

1967 No. 659

VETERINARY SURGEONS
The Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules Order of Council 1967

Made - - - - 25th April 1967

At the Council Chamber, Whitehall, the 25th day of April 1967

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

Whereas in pursuance of paragraph 5(1) of Schedule 2 to the Veterinary Surgeons Act 1966(a) the Council of the Royal College of Veterinary Surgeons have made rules entitled "The Disciplinary Committee (Procedure and Evidence) Rules 1967":

And whereas by section 25(1) of the said Act such rules shall not have effect unless approved by Order of the Privy Council:

Now, therefore, Their Lordships, having taken the said rules into consideration, are hereby pleased to approve the same as set out in the Schedule to this Order.

This Order may be cited as the Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules Order of Council 1967.

W. G. Agnew.

SCHEDULE
THE DISCIPLINARY COMMITTEE (PROCEDURE AND EVIDENCE) RULES 1967

The Council of the Royal College of Veterinary Surgeons, in exercise of their powers under paragraph 5(1) of Schedule 2 to the Veterinary Surgeons Act 1966 hereby make the following Rules—

PART I
PRELIMINARY: CITATION AND INTERPRETATION

1. These Rules may be cited as the Disciplinary Committee (Procedure and Evidence) Rules 1967.

2.—(1) In these Rules, unless the context otherwise requires—

"the Act" means the Veterinary Surgeons Act 1966;

"case relating to conduct" means a case which has been referred by the preliminary investigation committee to the disciplinary committee where it is alleged that the respondent has been guilty of disgraceful conduct in any professional respect;

"case relating to conviction" means a case which has been referred by the preliminary investigation committee to the disciplinary committee where it is alleged that the respondent has been convicted in the United Kingdom or elsewhere of a criminal offence rendering him unfit to practise veterinary surgery;

“case relating to a fraudulent entry” means a case which has been referred by the preliminary investigation committee to the disciplinary committee where it is alleged that the name of a person has been fraudulently entered on a register;

“Chairman” has the meaning assigned to it in Rule 3 of these Rules;

“the College” means the Royal College of Veterinary Surgeons;

“the Committee” means the disciplinary committee provided for by section 15(2) of the Act;

“the Council” means the Council of the Royal College of Veterinary Surgeons;

“Legal Assessor” means an assessor appointed by the Council or by the disciplinary committee in pursuance of paragraph 6(2) of Schedule 2 to the Act;

“party” in relation to proceedings before the Committee means—

(a) in any case the respondent;

(b) in a case relating to a fraudulent entry, any person who is alleged to have been a party to the alleged fraud;

“preliminary investigation committee” means the committee set up by the Council in pursuance of section 15(1) of the Act;

“register” means a register maintained under section 2 or section 8 of the Act;

“respondent”—

(a) in relation to a case relating to conduct or to conviction means the person against whom the allegation is made;

(b) in a case relating to fraudulent entry, means the person whose name it is alleged is fraudulently entered in the register;

“Solicitor” means the Solicitor nominated by the College to act as its Solicitor for the purpose of these Rules, and in relation to proceedings before the Committee shall include Counsel instructed by the said Solicitor.

(2) The Interpretation Act 1889(a) shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

Chairman

3. At any meeting of the Committee the Chairman of the Committee shall preside or, in his absence, such member of the Committee as the Committee may choose.

PART II

CASES RELATING TO CONDUCT AND CASES RELATING TO CONVICTION

Application of Rules

The provisions of this Part and Part V of these Rules shall have effect where a case relating to conduct or a case relating to conviction is referred to the Committee.

Notice of Inquiry

4.—(1) The Registrar shall, as soon as may be after a case has been referred to the Committee by the preliminary investigation committee, serve upon the respondent a notice of inquiry as nearly as may be in the form set out in the Appendix to these Rules specifying the matters alleged against the respondent in the form of a charge or charges, and stating the day, time, and place at which the Committee will hold an inquiry into these matters, together with a copy of these Rules, by letter addressed to the respondent in accordance with the provisions of section 26(2) of the Act.

(2) The Committee shall not hold an inquiry unless a notice of inquiry has been served upon the respondent in accordance with the foregoing provisions of this Rule.

(3) If any disciplinary case has been referred to the Committee by the preliminary investigation committee as the result of a complaint received from a member of the public, the Registrar shall send to that person a copy of the notice of inquiry and a copy of these Rules.

(4) Except with the agreement of the respondent, the inquiry shall not be held on any day earlier than twenty-eight days after the date of posting the notice of inquiry.

Postponement or Cancellation of Inquiry

5.—(1) The Chairman, of his own motion or upon the application of any party thereto, may postpone the hearing of an inquiry for any period not exceeding 3 months.

(2) Where, before the inquiry opens, it appears to the Chairman, or at any stage of the proceedings it appears to the Committee, that a notice of inquiry is defective, he or they shall cause the notice to be amended, unless it appears to him or them that the required amendment cannot be made without injustice, or if he or they consider that the circumstances in which an amendment is made require it, he or they may direct that the amended notice shall be served on the respondent, and that the inquiry shall be postponed.

(3) The Registrar shall, as soon as may be, give to all parties to whom a notice of inquiry has been sent, notification of any decision to postpone or not to hold an inquiry, informing them of the date fixed for the hearing of a postponed inquiry.

Access to Documents

6. Upon application by any party to the inquiry and on payment of proper charges the Solicitor shall send to that party a copy of any statutory declaration, complaint, answer, admission, explanation or other similar document sent to the College by any party to the inquiry.

The Reading of the Charge

7.—(1) The charge shall be read in the presence of the respondent: Provided that if the respondent does not appear but the Committee nevertheless decide that the inquiry shall proceed the charge shall be read in his absence.

(2) As soon as the charge has been read the respondent may, if he so desires, object to the charge, or to any part of it, in point of law. The Solicitor may answer any such objection and the respondent shall have the right of final reply. If any such objection is upheld, no further proceedings shall be taken on that charge or on that part of the charge to which the objection relates.

Proof of the facts alleged in cases relating to conviction

8.—(1) In cases relating to conviction, the following order of proceedings shall be observed concerning proof of facts alleged in the charge or charges:—

(a) If the respondent appears, the Registrar shall ask him as to every conviction alleged in the charge or charges, whether he admits it.

(b) The Solicitor—

(i) if the respondent has not appeared, or has not admitted every conviction alleged, shall adduce evidence of any conviction not admitted, and

(ii) shall, whether the conviction alleged is admitted or not, address the Committee, and may adduce evidence, with regard to the nature and circumstances of the offence, to show that if the convictions alleged are proved or admitted they are such as to render the respondent unfit to practise veterinary surgery.

(c) If no evidence is adduced concerning any particular conviction which has not been admitted by the respondent, the Chairman shall thereupon announce that the charge in relation to that conviction has not been proved.

(2)(a) Where the respondent appears, he may then adduce evidence concerning any conviction which he has not admitted, on the question whether he was convicted as alleged, and may address the Committee on that question.

(b) The respondent may also address the Committee, and adduce evidence with regard to the nature and circumstances of the offence, to show that he is not unfit by reason thereof to practise veterinary surgery.

(c) Where evidence is adduced under this paragraph, the Solicitor may adduce evidence to rebut such evidence.

(3) On the conclusion of proceedings under the foregoing paragraphs of this Rule the Committee shall consider whether the facts alleged in the charge or charges have been proved, and shall determine whether the respondent has been convicted of an offence to which section 16(1)(a) of the Act applies. The Chairman shall then announce the findings of the Committee.

Proof of the facts alleged in cases relating to conduct

9.—(1) In cases relating to conduct the following order of proceedings shall be observed concerning proof of the facts alleged in the charge or charges:—

(a) If the respondent appears, the Registrar shall ask him concerning each fact alleged in the charge or charges, whether he admits it.

(b) The Solicitor may open his case and—

(i) if the respondent does not appear, or has not admitted all the facts alleged in the charge or charges, shall adduce evidence of the facts not admitted, and

(ii) whether the facts alleged are admitted or not, shall address the Committee to show that if such facts are proved the respondent is by reason thereof guilty of disgraceful conduct in a professional respect.

(c) If no evidence is adduced concerning any particular charge on which there has been no admission of fact by the respondent, the Committee shall make a finding on this charge in favour of the respondent, and the Chairman shall announce their findings in the appropriate terms.

(2)(a) At the close of the case against him, the respondent may, if he so desires, make either or both the following submissions to any charge concerning which evidence has been adduced, namely—

(i) that no sufficient evidence has been adduced upon which the Committee could find that the facts alleged in the charge have been proved.

(ii) that the facts alleged in the charge are not such as to constitute disgraceful conduct in any professional respect.

Where any such submission is made, the Solicitor may answer the submission and the respondent shall have the right of final reply.

(b) If a submission is made under the last foregoing sub-paragraph in respect of any charge, the Committee shall consider and determine whether it should be upheld, and shall record, and the Chairman shall announce, their findings in the appropriate terms.

(c) The respondent may adduce evidence in answer to any charge concerning which evidence has been adduced and, whether he adduces evidence or not, may address the Committee.

(d) At the close of the case for the respondent the Solicitor may with the leave of the Committee adduce evidence to rebut any evidence adduced by the respondent; and if he does so, the respondent may make a further address limited to the rebutting evidence.

(e) The Solicitor may address the Committee by way of reply to the respondent's case either:

(i) if oral evidence (not being evidence as to character) other than that of the respondent himself has been given on the respondent's behalf, or

(ii) with the leave of the Committee, where no such evidence has been given.

(f) At the conclusion of the Solicitor's address, if any, the respondent may address the Committee by way of final reply.

(g) Without prejudice to the last foregoing sub-paragraph, if the respondent has made a submission to the Committee on a point of law the Solicitor shall have the right of reply limited to that submission, and the respondent shall have the right of final reply.

(3) On the conclusion of proceedings under the foregoing paragraphs of this Rule the Committee shall consider and determine as respects each charge which remains outstanding whether the facts alleged therein have been proved to their satisfaction. The Chairman shall announce their findings in the appropriate terms.

(4) If the Committee record, and the Chairman announces, a finding under this Rule in favour of the respondent, the appropriate terms thereof shall be, that in respect of the matters to which the charge relates the respondent is not guilty of disgraceful conduct in any professional respect.

(5) If the Committee make, and the Chairman announces, a finding under this Rule against the respondent, the appropriate terms thereof shall be:—

That in respect of the matters to which the charge relates the respondent is guilty of disgraceful conduct in a professional respect.

Procedure upon proof of the facts alleged

10.—(1) Where the Committee in a case relating to conviction have found that the facts alleged in a charge have been proved, or in a case relating to conduct have recorded a finding against the respondent, the Chairman shall invite the Solicitor to address the Committee and to adduce evidence as to the character and previous history of the respondent. The Chairman shall then invite the respondent to address the Committee by way of mitigation and to adduce evidence as aforesaid.

(2) The Committee shall next consider their judgment, which may be postponed or delivered forthwith in terms of the next ensuing paragraphs of this Rule.

(3) If the Committee determine to postpone judgment, the judgment of the Committee shall stand postponed for a period not exceeding 2 years; and the Chairman shall announce their determination in such terms as the Committee may approve.

(4) If the Committee determine not to postpone judgment, they shall determine whether by reason of their findings against the respondent the Registrar shall be directed to remove the name of the respondent from the register or that his registration therein shall be suspended for a specified period, or whether it shall be sufficient to warn the respondent as to his future conduct, and the Chairman shall announce their determination in such terms as they may approve.

Procedure in cases falling under both Rule 8 and Rule 9

11. Where the charges against the respondent fall within the provisions both of Rule 8 and of Rule 9 of these Rules, the Committee shall proceed upon the charge or charges of each kind separately under Rule 8 of these Rules where the charge relates to a conviction or under Rule 9 of these Rules where the charge relates to conduct and shall then proceed under so much of Rule 10 of these Rules as may be applicable either upon the charge or charges of each kind separately or upon the charges of all kinds concurrently, as the circumstances of the case may require.

Procedure upon postponement of judgment

12.—(1) Where under the foregoing provisions of these Rules the judgment of the Committee in any case stands postponed, the following shall be the procedure—

(a) The Registrar shall, not later than six weeks before the day fixed for the resumption of the proceedings, send to the respondent a notice which shall—

(i) specify the day, time and place at which the proceedings are to be resumed and invite him to appear thereat;

- (ii) unless the Chairman otherwise directs, invite the respondent to furnish the Registrar with the names and addresses of persons to whom reference may be made confidentially or otherwise concerning his character and conduct ; and
- (iii) invite the respondent to send to the Solicitor, not less than three weeks before the day fixed for the resumption of proceedings, a copy of any statement or statutory declaration, whether made by the respondent or not, relating to his conduct or other matters since the hearing of his case or setting out any material facts which have arisen since that hearing.
- (b) At the meeting at which the proceedings are resumed the Chairman shall first invite the Solicitor to recall, for the information of the Committee, the position in which the case stands and the Committee may then receive further oral or documentary evidence in relation to the case, or to the conduct of the respondent since the hearing, and shall hear any party to the proceedings who desires to be heard.
- (c) The Committee shall then consider and determine whether they should further postpone their judgment on the charges on which their judgment was previously postponed ; and if the Committee determine further to postpone judgment, the judgment of the Committee shall stand further postponed for a period not exceeding 2 years ; and the Chairman shall announce their determination in such terms as they may approve.
- (d) If the Committee determine that judgment shall not be further postponed paragraph (4) of Rule 10 of these Rules shall apply.
- (2) At any resumed proceedings any new charge alleged against the respondent in accordance with these Rules shall first be dealt with in accordance with such of Rules 8 and 9, and so much of Rule 10 of these Rules, as may be applicable and if the Committee determine not to postpone judgment in respect of any such new charge, the Committee may apply paragraph (4) of Rule 10 simultaneously to the new charge and the charge in respect of which they had postponed judgment.
- (3) Nothing in the last foregoing paragraph shall prevent the Committee from receiving evidence at any resumed proceedings of any conviction recorded against the respondent which has not been made the subject of a charge under these Rules.
- (4) Subject to the provisions of the Act, the validity of any proceedings resumed under this Rule shall not be called in question by reason only of the fact that the Committee is differently constituted.

PART III

CASES RELATING TO FRAUDULENT ENTRIES IN REGISTER

Application of Rules

The provisions of this Part and Part V of these Rules shall apply where a case of fraudulent entry is referred to the Committee.

Procedure

13.—(1) Where any question whether a name has been fraudulently entered in the register has been referred to the Committee the Solicitor shall send to the respondent a notice of inquiry specifying the nature of the fraud alleged, stating the day, time and place at which the Committee will hold an inquiry into the question, inviting his attendance at such inquiry, and containing such further information as the nature of the case may require. The provisions of Rule 4 of these Rules shall apply as though such notice were a notice of inquiry such as is mentioned in that Rule.

(2) A copy of the notice shall be sent to each party in the case and to such other persons (if any) as the Chairman may direct.

(3) The inquiry shall proceed as though the question were a charge contained in a notice of inquiry in a case relating to conduct and the provisions of Rule 9 of these Rules shall accordingly apply thereto so far as may be.

(4) If the Committee determine that the entry has been proved to their satisfaction to have been fraudulently made, they shall make an order in writing, under the hand of the Chairman, that the entry having been proved to the satisfaction of the Committee to have been fraudulently made shall be removed from the Register.

PART IV

RESTORATION OF NAMES AFTER REMOVAL

Procedure

14.—(1) Where, in accordance with section 18 of the Act, an application for the restoration to the register or for the removal of a suspension of registration, made by a person whose name has been removed from the register or whose registration has been suspended, has been referred to the Committee for determination, the following provisions shall have effect:—

(a) The Committee shall afford to the applicant an opportunity of being heard by the Committee and of adducing evidence.

(b) The Committee may require such other evidence as they think necessary concerning the identity and character of the applicant, or his conduct since his name was removed from the register or since his registration was suspended and for this purpose may receive written or oral evidence.

(2) Subject to the foregoing provisions of this Rule, and to Part V of these Rules, the procedure of the Committee in connection with the application shall be such as they may determine.

PART V

GENERAL

Hearing and Adjournment

15.—(1) Subject to the provisions of paragraph 6 of Schedule 2 to the Act, and of any rules made thereunder the Committee may deliberate in camera (with or without the Legal Assessor) at any time and for any purpose during or after the hearing of any proceedings.

(2) Save as aforesaid all proceedings before the Committee shall take place in the presence of all parties thereto who appear thereat and shall be held in public except as provided by the next following paragraph of this Rule.

(3) Where in the interests of justice it appears to the Committee that the public should be excluded from any proceedings or part thereof, the Committee may direct that the public shall be so excluded; but a direction under this paragraph shall not apply to the announcement in pursuance of any of these Rules of a determination of the Committee.

(4) The Committee may adjourn their proceedings from time to time as they think fit.

Evidence

16.—(1) Where any respondent or applicant under Rule 14 of these Rules has supplied to the Committee or to the Registrar on their behalf the name of any person to whom reference may be made confidentially as to his character or conduct, the Committee may consider any information received from such person in consequence of such reference without disclosing the same to the respondent or applicant.

(2) The Committee may receive oral, documentary, or other evidence of any fact which appears to them relevant to the inquiry into the case before them: Provided that, where a fact which it is sought to prove or the form in which any evidence is tendered, is such that it would not be admissible in criminal

proceedings in an English Court, or, in a case in which the Committee is sitting in Scotland or Northern Ireland, which would not be admissible in a Scottish or Northern Irish Court as the case may be, the Committee shall not receive evidence of that fact or in that form, unless after consultation with the Legal Assessor they are satisfied that it is desirable in the interests of justice to receive it having regard to the difficulty and expense of obtaining evidence which would be so admissible.

(3) Without prejudice to the generality of the last preceding paragraph the Committee may, if satisfied that the interests of justice will not thereby be prejudiced, admit in evidence without strict proof copies of documents which are themselves admissible, maps, plans, photographs, certificates of conviction and sentence, certificates of birth and marriage and death, the records (including the registers) of the College, the notes of proceedings before the Committee and before other tribunals and the records of such tribunals, and in like manner the Committee may take note of the professional qualifications, the registration, the address and the identity of the respondent and of any other veterinary surgeons or veterinary practitioners.

(4) The Committee may accept admissions made by any party and may in such case dispense with proof of the matters admitted.

(5) The Committee may waive any Rule of Evidence with the consent of the parties, and with the consent of the parties or in any case where the interests of justice so demand, may also waive any procedural requirement of these Rules.

(6) The Committee may cause any person to be called as a witness in any proceedings before them whether or not the parties consent thereto. Questions may be put to any witness by the Committee through the Chairman or by the Legal Assessor with the leave of the Chairman.

Voting

17.—(1) All acts of the Committee shall be decided by a majority of the members present.

(2) Any questions put to the vote shall be put in the form of a motion. The Chairman shall call upon the members present to vote for or against the motion by raising their hands and shall declare that the motion appears to him to have been carried or not carried as the case may be. The Chairman himself may vote for or against the motion.

(3) Where on any of the questions the votes are equal, the Chairman shall not have a casting vote but the question shall be deemed to have been resolved in favour of the respondent or of the applicant under Rule 14 of these Rules, as the case may be, and for the purposes of this paragraph a decision to postpone judgment shall be taken to be in favour of the respondent or applicant unless he has indicated to the Committee that he is opposed to postponement.

Procedure where there is more than one respondent

18. Nothing in this part of these Rules shall prevent one inquiry being held into charges against two or more respondents; and where such an inquiry is held the foregoing Rules shall apply with the necessary adaptations, and subject to any directions given to the Committee as to the order in which proceedings shall be taken under any of these Rules by or in relation to the several respondents, so however that any of the rights ensured to a respondent under these Rules shall be exercised separately by each of the respondents who desires to invoke that right.

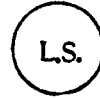
Supplementary

19.—(1) Any party being an individual may appear either in person or by counsel or solicitor.

(2) Any party being a body corporate or an unincorporated body of persons may appear by their secretary or other officer duly appointed for the purpose or by counsel or solicitor.

(3) A shorthand-writer shall be appointed by the Committee to take shorthand notes of their proceedings and any party to proceedings of the Committee shall, on application to the Solicitor and on payment of the proper charges, be furnished by the solicitor with a transcript of the shorthand notes of any part of the proceedings at which the parties were entitled to be present.

Pursuant to a resolution passed at a Meeting of the Council of the Royal College of Veterinary Surgeons on the 23rd day of January 1967, the Common Seal of the said Royal College was affixed hereto on the 1st day of February 1967 in the presence of:—



A. J. WRIGHT,
President.

J. B. WHITE,
E. G. WHITE,
Members of Council.

APPENDIX

NOTICE OF INQUIRY (Rule 4)

Sir/Madam,

(Date)

On behalf of the Royal College of Veterinary Surgeons notice is hereby given to you that in consequence of (a complaint made against you to the Preliminary Investigation Committee) *or* (information received by the Preliminary Investigation Committee) and referred by that Committee to the Disciplinary Committee, an inquiry is to be held to the following charge against you:

(Here set out particulars of the charge or charges. Where there is more than one charge the charges are to be numbered consecutively).

Notice is further given to you that on (day of the week), the day of 19...., a meeting of the Disciplinary Committee will be held at (place), at (time) to consider the above-mentioned charge(s) against you and to determine whether or not they should direct the Registrar to remove your name from the register/supplementary veterinary register or that your registration shall be suspended pursuant to section 16 of the Veterinary Surgeons Act 1966.

You are hereby invited to appear before the Committee at the place and time specified above for the purpose of answering the above-mentioned charge(s). You may appear in person, by Counsel, or Solicitor. The Committee have power, if you do not appear, to hear and decide upon the said charge(s) in your absence.

Any answer, admission or other statement or communication which you may desire to make with respect to the said charge should be addressed to the Solicitor to the Royal College of Veterinary Surgeons at (place) and may be used in evidence at the inquiry.

If you desire to make any application that the inquiry should be postponed you should send the application to the Solicitor to the College as soon as may be, stating the grounds upon which you desire a postponement. Any such application will be considered by the Chairman of the Disciplinary Committee in accordance with the Disciplinary Committee (Procedure and Evidence) Rules 1967, a copy of which is sent herewith for your information.

I am, Sir/Madam,
Your obedient Servant,

Registrar.

EXPLANATORY NOTE

(This Note is not part of the Order.)

The rules approved by this Order prescribe the procedure to be followed and the rules of evidence to be observed in proceedings before the Disciplinary Committee of the Council of the Royal College of Veterinary Surgeons.