PHARMACISTS

1957 No. 754

The Pharmaceutical Society (Statutory Committee) Order of Council, 1957

Made - - - -	30*th April*, 1957
Laid before Parliament	3*rd May*, 1957
Coming into Operation	4*th May*, 1957

At the Council Chamber, Whitehall, the 30th day of April, 1957

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

Whereas the Statutory Committee of the Pharmaceutical Society of Great Britain have, in pursuance of the powers conferred upon them in that behalf by the Pharmacy Act, 1954(a), made Regulations as to the procedure to be followed in the exercise of the jurisdiction conferred on them by the said Act and the Pharmacy and Poisons Act, 1933(b):

And whereas the said Regulations have been submitted for approval by the Privy Council:

Now, therefore, Their Lordships, having taken the said Regulations into consideration, are pleased, in exercise of the powers conferred on them by sub-paragraph (2) of paragraph 5 of the First Schedule to the Pharmacy Act, 1954, and of all other powers them enabling, to approve the same as set forth in the Appendix to this Order.

This Order may be cited as the Pharmaceutical Society (Statutory Committee) Order of Council, 1957, and shall come into operation on the fourth day of May, 1957.

W. G. Agnew.

APPENDIX

REGULATIONS MADE UNDER PARAGRAPH 5 OF THE FIRST SCHEDULE TO THE PHARMACY ACT, 1954, BY THE STATUTORY COMMITTEE OF THE PHARMACEUTICAL SOCIETY OF GREAT BRITAIN APPOINTED UNDER SECTION 7 OF THAT ACT

PART I—GENERAL

1. In these Regulations—

"the Act of 1933" and "the Act of 1954" mean respectively the Pharmacy and Poisons Act, 1933, and the Pharmacy Act, 1954, and references to any enactment shall be construed as references to that enactment as amended by any subsequent enactment;

"the Committee," "the Chairman" and "the Secretary" mean respectively the Statutory Committee appointed under section 7 of the Act of 1954 and the Chairman and the Secretary of that Committee;

"the Register" and "the Registrar" have respectively the same meanings as in the Act of 1954;

(a) 2 & 3 Eliz. 2. c. 61. (b) 23 & 24 Geo. 5. c. 25.

" the Register of Premises " has the same meaning as in the Act of 1933 :

" the person affected " means the registered pharmaceutical chemist, body corporate, pharmaceutical chemist's representative or other person affected by any information received by the Committee ; and

" representative ", in relation to a registered pharmaceutical chemist, has the meaning assigned to it in subsection (6) of Section 10 of the Act of 1933.

2. These Regulations shall come into operation on the fourth day of May, 1957, and the Regulations confirmed by the Privy Council on the first day of March, 1942, are hereby revoked :

Provided that the last mentioned Regulations shall continue to apply in relation to any information or application made to, or received by, the Committee before the day on which these Regulations come into operation generally.

PART II—CASES ARISING OUT OF CONVICTIONS OR MISCONDUCT

3. When the Secretary receives information from which it appears that—

(*a*) a registered pharmaceutical chemist, or a person employed by him in the carrying on of his business, has been convicted of a criminal offence, or been guilty of misconduct, or

(*b*) a body corporate which is carrying on, or has carried on, a business which comprises or comprised the retail sale of drugs, has been convicted of an offence under the Pharmacy Acts ; or

(*c*) a member of the board of a body corporate which is carrying on, or has carried on, a business which comprises or comprised the retail sale of drugs, or an officer of that body, or a person employed by that body in the carrying on of its business, has been convicted of a criminal offence, or been guilty of misconduct ; or

(*d*) a pharmaceutical chemist's representative, or a person employed by such a representative in the carrying on of the business, has been convicted of a criminal offence, or been guilty of misconduct ; or

(*e*) a person applying to be registered as a pharmaceutical chemist has been convicted of a criminal offence, or been guilty of misconduct ; or

(*f*) a person whose name has been removed from the Register under section 12 (1) of the Act of 1954 or a person employed by him in the carrying on of his business, has been convicted of a criminal offence, or been guilty of misconduct ;

the Secretary shall submit the information, or a summary thereof, to the Chairman.

4. Where the information in question is in the nature of a complaint charging misconduct, the Chairman may require that any allegation of fact contained therein shall be substantiated by a written statement signed by a responsible person, or, if he thinks fit, by a statutory declaration and any such statement or statutory declaration shall specify as respects any fact not within the personal knowledge of the declarant, the source of his information and the grounds for his belief in its truth.

5. The Chairman may in any case direct the Secretary to invite the person affected to submit in writing any answer or explanation which he may wish to offer.

6. When he has considered the information, the evidence available in support thereof and any answer or explanation submitted by the person affected, the Chairman shall deal with the matter as follows :—

(i) if he is of opinion that—

(*a*) the case is not within the jurisdiction of the Committee, or

(*b*) the complaint is of a frivolous character, or

(*c*) owing to the lapse of time or other circumstances the complaint may properly be disregarded ;

he shall decide that the case shall not proceed further.

(ii) if he is of opinion that the conviction or misconduct alleged is not of a serious nature or is for any other reason of such a character that the matter can be disposed of without an inquiry, he may, after consultation orally or by letter with the other members of the Committee, decide that the case shall not proceed further but may direct the Secretary to send a reprimand to the person affected and caution him as to his future conduct.

(iii) in any other case he shall direct the Secretary to take the necessary steps for the holding of an inquiry by the Committee:

Provided that, if it appears to the Chairman in a case arising under paragraph (*b*) or paragraph (*c*) of Regulation 3 that the person affected has no present intention of taking steps to become an authorised seller of poisons, or in a case arising under paragraph (*f*) of that Regulation that the person affected has no present intention of practising pharmacy, or seeking employment in a pharmaceutical capacity, he may postpone dealing with the matter until evidence of such an intention is submitted to him.

7. The Chairman shall report to the Committee any case in which he has not directed an inquiry to be held.

8. Where the Chairman has directed an inquiry to be held, the Secretary shall give such notices and take such other steps as are required by Part III of the Regulations, and shall instruct a solicitor to investigate the facts of the case and to present (or brief counsel to present) the case to the Committee at the inquiry:

Provided that, where a complainant undertakes to present his case to the Committee, it shall not be necessary for the Secretary to instruct a solicitor.

9. If the solicitor instructed as aforesaid reports that, as a result of his investigations, he is of opinion that the evidence available is insufficient to prove the conviction or misconduct alleged the Committee shall consider his report and decide whether an inquiry shall be held, and give such directions as they think fit. In the interval all proceedings shall be stayed and the Secretary shall give any necessary notices to persons concerned.

10. If at any time after an inquiry has been directed and before it has been held information is received by the Secretary or by the solicitor instructed as aforementioned which might have justified the Chairman in not directing an inquiry in the first instance any such information shall be referred to him and he may direct that the inquiry shall not proceed further, and, in that case, shall report such direction to the Committee.

Part III.—Inquiries

11.—(*a*) Where directions have been given for an inquiry to be held, the Secretary shall, not less than twenty-eight days before the day appointed for holding the inquiry, send to the person affected a notice specifying generally the matters into which the inquiry will be held, and stating the day, hour and place appointed for holding the inquiry:

Provided that where the person affected and the complainant (if any) so agree the period of notice required by this regulation may be reduced to such period as may be agreed.

(*b*) The notice shall be in the form set out in the Schedule in these Regulations, with such variations as circumstances may require, or in a form to the like effect, and shall be accompanied by copies of the Acts of 1933 and 1954 and of these Regulations.

Where a complainant has undertaken to present his case to the Committee, the Secretary shall send to him copies of the notice and of the other documents mentioned above.

12. A notice required by the last preceding Regulation to be sent to any person shall be sent by registered letter addressed to him, in the case of a registered pharmaceutical chemist at his address in the Register, in the case of a body corporate at its registered office, or, where the body corporate is a firm

or partnership in Scotland, its usual place of business, in the case of a pharmaceutical chemist's representative at his address as last notified to the Registrar and in the case of any other person at his last known place of abode.

13. A notice sent to any person in accordance with Regulations 11 and 12 may be amended with the consent of the Committee or of the Chairman and written notice of the amendment shall be sent to such person in the manner provided by Regulation 12 or otherwise brought to his notice by the Secretary before the inquiry is held or in the course of the inquiry:

Provided that the person affected shall have the right to demand an adjournment of the inquiry if reasonable notice of any amendment materially affecting the particulars of the misconduct alleged in the notice of inquiry has not been given before the inquiry commenced.

14. The person affected shall, after giving reasonable notice to the Secretary, be entitled free of charge to inspect, and to be supplied with a copy of, any information or summary sent to the Chairman in pursuance of Regulation 3 or any written statement or statutory declaration sent to the Committee in pursuance of Regulation 4 and the notice of inquiry shall direct his attention to this Regulation.

A complainant who has undertaken to present his case to the Committee shall, after giving reasonable notice to the Secretary, be entitled free of charge to inspect, and to be supplied with a copy of, any answer or explanation submitted in pursuance of Regulation 5 by the person affected.

15. The Chairman may at any time postpone the opening of the inquiry and direct the Secretary to give any necessary notices to persons concerned.

16. The inquiry shall be opened in public, but, at any stage thereof, the Committee may, if they think fit, decide to continue the hearing in private.

17. The person affected and a complainant presenting his case to the Committee may be represented by a solicitor, or counsel; alternatively, a body corporate may be represented by a director or officer thereof.

18. At the opening of the inquiry the Secretary shall read the Notice of Inquiry and, if the person affected be not present or represented, satisfy the Committee that the notice was duly sent to him.

19. If a complainant who has undertaken to present his case to the Committee does not appear, or fails in the opinion of the Committee to present his case properly, the Committee may nevertheless proceed with the inquiry or may adjourn the inquiry, in which case they may instruct a solicitor in accordance with Regulation 8, and Regulations 9 and 10 shall apply during the adjournment.

If the person affected does not appear and the Committee are satisfied that notice of the inquiry was duly sent to him, they may proceed with the inquiry in his absence, or may adjourn the inquiry.

20. Subject to the foregoing provisions with respect to non-appearance, the order of proceedings shall be as follows—

(*a*) statement of the case against the person affected and production of evidence in support of it;

(*b*) statement of the case of the person affected and production of evidence in support of it;

(*c*) reply to the case of the person affected: provided that, except by leave of the Committee, a reply shall not be allowed where the person affected has produced no evidence other than his own.

21. Evidence may be received by the Committee by oral statement, written and signed statement, or statutory declaration. A witness shall first be examined by the person producing him, then cross-examined and then re-examined. The Committee shall disregard oral evidence given by any person who refuses to submit to cross-examination. They may, in their discretion, decline to admit the written statement or declaration of a person who is not present, and shall disregard it if, being present, he refuses to submit to cross-examination.

22. Members of the Committee may put through the Chairman, or on his invitation, such questions as they think desirable.

23. The Committee may at any stage of the proceedings adjourn the inquiry to a subsequent meeting of the Committee and, where the day, hour and place for such meeting are not appointed at the time of the adjournment, the Secretary shall, not less than twenty-one days before the day appointed, and in the manner specified in Regulation 12 give notice to the person affected and to the complainant, if any, of the day, hour and place appointed.

Provided that, where the person affected and the complainant (if any) so agree the notice may be waived or modified.

24. When the inquiry is resumed, no fresh evidence shall, except by leave of the Committee, be produced unless either—

(*a*) the substance thereof has, not less than ten days before the resumed hearing, been communicated to the Secretary and to the person against whom it is to be produced; or

(*b*) It is in the nature of a reply to any such evidence.

25. On the conclusion of the hearing the Committee shall deliberate in private and shall decide—

(*a*) whether the conviction or misconduct alleged is proved;

(*b*) if so, whether such conviction or misconduct is such as to render the person with regard to whom it is proved, or is such as would if he were a registered pharmaceutical chemist render him, unfit to be on the register;

(*c*) if so, whether one of the directions specified in section 8 of the Act of 1954, section 9 of the Act of 1933 or section 10 of the Act of 1933 should be made; and

(*d*) whether any reprimand or admonition should be addressed to the person affected;

Provided that the Committee may postpone their decision or any part of it, either generally or on such terms as they may approve.

26. The Chairman shall announce in public the decision of the Committee and if the decision or any part of it is postponed the Chairman shall announce such postponement and shall state the terms, if any, on which it is made.

27. If the Committee postpone their decision under paragraph (*c*) or (*d*) of Regulation 25 they may when the case is resumed take into account before reaching a decision thereon any information then or previously given to them concerning the conduct of the person affected since the original hearing, provided that they shall not take into account any adverse report without giving the person affected a reasonable opportunity of answering it.

28. The Secretary shall communicate to the person affected and to the complainant, if any, the decision of the Committee and to the Registrar any direction to be acted upon by him.

29. Where under any of the foregoing provisions of these Regulations an inquiry is adjourned from one meeting to another, or a decision or any part of it is postponed to a future meeting, the validity of the proceedings at the later meeting shall not be called into question by reason only that members of the Committee who were present at the earlier meeting were not present at a later meeting, or that members of the Committee who were present at the later meeting were not present at the earlier meeting.

Part IV.—Applications for Relief from Consequences of Previous Decisions

30. An application to the Committee by

(*a*) an individual under section 8 (2) of the Act of 1954 for the restoration of his name to the Register; or

(*b*) an individual under section 8 (1) of the Act of 1954 for variation of a direction previously given by the Committee under the sub-section in question; or

(*c*) a body corporate under section 9 (4) of the Act of 1933 for cesser of disqualification as an authorised seller of poisons or for the restoration of premises to the Register of Premises,

shall be made in writing to the Secretary stating the grounds on which it is made and must be signed by the applicant, or, in the case of a body corporate, by a member of the board thereof.

31. No application for restoration of a name to the Register shall be entertained by the Committee unless supported by a statutory declaration made by the applicant and accompanied by at least two certificates of the applicant's identity and good character. One of such certificates must be given by a registered pharmaceutical chemist and another must be given either by a registered pharmaceutical chemist or by a justice of the peace. The statutory declaration must identitfy the applicant with his application, the statements made therein and with the required certificates.

32. In a case where the name of an applicant for restoration was removed from the Register under section 8 (1) of the Act of 1954 on a complaint made by a person who himself appeared to present the facts of his complaint to the Committee, the Secretary shall, if he knows that person's address, give notice of the application to him and inform him that he may submit in writing to the Committee any objection to restoration. The Secretary shall communicate the substance of any such objection to the applicant and the applicant may reply thereto in writing.

33. In considering an application under this part of the Regulations the Committee may take into account any information in their possession concerning the conduct of the applicant during the period which has elapsed since the original direction was given.

The Chairman may direct that the substance of any adverse report be sent to the applicant who shall be given an opportunity of submitting a reply thereto in writing. In these circumstances consideration of the application shall not take place until after such reply is received or a reasonable time for submitting a reply has, in the opinion of the Committee, elapsed. No adverse report shall be taken into account unless these steps have been taken.

34. The Chairman may direct that the application shall be considered in public. In that case:

(*a*) The Committee shall afford the applicant an opportunity of appearing before the Committee in person or by a solicitor or counsel.

(*b*) In a case where the original direction was given following a complaint the Committee may afford the complainant an opportunity of being heard.

(*c*) Subject to the foregoing provisions of this Regulation, the procedure of the Committee in connection with the application shall be such as they may determine.

35. Except as provided above, the Committee shall consider the application in private and may ask the applicant or an objector, as the case may be, to submit further evidence as to, or an explanation of, any matter which appears to them to be material.

36. The Committe may if they think fit adjourn consideration of the application from one meeting to another, and the provisions of Regulation 29 shall apply with the necessary modifications to the later meeting.

37. Except by leave of the Committee or in pursuance of a direction under Regulation 34, neither the applicant nor an objector to the application shall appear before the Committee on the consideration of the application.

38. The Secretary shall communicate to the applicant and to the objector, if any, the decision of the Committee and to the Registrar any direction to be acted upon by him.

Any such communication to the Registrar shall, in an appropriate case, direct his attention to section 11 (2) of the Act of 1954 or the proviso to section 9 (4) of the Act of 1933 as the case may be.

THE SCHEDULE

Form of Notice

NOTICE OF INQUIRY

To (name)

(address)

SIR,

On behalf of the Statutory Committee of the Pharmaceutical Society of Great Britain, I give you notice that the Committee have received—

[information from which it appears—

that, on the day of , you were convicted of the following offence, namely (state the nature of the offence)]

or

[that (set out particulars of the misconduct alleged)]

or

(where the complainant proposes himself to present the facts of the case to the Committee)

[a complaint from (name and address of complainant) who alleges that (set out particulars of the misconduct alleged)]

And I further give you notice that on the day of , 19 , at p.m. the Committee will hold an inquiry at for the purpose of ascertaining the facts in relation to the matters aforesaid and, if thought fit, subject to the provisions of the Pharmacy and Poisons Act, 1933, and the Pharmacy Act, 1954, directing

(*a*) In the case of a registered pharmaceutical chemist	the removal of your name from the Register.
(*b*) In the case of a body corporate	that you shall cease to be an authorised seller of poisons and be disqualified for such period as may be specified in the direction from being an authorised seller of poisons or that some or all of your premises shall be removed from the Register of Premises and be disqualified for such period as may be specified in the direction from being registered therein.
(*c*) In the case of a pharmaceutical chemist's representative	that you shall cease to be an authorised seller of poisons and cease to be entitled to use the titles, emblems and descriptions which might have been used by the pharmaceutical chemist.
(*d*) In the case of a person applying for registration	that your name shall not be registered, or shall not be registered until the Committee otherwise directs.
(*e*) In the case of a person applying under section 12 of the Act of 1954 for restoration to the Register	that your name shall not be restored to the Register, or shall not be restored thereto until the Committee otherwise directs.

You may attend the inquiry personally and may be represented by a solicitor or counsel. If you do not attend the Statutory Committee may proceed with the inquiry in your absence.

or

(in the case of a corporate body)

Your company may be represented by a solicitor or counsel, or, alternatively, by a director or officer of the Company. If you do not attend or your company is not otherwise represented as aforesaid the Statutory Committee may proceed with the inquiry in your absence.

Any application or other communication relating to the said matters or your answer thereto should be addressed to me not less than days before the day appointed for the hearing of the case.

Copies of the Pharmacy and Poisons Act, 1933, and the Pharmacy Act, 1954, are enclosed herewith for your information [* and your attention is drawn in particular to section 11 of the Act of 1933].

A copy of the Regulations which govern the procedure of the Committee is also enclosed herewith, and your particular attention is directed to Regulation 14.

[The name and address of the solicitor instructed to lay the facts of the case before the Committee are]

or

[The complainant proposes himself to lay the facts of the case before the Committee].

(Signed)

Secretary to the Committee.

(Address)

[Date]

* Where an act or omission on the part of an employee of an owner of a business or, if the owner is a body corporate, on the part of any members of the Board or any officer or employee of the body corporate is charged.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The passing of the Pharmacy Act, 1954, has made necessary a revision of the existing Regulations, which date from 1942, as to the procedure to be followed by the Statutory Committee of the Pharmaceutical Society of Great Britain. The opportunity has been taken to recast the Regulations in the light of practical experience gained since that date.