness to practise grounds.

Additional functions of the Investigating Committee

- 6. The Investigating Committee shall have the following additional functions—
 - (a) providing an annual report to the Council in respect of each calendar year, by a date specified by the Council, which shall include—
 - (i) trends, patterns and learning points observed from cases considered by the Investigating Committee,
 - (ii) recommendations to the Council as regards the published threshold criteria referred to in rule 9(1)(d),
 - (iii) details of the numbers of fitness to practise and disqualification allegations which were disposed of by means of warnings and undertakings during that year, and
 - (iv) the reasons why such cases were not referred to the Health or Disciplinary Committee;
 - (b) preparation, publication and amendment from time to time of its referral criteria;
 - (c) determining whether or not disqualification allegations that have been referred to it should be referred to the Disciplinary Committee;
 - (d) considering criminal conduct allegations referred to it by the Registrar;
 - (e) determining whether the Society should exercise its powers to bring criminal proceedings in relation to criminal conduct allegations; and
 - (f) determining whether the Society should exercise its powers to bring criminal proceedings in cases that have been referred to it as disqualification allegations.

Additional functions of the Health Committee

- 7. The Health Committee shall have the following additional functions—
 - (a) providing advice requested by the Registrar under rule 6(7) or 8(3) of the Registration Rules; and
 - (b) preparation, publication and amendment from time to time of its approach to decision making in the form of Indicative Sanctions Guidance.

Additional functions of the Disciplinary Committee

- 8. The Disciplinary Committee shall have the following additional functions—
 - (a) providing advice requested by the Registrar under rule 6(5), 8(3) or 17(2) of the Registration Rules;
 - (b) providing advice to the Investigating Committee about the types of cases that should not be referred from that Committee to it; and
 - (c) preparation, publication and amendment from time to time of its approach to decision making in the form of Indicative Sanctions Guidance.