

2010 No. 2150

HEALTH CARE AND ASSOCIATED PROFESSIONS

PHARMACY

**The Pharmacy Order 2010 (Appeals – Transitional Provisions)
Order of Council 2010**

<i>Made</i> - - - -	<i>26th August 2010</i>
<i>Laid before Parliament</i>	<i>2nd September 2010</i>
<i>Laid before the Scottish Parliament</i>	<i>2nd September 2010</i>
<i>Coming into force</i> - -	<i>27th September 2010</i>

At the Council Chamber, Whitehall, the 26th day of August 2010

By the Lords of Her Majesty's Most Honourable Privy Council

Their Lordships make the following Order of Council, in connection with the commencement of paragraphs 5 and 12 of Schedule 5 to the Pharmacy Order 2010(a), in exercise of the powers conferred by article 69(3) and (4)(a) and (c) of that Order(b).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Pharmacy Order 2010 (Appeals – Transitional Provisions) Order of Council 2010 and comes into force on 27th September 2010.

(2) In this Order—

“the Order” means the Pharmacy Order 2010;

“appealable fitness to practise decision” means an appealable fitness to practise decision within the meaning of article 56 of the 2007 Order (appeals against appealable fitness to practise decisions)(c);

“appealable registration decision” means an appealable registration decision within the meaning of article 42 of the 2007 Order (appealable registration decisions);

“Appeals Committee” means the Appeals Committee of the Council established under article 4(6)(c) of the Order;

“appointed day” means the day appointed for the coming into force of the revocation of the 2007 Order(d); and

(a) S.I.2010/231.

(b) See article 1(2)(c) of the Pharmacy Order 2010 regarding the commencement of the provisions in Schedule 5 to that Order.

(c) See article 3(1) of the Pharmacy Order 2010 for the definition of “the 2007 Order”.

(d) See S.I.2010/1621 (C.85) which appoints 27th September 2010 as the day for the coming into force of the revocation of S.I.2007/289 which revocation is contained in paragraph 58 of Schedule 4 to the Pharmacy Order 2010.

“Registration Appeals Committee” means the Registration Appeals Committee of the Society established under article 7(1)(f) of the 2007 Order.

Appealable registration decisions: right to appeal a decision of the Society

2.—(1) This article applies, for transitional purposes, where—

- (a) an appealable registration decision has been made by the Society or any of its committees before the appointed day; and
- (b) the period within which an appeal against that decision may be brought to the Registration Appeals Committee under article 43 of the 2007 Order (appeals to the Registration Appeals Committee) by the person in respect of whom the decision was made (“the person concerned”) has not, immediately before the appointed day, expired.

(2) An appeal may be brought by the person concerned to the Appeals Committee against a decision to which this article applies provided that the appeal is brought, in accordance with the relevant provisions of the 2007 Order, before the end of the period of 28 days beginning with the date on which the written notice of the reasons for the decision was sent to that person.

(3) The proceedings in respect of an appeal which is brought by virtue of paragraph (2) must be disposed of by the Appeals 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.

(4) Article 44 of the 2007 Order (appeals from the Registration Appeals Committee) applies in relation to any decision of the Appeals Committee that is made by virtue of this article; and in its application by virtue of this paragraph any references—

- (a) to the Registration Appeals Committee are to be treated as references to the Appeals Committee; and
- (b) to the Registrar are to be treated as references to the Registrar for the purposes of the Order.

Appealable registration decisions: right to appeal a decision of the Registration Appeals Committee

3.—(1) This article applies, for transitional purposes, where—

- (a) the Registration Appeals Committee has, before the appointed day, made a decision on appeal in respect of an appealable registration decision made by the Society or any of its committees; and
- (b) the period within which an appeal against that decision may be brought to the relevant court under article 44 of the 2007 Order by the person in respect of whom the decision was made (“the person concerned”) has not, immediately before the appointed day, expired.

(2) An appeal may be brought by the person concerned to the relevant court against a decision to which this article applies provided that the appeal is brought (subject to any rules of court in respect of the admissibility of applications to it) before the end of the period of 28 days beginning with the date on which the written notice of the reasons for the decision was sent to that person.

(3) The proceedings in respect of an appeal which is brought by virtue of paragraph (2) must be disposed of by the relevant court in accordance with the relevant provisions of the 2007 Order as if those provisions remained in force.

(4) Part 4 of, and Parts 2 and 3 of Schedule 2 to, the 2007 Order apply in respect of any decision of the relevant court that is made by virtue of paragraph (3); and in its application by virtue of this 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 of the Council established under article 4(6)(a) of the Order;
 - (c) to the Disciplinary Committee or the Health Committee, are to be treated as references to the Fitness to Practise Committee of the Council established under article 4(6)(b) of the Order; and
 - (d) to the Registrar, are to be treated as references to the Registrar for the purposes of the Order.
- (5) In this article, “the relevant court” means—
- (a) in the case of an appeal relating to an individual domiciled in Scotland, the sheriff in whose sheriffdom the individual is domiciled; and
 - (b) in any other case, the county court (the Central London County Court if the person making the appeal is not domiciled in Great Britain).

Appealable fitness to practise decisions: right to appeal a decision of the Society

- 4.—(1) This article applies, for transitional purposes, where—
- (a) an appealable fitness to practise decision has been made by the Society or any of its committees before the appointed day; and
 - (b) the period within which an appeal may be brought to the relevant court against that decision under article 56(2) of the 2007 Order (appeals against appealable fitness to practise decisions) by the person in respect of whom the decision was made (“the person concerned”) has not, immediately before the appointed day, expired.
- (2) An appeal may be brought by the person concerned to the relevant court against a decision to which this article applies provided that the appeal is brought (subject to any rules of court in respect of the admissibility of applications to it) before the end of the period of 28 days beginning with the date on which the written notice of the reasons for the decision was sent to that person.
- (3) The proceedings in respect of an appeal which is brought by virtue of paragraph (2) must be disposed of by the relevant court in accordance with the relevant provisions of the 2007 Order as if those provisions remained in force.
- (4) Part 5 of, and Part 4 of Schedule 2 to, the 2007 Order apply in respect of any decision of the relevant court that is made by virtue of paragraph (3); and in the application of those provisions by virtue of this 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 of the Council established under article 4(6)(a) of the Order;
 - (c) to the Disciplinary Committee or the Health Committee, are to be treated as references to the Fitness to Practise Committee of the Council established under article 4(6)(b) of the Order; and
 - (d) to the Registrar, are to be treated as references to the Registrar for the purposes of the Order.
- (5) In this article, “the relevant court” means—
- (a) in a case where the person making the appeal is domiciled in Scotland, the Court of Session; and
 - (b) in any other case, the High Court.

Proceedings by or in relation to the Council

- 5.—(1) For the purposes of this Order—
- (a) anything done before the appointed day by or in relation to the Society for the purposes of, or otherwise in connection with, the regulatory activity of the Society is to have effect as if done by or in relation to the Council; and

- (b) anything (which may include legal proceedings) which, when this Order takes effect—
- (i) could be done by or in relation to the Society in connection with the regulatory activity of the Society before the appointed day is, if done on or after that day whether by virtue of this Order or otherwise, to have effect as if done by or in relation to the Council; and
 - (ii) is, immediately before the appointed day, in the process of being done, otherwise than by virtue of this Order, by or in relation to the Society in connection with the regulatory activity of the Society before the appointed day, is to have effect as if done by or in relation to, and may be continued by or in relation to, the Council.

(2) In this article, “regulatory activity” means, in relation to the Society, any activity undertaken by the Society in respect of its statutory functions under the 2007 Order, Parts 3 and 4 of the Medicines Act 1968(a), the Poisons Act 1972(b) and the Poisons Rules(c) or under the provisions of any other enactment which confers a regulatory function on the Society.

Judith Simpson
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under article 69(3) and (4)(a) and (c) of the Pharmacy Order 2010 (S.I.2010/231) (“the Order”). It makes transitional provision in connection with the commencement of paragraphs 5 and 12 of Schedule 5 to the Order. Paragraphs 5 and 12 of Schedule 5 to the Order make provision for the continuation of proceedings by the General Pharmaceutical Council (“the Council”) which are pending before the Royal Pharmaceutical Society of Great Britain (“the Society”) or any of its committees immediately before the day appointed for the coming into force of the revocation of the Pharmacists and Pharmacy Technicians Order 2007 (S.I.2007/289) (“the 2007 Order”) which is 27th September 2010.

Article 1 provides for citation, commencement and interpretation.

Article 2 makes transitional provision which preserves the right of appeal against an appealable registration decision, within the meaning of article 42 of the 2007 Order, made by the Society or any of its committees before the appointed day in respect of which the 28 day time limit for appealing against that decision has not, immediately before the appointed day, expired. It provides that such appeals may be brought to the Appeals Committee of the Council established under article 4(6)(c) of the Order. Article 2 also makes provision for the relevant provisions of the 2007 Order to continue to have effect for these purposes.

Article 3 makes similar transitional provision to article 2 in respect of the right to appeal to the relevant court (which, for these purposes, is the county court or, in Scotland, the Court of Session) from a decision of the Registration Appeals Committee made, before the appointed day, in respect of an appealable registration decision in respect of which the 28 day time limit for appealing against the decision has not, immediately before the appointed day, expired. Article 3 also provides that the relevant provisions of the 2007 Order are to continue to have effect for these purposes.

Article 4 makes transitional provision which preserves the right to appeal against an appealable fitness to practise decision, within the meaning of article 56 of the 2007 Order, made by the

(a) 1968 c.67. Part 4 of the Act was amended by Schedule 4 to the Pharmacy Order 2010.

(b) 1972 c.66.

(c) The Poisons Rules are rules made by the Secretary of State for Health under section 7 of the Poisons Act 1972 (c.66). The Rules currently in force are contained in S.I.1982/218 as amended by S.I.1985/1077, 1986/10 and 1704, 1989/112, 1992/2293, 2000/3253 and 2009/319.

Society or any of its committees before the appointed day in respect of which the 28 day time limit for appealing against that decision to the relevant court (which, for these purposes, is the High Court or, in Scotland, the Court of Session) has not, immediately before the appointed day, expired. Article 4 provides that such appeals may be brought to the relevant court. Article 4 also provides that the relevant provisions of the 2007 Order are to continue to have effect for these purposes.

Article 5 makes provision for anything done by or in relation to the Society before the appointed day in connection with its regulatory activity to be treated as being done by or in relation to the Council. Article 5 also makes provision for the commencement or continuation of statutory appeals and other legal proceedings against the Council in respect of any liability incurred by the Society before the appointed day in connection with the regulatory activity of the Society.

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STATUTORY INSTRUMENTS

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