STATUTORY RULES OF NORTHERN IRELAND

2012 No. 310

PHARMACY

The Council of the Pharmaceutical Society of Northern Ireland (Statutory Committee, Scrutiny Committee and Advisers) Regulations (Northern Ireland) 2012

Made - - - -	*8th August 2012*
Coming into operation	*1st October 2012*

The Council of the Pharmaceutical Society of Northern Ireland makes the following Regulations in exercise of the powers conferred on it by Article 19(8) of, and paragraph 2(5) of Schedule 2 and paragraphs 17(4) and 18(8) of Schedule 3 to, the Pharmacy (Northern Ireland) Order 1976(**1**). The Department of Health, Social Services and Public Safety(**2**) has approved these Regulations in accordance with Article 25A (2) of that Order(**3**).

Citation and commencement

1. These Regulations may be cited as the Council of the Pharmaceutical Society of Northern Ireland (Statutory Committee, Scrutiny Committee and Advisers) Regulations (Northern Ireland) 2012 and come into operation on 1st October 2012.

Interpretation

2. In these Regulations—

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

"interim suspension order" means an order referred to in paragraph 8(1)(a) of Schedule 3 to the Order;

"legally qualified" means a person who is a barrister or solicitor;

"licensing body" means any body anywhere in the world which licenses or regulates any profession;

(**1**) S.I. 1976/1213 (N.I.22), as amended by 1981 c.45 & c.55; 1983 c.54; S.I.1984/703 (N.I.3); S.R. 1987 No.457; S.I. 1994/429 (N.I.2); S.R. 1996 No.393; 2004 c.33; S.R. 2004 No.78; S.R. 2008 No.192; and S.R. 2012 No.308

(**2**) S.I. 1999/283 (N.I. 1) – Article 3 (6)

(**3**) Article 25A is inserted by Article 9 of S.R. 2012 No.308

"order for interim conditional entry" means an order referred to in paragraph 8(1)(b) of Schedule 3 to the Order;

"the Order" means the Pharmacy (Northern Ireland) Order 1976; and

"the register" means the register mentioned in Article 6 (1)(a) of the Order.

Composition of the Scrutiny Committee

3.—(1) The Scrutiny Committee is to consist of—

(a) a lay member who is the chair;

(b) a lay member who is the deputy chair;

(c) 2 other lay members; and

(d) 4 members who are registered persons

all of whom shall be appointed by the Council.

(2) The quorum of the Scrutiny Committee shall be 3 which must include—

(a) the chair or a deputy chair;

(b) a lay member; and

(c) a member who is a registered person.

(3) The chair and deputy chair referred to in paragraph (1)(a) and (b) may be legally qualified.

(4) In the absence of the chair of the Scrutiny Committee at a meeting the deputy chair may perform the functions of the chair.

(5) The Council may remove any member of the Scrutiny Committee from office for inability to perform their duties or for misbehaviour.

Eligibility for appointment to the Statutory Committee or Scrutiny Committee

4.—(1) Former members of the Council may be appointed to the Statutory Committee or Scrutiny Committee provided that they have not held office as a member of the Council for a period of 4 years prior to the date of application for membership of the Statutory Committee or Scrutiny Committee.

(2) An employee of the Society, a member of the Council, or a member of the Scrutiny Committee may not be appointed to the Statutory Committee.

(3) An employee of the Society, a member of Council or a member of the Statutory Committee may not be appointed to the Scrutiny Committee.

Disqualification from appointment to the Statutory Committee or Scrutiny Committee

5. A person is disqualified from appointment as a member of the Statutory Committee or Scrutiny Committee if that person—

(a) has at any time been subject to any investigation or proceedings concerning that person's professional conduct (including fitness to practise) conducted by any licensing body, other than the Society, the final outcome of which was—

(i) the person's suspension from a register held by that licensing body, and that suspension has not expired or been terminated,

(ii) the person's erasure from a register held by that licensing body or a decision that had the effect of preventing the person from practising the profession licensed or regulated by that licensing body, or

(iii) a decision that had the effect of only allowing the person to practise that person's profession subject to conditions, and those conditions have not expired or been terminated;

(b) has at any time been subject to any investigation or proceedings concerning that person's professional conduct (including fitness to practise) by the Society, the final outcome of which was—

(i) the person's entry in the register was suspended (including by an interim suspension order), and that suspension has not expired or been terminated,

(ii) the person's name being struck off the register, or

(iii) the person's entry in the register was made subject to an order imposing conditions with which the person must comply (including an order for interim conditional entry), and those conditions have not expired or been terminated;

(c) has at any time been subject to any investigation or proceedings relating to an allegation that the person's entry in the register was fraudulently procured—

(i) in the course of which the person's entry in the register was suspended, and that suspension has not expired or been terminated, or

(ii) the final outcome of which was the person's name being struck off the register;

(d) has at any time been subject to any investigation or proceedings concerning the person's professional conduct (including fitness to practise) by—

(i) the Society, or

(ii) any other licensing body,

and the Council is satisfied that the person's membership of the Statutory Committee or Scrutiny Committee would be liable to undermine public confidence in the regulation of pharmaceutical chemists;

(e) has at any time been convicted of an offence—

(i) in the United Kingdom where the final outcome of the proceedings was a sentence of imprisonment or detention, and the conviction is not spent,

(ii) in the United Kingdom where the final outcome of the proceedings was not a sentence of imprisonment or detention, the conviction is not spent, and the Council is satisfied that the person's membership of the Statutory Committee or Scrutiny Committee would be liable to undermine public confidence in the regulation of pharmaceutical chemists, or

(iii) outside the United Kingdom and the Council is satisfied that the person's membership of the Statutory Committee or Scrutiny Committee would be liable to undermine public confidence in the regulation of pharmaceutical chemists;

(f) has received a caution for a criminal offence in the United Kingdom and the Council is satisfied that the person's membership of the Scrutiny Committee would be liable to undermine public confidence in the regulation of pharmaceutical chemists;

(g) has at any time been included in—

(i) any barred list within the meaning of the Safeguarding Vulnerable Groups Act 2006 (**4**), or

(ii) any barred list within the meaning of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(**5**)

(**4**) 2006 c.47
(**5**) S.I. 2007/1351 (N.I.11)

unless that person was removed from the list either on the grounds that it was not appropriate for that person to have been included in it or as a result of a successful appeal;

(h) is included in the children's list or the adult's list maintained under the Protection of Vulnerable Groups (Scotland) Act 2007(**6**)

(i) has at any time been adjudged bankrupt, or sequestration of the person's estate has been awarded, and—

(i) the person has not been discharged, or

(ii) the person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986(**7**) or Schedule 2A to the Insolvency (Northern Ireland) Order 1989(**8**) or sections 56A to 56K of the Bankruptcy (Scotland) Act 1985(**9**)

and the Council is satisfied that the person's membership of the Statutory Committee or Scrutiny Committee would be liable to undermine public confidence in the regulation of pharmaceutical chemists;

(j) is a person to whom a moratorium period under a debt relief order Part VIIA of the Insolvency Act 1986 (debt relief orders) applies, or is the subject of a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4ZB to that Act(**10**) (debt relief restrictions order and undertaking), and the Council is satisfied that the person's membership of the Statutory Committee or Scrutiny Committee would be liable to undermine public confidence in the regulation of pharmaceutical chemists;

(k) is subject to—

(i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(**11**)

(ii) a disqualification order under Part II of the Companies (Northern Ireland) Order 1989(**12**)

(iii) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002(**13**), or

(iv) an order made under section 429(2) of the Insolvency Act 1986(**14**) (disabilities on revocation of a county court administration order);

(l) has at any time been removed from the office of charity trustee or trustees for a charity by an order made by the Charity Commissioners, the Charity Commission, the Charity Commission for Northern Ireland or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity—

(i) for which that person was responsible or to which that person was privy, or

(ii) which was contributed to, or facilitated by, that person's conduct;

(m) has at any time been removed from being concerned with the management or control of any body in any case where removal was by virtue of—

(**6**) 2007 asp 14
(**7**) 1986 c.45. Schedule 4A was inserted by section 257(2) of, and Schedule 20 to, the Enterprise Act 2002 (c.40)
(**8**) S.I. 1989/2405 (N.I. 19); Schedule 2A was inserted by S.I. 2005/1455 (N.I. 10)
(**9**) 1986 c.66. Sections 56A to 56K were inserted by section 2(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).
(**10**) 1986 c.45. Part VIIA was inserted by section 108 (1) of, and Schedule 17 to, the Tribunals, Courts and Enforcement Act 2007 (c.15) ("the 2007 Act"); Schedule 4ZB was inserted by section 108(2) of, and Schedule 19 to, the 2007 Act.
(**11**) 1986 c.46.
(**12**) S.I. 1989/2404 (N.I. 18).
(**13**) S.I. 2002/3150 (N.I.4); the relevant amending instrument is S.I. 2005/1454 (N.I.9)
(**14**) Section 429(2) was amended by section 269 of, and paragraphs 1 and 15 of Schedule 23 to, the Enterprise Act 2002 (c.40)

(i) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(**15**) (powers of Court of Session to deal with management of charities), or

(ii) section 34(5)(e) of the Charities and Trustees Investment (Scotland) Act 2005(**16**) (powers of Court of Session);

(n) has at any time been removed from office as the chair, or a member, convenor or director, of any public body on the grounds that it was not in the interests of, or conducive to the good management of, that body that the person should to continue to hold that office; or

(o) has at any time made a composition or arrangement with, or granted a trust deed for, the person's creditors and the person has not been discharged in respect of it.

Suspension and removal of Statutory Committee or Scrutiny Committee members

6.—(1) The Council must remove from the Statutory Committee or Scrutiny Committee any member—

(a) who resigns from membership of the Statutory Committee or Scrutiny Committee in accordance with these regulations;

(b) whose term of office has expired;

(c) who, in the case of a registered person, has ceased to be registered;

(d) who, in the opinion of the Council,—

(i) has ceased to be an appropriate person to be a member of the Statutory Committee or Scrutiny Committee (for example, by reason of misconduct or a criminal conviction),

(ii) has seriously or persistently failed to meet the standards of performance, conduct, attendance or participation in training required of a member of the Statutory Committee or Scrutiny Committee in the ordinary course of a member's duties,

(iii) is unable to perform the duties of a member because of ill health,

(iv) has improperly disclosed confidential information obtained by the member in the course of membership of the Statutory Committee or Scrutiny Committee,

(v) has brought the Society into disrepute,

(vi) has failed to comply with the code of conduct for Statutory Committee and Scrutiny Committee members,

(vii) should no longer continue to be a member of the Statutory Committee or Scrutiny Committee in the public interest.

(2) The Council may suspend a member of the Statutory Committee or Scrutiny Committee while investigations are being undertaken into the member's suitability to remain as a member of that committee.

(3) The Council must afford any member of the Statutory Committee or Scrutiny Committee who is under investigation the opportunity to make written and oral representations before reaching a decision as to whether to remove that member from the relevant committee.

(4) The procedure for the suspension or removal of a member of the Statutory Committee or Scrutiny Committee is to be prepared by the Council and a copy must be given to every member of the Statutory Committee and Scrutiny Committee.

(**15**) 1990 c.40; section 7 was amended by section 269 of, and paragraphs 1 and 15 of Schedule 23 to, the Enterprise Act 2002 (c.40).
(**16**) 2005 asp 10.