



Hearing Aid Council Act 1968

CHAPTER 50

ARRANGEMENT OF SECTIONS

Section.

1. Hearing Aid Council.
2. Registers of persons selling hearing aids.
3. Offences by unregistered persons.
4. Form and keeping of registers required by s. 2.
5. Preliminary investigation of disciplinary cases.
6. The Disciplinary Committee.
7. Erasure from the registers for crime, misconduct, etc.
8. Restoration to the registers.
9. Appeals.
10. Procedure of Disciplinary Committee.
11. Assessors to Disciplinary Committee.
12. Expenses, receipts and accounts of the Council.
13. Exercise of power to make or approve certain rules.
14. Interpretation.
15. Short title, extent and commencement.

SCHEDULE—Constitution and Powers of the Council.

ELIZABETH II



1968 CHAPTER 50

An Act to provide for the establishment of a Hearing Aid Council, to register persons engaged in the supply of hearing aids, to advise on the training of persons engaged in such business, and to regulate trade practices; and for purposes connected therewith.

[26th July 1968]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) For the purposes of this Act there shall be established a body called the Hearing Aid Council (hereinafter referred to as “the Council”) which shall be a body corporate with perpetual succession and a common seal, and shall have the general function of securing adequate standards of competence and conduct among persons engaged in dispensing hearing aids, together with the specific functions assigned to it by or under the following provisions of this Act.

(2) In furtherance of its general function the Council shall study the facilities available for training persons to act as dispensers of hearing aids, and shall keep these facilities under review, and shall advise on methods for improving these facilities and shall publicise details of training and courses available.

(3) The Council shall draw up standards of competence for dispensers of hearing aids and codes of trade practice for adoption by such dispensers and by persons employing such dispensers and shall from time to time review those standards and codes and may vary them as it considers appropriate.

(4) The Council shall submit to the Board of Trade, for their written approval, any standard or code drawn up under this section or any variation of any such standard or code which the Board may have previously approved; and the Board in approving any standard or code may make their approval conditional upon its being modified in such manner as they may require and in approving any variation may make their approval conditional upon the modifying of that variation or the further varying of the relevant standard or code in such manner as they may require:

Provided that the Board shall notify the Council of any modification or further variation which they propose to require as a condition of their approval and consider the observations of the Council thereon.

(5) The Council shall publish in such a manner as it considers appropriate but with such modifications or further variations, if any, as the Board of Trade may have required as a condition of their approval, any code or standard drawn up under this section and approved by the Board of Trade and any variation of any such standard or code which has been so approved.

(6) The Council may receive complaints from members of the public and may investigate such complaints.

(7) The provisions of the Schedule to this Act shall have effect for determining the constitution and powers of the Council and for regulating its proceedings.

Registers of
persons selling
hearing aids.

2.—(1) The registrar appointed by the Council in accordance with the provisions of the Schedule to this Act shall establish and maintain—

- (a) a register of dispensers of hearing aids, and
- (b) a register of persons employing such dispensers.

(2) The registrar shall cause to be entered in the appropriate register the name and prescribed particulars of every person who, being qualified for registration, has applied in the prescribed manner for registration and paid the appropriate fee.

(3) The register shall be kept at the offices of the Council and shall be made available for public inspection at all reasonable times without charge.

(4) Any individual other than a disqualified person shall be qualified to be registered under this section as a dispenser of hearing aids if—

- (a) during the period of two years immediately preceding the commencement of this Act he has acted as a dispenser of such aids for a period of, or periods totalling, at least six months; or

(b) he satisfies the standards of competence for the time being published by the Council pursuant to section 1 of this Act.

(5) Subject to subsection (6) of this section, any person other than—

(a) a disqualified person or a person carrying on business in partnership with a disqualified person; or

(b) a body corporate which has among its directors one or more disqualified persons or in which a disqualified person has a controlling interest or in the management of which a disqualified person participates,

shall be qualified to be registered under this section as an employer of dispensers of hearing aids if he employs or proposes to employ any person to dispense such aids.

(6) Where an application for registration under this section is refused or the registrar fails to enter the name of the applicant on the appropriate register, the applicant may appeal to the Disciplinary Committee established under section 6 of this Act and the Committee shall have power to direct that the applicant be registered and may, in the case of an application by a body corporate for registration pursuant to subsection (1)(b) of this section, direct that subsection (5)(b) of this section, shall not apply.

(7) In this section “appropriate fee” means in the case of an application for registration as a dispenser a fee of £10 or such other amount as may be prescribed and in the case of an application for registration as an employer of such dispensers a fee of £1 or such other amount as may be prescribed; and “disqualified person” means a person whose name has been directed under section 7 of this Act to be removed from either of the registers maintained under this section and in respect of which no directions for restoration have been given under section 8.

3.—(1) It shall be unlawful at any time more than six months after the commencement of this Act for—

Offences by unregistered persons.

(a) any person other than—

(i) a person registered under this Act as a dispenser of hearing aids; or

(ii) a person whose name has been notified to the registrar of the Council and who is undergoing full-time training with a view to being registered as a dispenser of hearing aids and acting under the supervision of a registered dispenser,

to act as a dispenser of hearing aids;

(b) any person whose name is not for the time being entered in the register maintained pursuant to section 2(1)(b) of this Act to employ any person to act as a dispenser of hearing aids; or

(c) any person whose name is entered in the register which is so maintained to employ a person other than—

(i) a person registered under this Act as a dispenser of hearing aids; or

(ii) a person whose name has been notified to the registrar of the Council and who is undergoing full-time training with a view to being registered as a dispenser of hearing aids and acting under the supervision of a registered dispenser,

to act as a dispenser of such aids.

(2) A person who contravenes subsection (1) of this section shall be guilty of an offence and shall be punishable upon summary conviction by a fine not exceeding £100.

Form and
keeping of
registers
required by
s. 2.

4. The Council may make rules with respect to the form and keeping of the registers to be maintained in accordance with section 2 of this Act and with respect to the making of entries, alterations and corrections therein and with respect to the issue by the registrar of certificates of registration and such rules may in particular—

(a) regulate the making of applications for registration and provide for the evidence, if any, to be produced in support of such application;

(b) provide for the notification to the Council of any change in the particulars of any person registered;

(c) require persons whose names are for the time being entered in the said registers to pay in respect of the retention of their names in the relevant register an annual fee of £10 in the case of persons registered as dispensers and £1 in the case of persons registered as employers of such persons;

(d) vary the amount of either of the fees payable under section 2 of this Act upon first registration or the amount of either of the fees referred to in paragraph (c) of this section;

(e) provide for the removal from the register of the name of a person who, after the prescribed notices and warnings, fails—

(i) to supply information required by the registrar with a view to ensuring that the particulars entered against his name are correct, or

(ii) to supply information required to show that he is not in any contravention of any provision of this Act, or

(iii) to pay the annual fee in respect of the retention of his name on the register;

- (f) provide for the restoration to the register of the name of a person which has been erased or removed under the provisions of this Act and which the Disciplinary Committee has directed to be restored:

Provided that the Council shall not—

- (i) make any rule under this section unless the terms of that rule have been approved in writing by the Board of Trade; or
- (ii) make any rule pursuant to paragraph (d) of this section without first consulting any organisations which appear to the Council to be representative of the interests of dispensers of hearing aids or of persons employing such dispensers.

5.—(1) The Council shall set up a committee from among its members to be known as the Investigating Committee, for the preliminary investigation of cases (hereinafter referred to as “disciplinary cases”) in which it is alleged that a person is liable to have his name erased from the register or list on any grounds specified in section 7 of this Act. Preliminary investigation of disciplinary cases.

(2) It shall be the function of the Investigating Committee to decide whether a disciplinary case ought to be referred to the Disciplinary Committee, set up under the next following section, to be dealt with by them in accordance with the following provisions of this Act.

(3) The Council shall make rules as to the constitution of the Investigating Committee, which shall not come into force until approved by the Lord Chancellor.

6.—(1) The Council shall set up a committee from among its members to be known as the Disciplinary Committee, for the consideration and determination of disciplinary cases referred to them under the last foregoing section and of any other cases of which they have cognizance under section 2(6) or any of the following provisions of this Act. The Disciplinary Committee.

(2) The Council shall make rules as to the constitution of the Disciplinary Committee, the times and places of the meetings of the Committee, the quorum and the mode of summoning the members thereof.

(3) Rules under this section shall secure that a person, other than the Chairman of the Council, who has acted in relation to any disciplinary case as a member of the Investigating Committee does not act in relation to that case as a member of the Disciplinary Committee.

(4) Rules under this section shall not come into force until approved by the Lord Chancellor.

Erasure from the registers for crime, misconduct, etc.

7.—(1) If any person registered in accordance with the provisions of this Act—

- (a) is convicted by any court in the United Kingdom of any criminal offence, not being an offence which, owing to its trivial nature or the circumstances under which it was committed, does not render him unfit to have his name on the register, or
- (b) is judged by the Disciplinary Committee to have been guilty of serious misconduct in connection with the dispensing of hearing aids,

the Disciplinary Committee may, if they think fit, direct that his name shall be erased from the register.

(2) If it appears to the Disciplinary Committee that the arrangements made by any person registered in accordance with the provisions of section 2(1)(b) of this Act for carrying on of business under this Act are not such as to secure that the dispensing of hearing aids is carried out by or under the supervision of a person registered in accordance with the provisions of section 2(1)(a) of this Act the Disciplinary Committee may, if they think fit, direct that the name of the person shall be erased from the register.

(3) Where—

- (a) a director of any body corporate registered under section 2(1)(b) of this Act is convicted of an offence under this Act, or
- (b) the Disciplinary Committee are satisfied that a person whose name has been erased from one or both of the registers maintained under section 2 of this Act (and has not yet been restored) is a director of or taking part in the management of or has a controlling interest in such a body corporate,

the Disciplinary Committee may, if they think fit, direct that the name of the body corporate be erased from the register.

(4) The Disciplinary Committee may if they think fit direct that the name of any person entered in either of the registers maintained under section 2(1) of this Act be erased from that register if they are satisfied that he is carrying on business as a dispenser of hearing aids or employing such a dispenser in partnership with a person whose name has been erased from one of those registers (and has not yet been restored).

Restoration to the registers.

8.—(1) Where the name of a person has been erased from one of the registers in pursuance of a direction under section 7 of this Act or removed from one of those registers pursuant to rules made under section 4(e) of this Act, the name of that person shall not again be entered in either of the registers unless the Disciplinary Committee on application made to them in that behalf so direct.

(2) An application under the foregoing subsection for the restoration of a name to the register from which it has been erased shall not be made to, nor considered by, the Committee—

- (a) within ten months of the date of erasure, or
- (b) within ten months of a previous application thereunder.

9.—(1) At any time within twenty-eight days from the service Appeals.
of a notification that the Disciplinary Committee have under section 7 of this Act directed that the name of a person shall be erased from the register that person may appeal to the High Court, or, in Scotland, to the Court of Session.

(2) The Council may appear as respondent on any such appeal, and for the purpose of enabling directions to be given as to the costs or expenses of any such appeal, the Council shall be deemed to be a party thereto, whether it appears on the hearing of the appeal or not.

(3) Where no appeal is brought against a direction under this Act, or where such an appeal is brought but withdrawn or struck out for want of prosecution, the direction shall take effect on the expiration of the time for appealing or, as the case may be, on the withdrawal or striking out of the appeal.

(4) Subject as aforesaid, where an appeal is brought against a direction under this Act, the direction shall take effect if and when the appeal is dismissed and not otherwise.

10.—(1) For the purpose of any proceedings under this Act before the Disciplinary Committee in England and Wales (whether relating to disciplinary cases or otherwise) the Disciplinary Committee may administer oaths, and any party to the proceedings may sue out writs of subpoena ad testificandum and duces tecum, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action. Procedure of Disciplinary Committee.

(2) Section 49 of the Supreme Court of Judicature (Consolidation) Act 1925 (which provides a special procedure for the issue of such writs so as to be in force throughout the United Kingdom) shall apply in relation to any such proceedings as aforesaid as it applies in relation to causes or matters in the High Court. 1925 c. 49.

(3) For the purpose of any proceedings under this Act before the Disciplinary Committee in Scotland (whether relating to disciplinary cases or otherwise) the Disciplinary Committee may administer oaths and the Court of Session shall on the application of any party to the proceedings have the like power as in any action in that court to grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the

Disciplinary Committee, and for the issue of letters of second diligence against any witness or haver failing to appear after due citation, to grant warrant for the recovery of documents, and to grant commissions to persons to take the evidence of witnesses or to examine havers and receive their exhibits and productions.

(4) The Council shall make rules as to the procedure to be followed and the rules of evidence to be observed in proceedings before the Disciplinary Committee, and in particular—

- (a) for securing that notice that the proceedings are to be brought shall be given, at such time and in such manner as may be specified in the rules, to the person alleged to be liable to have his name erased from the registers;
- (b) for securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the Disciplinary Committee;
- (c) for enabling any party to the proceedings to be represented by counsel or solicitor or (if the rules so provide and the party so elects) by a person of such other description as may be specified in the rules;
- (d) for requiring proceedings before the Disciplinary Committee to be held in public except in so far as may be provided by the rules;
- (e) for requiring in any case where it is alleged that a person registered under this Act has been guilty of serious misconduct in the dispensing of hearing aids and where the Disciplinary Committee judge that the allegation has not been proved, that they shall record a finding that the person is not guilty of such misconduct in respect of the matter to which the allegation relates;
- (f) for requiring, in cases where it is alleged that a registered person is liable to have his name erased from the register under subsection (2), (3) or (4) of section 7 of this Act, that, where the Disciplinary Committee judge that the allegation has not been proved, they shall record a finding that the person is not guilty of the matters alleged;
- (g) for ensuring that persons likely to be affected by any finding of the Committee are duly notified of that finding:

Provided that as respects proceedings for the restoration of names to the register or appeals against the refusal of an application for registration the Council shall have power to make rules with respect to all or any of the matters aforesaid, but shall not be required to do so, and separate rules under this section may be made as respects such proceedings and as respects such appeals.

(5) Before making rules under this section the Council shall consult such organisations as appear to the Council to be representative of the interests of dispensers of hearing aids or of persons employing such dispensers.

(6) Rules under this section shall not come into force until approved by the Lord Chancellor, and the Lord Chancellor may approve rules under this section either as submitted to him or subject to such modification as appears to him requisite:

Provided that where the Lord Chancellor proposes to approve any such rules subject to modifications he shall notify to the Council the modifications he proposes to make and shall consider the observations of the Council thereon.

11.—(1) For the purpose of advising the Disciplinary Committee on questions of law arising in proceedings before them there shall be in all such proceedings an assessor to the Disciplinary Committee who shall be a barrister, advocate or solicitor of not less than ten years' standing. Assessors to
Disciplinary
Committee.

(2) The power of appointing assessors under this section shall be exercisable by the Council, but if no assessor appointed by it is available to act at any particular proceedings the Disciplinary Committee may appoint an assessor under this section to act at those proceedings.

(3) The Lord Chancellor may make rules as to the functions of assessors appointed under this section, and in particular, rules under this subsection may contain such provisions for securing—

(a) that where an assessor advises the Disciplinary Committee on any question of law as to evidence, procedure or any other matters specified in the rules, he shall do so in the presence of every party, or person representing a party, to the proceedings who appears thereat or, if the advice is tendered after the Disciplinary Committee have begun to deliberate as to their findings, that every such party or person as aforesaid shall be informed what advice the assessor has tendered;

(b) that every such party or person as aforesaid shall be informed if in any case the Committee do not accept the advice of the assessor on any such question as aforesaid,

and such incidental and supplementary provisions, as appear to the Lord Chancellor expedient.

(4) Subject to the provisions of this section, an assessor under this section may be appointed either generally or for any particular proceedings or class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument under which he is appointed.

(5) Any remuneration paid by the Council to persons appointed to act as assessors shall be at such rates as the Lord Chancellor may approve.

Expenses,
receipts and
accounts of
the Council.

12.—(1) The Council may, after paying its expenses, allocate any money received by it, whether by way of fees or otherwise, to purposes connected with education and research or to other purposes applicable to the dispensing of hearing aids, in such manner as it may think fit.

(2) The Council shall keep accounts of all sums received or paid by it and the accounts for each financial year of the Council shall be audited by auditors to be appointed by it and shall be published as soon as may be after they have been audited.

(3) No person shall be qualified to be appointed auditor under the last foregoing subsection unless he is a member of one or more of the following bodies:—

the Institute of Chartered Accountants in England and Wales;
the Institute of Chartered Accountants of Scotland;
the Association of Certified and Corporate Accountants;
the Institute of Chartered Accountants in Ireland;

and any other body of accountants established in the United Kingdom and for the time being recognised by the Board of Trade for the purposes of paragraph (a) of subsection

1948 c. 38.

(1) of section 161 of the Companies Act 1948;

but a Scottish firm may be so appointed if each of the partners thereof is qualified to be so appointed.

Exercise of
power to make
or approve
certain rules.

13. The power to make or approve rules conferred on the Lord Chancellor by sections 5, 6, 10 and 11 of this Act shall be exercisable by statutory instrument.

Interpretation.

14. In this Act—

“dispenser of hearing aids” means an individual who conducts or seeks to conduct oral negotiations with a view to effecting the supply of a hearing aid, whether by him or another, to or for the use of a person with impaired hearing; and references to the dispensing of hearing aids or to acting as a dispenser of such aids shall be construed accordingly;

“employer of dispensers” includes any person who enters into any arrangement with an individual whereby that individual undertakes for reward or anticipation of reward to act as a dispenser with a view to promoting the supply of hearing aids by that person; and references to the employing of dispensers and their employment shall be construed accordingly;

“hearing aid” means an instrument intended for use by a person suffering from impaired hearing to assist that person to hear better but does not include any instrument or device designed for use by connecting conductors of electricity to equipment or apparatus provided for the purpose of affording means of telephonic communication;

“prescribed” means prescribed by rules made by the Council pursuant to section 4 of this Act;

“supply” means supply by way of retail sale or by way of hire; but does not include a sale to a person acquiring for the purposes of trade.

15.—(1) This Act may be cited as the Hearing Aid Council Act 1968. Short title, extent and commencement.

(2) This Act shall not extend to Northern Ireland.

(3) This Act shall come into force on such day as the Board of Trade may by order made by statutory instrument appoint.

Sections 1 and 2.

SCHEDULE

CONSTITUTION AND POWERS OF THE COUNCIL

1.—(1) The Council shall consist of a Chairman and eleven other members who shall be appointed by the Board of Trade.

(2) The Board shall not appoint as Chairman a person who is in their opinion capable of representing any of the interests mentioned in sub-paragraph (3) of this paragraph.

(3) The Board shall when appointing persons as members of the Council ensure that the members of the Council include—

(a) six persons who are capable of representing the interests of persons registered under section 2 of this Act and who are either so registered themselves or are directors of, or participate in the management of, a body corporate which is so registered; and

(b) five persons who are not eligible for appointment under head (a) of this sub-paragraph and who either have specialised medical knowledge of deafness or audiological technical knowledge or who are capable of representing the interests of persons with impaired hearing:

Provided that in relation to the appointing of persons before the expiry of six months from the commencement of this Act head (a) of this sub-paragraph shall have effect as if references to persons registered under section 2 included references to persons who are, in the opinion of the Board, eligible to be registered under that section.

2.—(1) A member of the Council shall hold office for such period, not exceeding four years, as the Board of Trade may specify at the time of his appointment.

(2) In determining the periods of office of members of the Council the Board of Trade shall seek to secure—

(a) that one third of the members of the Council cease to hold office by the effluxion of time in every year after the year 1970; and

(b) that so far as is consistent with the consideration mentioned in head (a) above, all the members of the Council are appointed to hold office for similar periods.

(3) Nothing in sub-paragraphs (1) or (2) of this paragraph shall preclude—

(a) a member from resigning his office at any time by giving written notice to the registrar of the Council; or

(b) the Board of Trade from appointing any person as a member of the Council for a second or subsequent term.

3. The quorum at meetings of the Council shall be seven.

4. The procedures of the Council in the discharge of its functions shall be such as the Council may from time to time determine:

Provided that the Chairman shall not have the right to vote at a meeting of the Council except in the event of an equality of votes on any question when the Chairman shall have a single casting vote.

5. The powers of the Council and any of its committees may be exercised notwithstanding any vacancy, and no proceedings of the Council or of any of its committees shall be invalidated by any defect in the appointment of a member.

6. The Council shall appoint a registrar.

7. The Council shall have power to do anything which in the opinion of the Council is calculated to facilitate the proper discharge of its functions and shall in particular have power—

- (a) to appoint in addition to the registrar such other officers and servants as the Council may determine;
- (b) to pay to the members of the Council or its committees such fees for attendance at meetings of the Council or its committees and such travelling and subsistence allowances while attending such meetings or while on any other business of the Council as the Council, with the approval of the Board of Trade, may determine;
- (c) to pay to its officers and servants such remuneration as the Council may determine;
- (d) as regards any officers or servants in whose case it may determine so to do, to pay to or in respect of them such pensions and gratuities, or provide and maintain for them such superannuation schemes (whether contributory or not) as the Council may determine.

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