

SCHEDULE

PROCEDURE FOR DETERMINING AN APPEAL UNDER SECTION 30(1) OF THE ACT

Interpretation

1. Unless the context otherwise requires, a reference—
 - (a) in this Schedule to a numbered paragraph is a reference to the paragraph bearing that number in this Schedule; and
 - (b) in a paragraph to a numbered sub-paragraph is a reference to the sub-paragraph bearing that number in that paragraph.

Hearing of the Appeal

2.—(1) Subject to sub-paragraph (2), as soon as practicable after receipt of a notice of appeal, the Chairman shall—

- (a) fix a day on which the Tribunal will hear the case;
 - (b) direct the Clerk to send to the osteopath a notice of the hearing which shall state the day on which and the time and place at which the hearing is to be held;
 - (c) invite the osteopath to state whether he proposes to attend the hearing; and
 - (d) inform the osteopath that he may be legally represented at the hearing in accordance with sub-paragraph (3) of this paragraph.
- (2) The hearing shall not be fixed for either—
- (a) any date earlier than the end of the period of 28 days beginning with the date of posting of the notice of hearing; or
 - (b) any date later than the end of the period of three months beginning with the date of posting of the notice of hearing, save with the agreement of the osteopath.

(3) The General Council shall be a party to the proceedings under this Schedule and both the General Council and the osteopath may appear before the Tribunal at the hearing and be legally represented.

(4) The Clerk shall ensure that both parties to the hearing are provided with copies of all documents presented to the Health Committee at any previous hearing, including copies of any medical reports and observations or other evidence submitted by or on behalf of the osteopath at such a previous hearing.

(5) Both the osteopath and the General Council may produce documentary evidence to the Tribunal, may call witnesses and may put questions to any person called as a witness.

(6) The osteopath and the General Council shall each produce to the other a list of witnesses to be called before the beginning of the period of 7 days ending with the date on which the hearing is to be held, failing which a witness must not be called except with the consent of the Tribunal.

Public Hearings

3.—(1) The Tribunal shall sit in public but shall have the discretion to hold the hearing or any part of it in private while any information relating to the medical history or condition of any person is being given.

- (2) Any determination of the Tribunal shall be announced in public.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Postponement or Adjournment of Hearing

4. The Tribunal, either of its motion or at the request of a party to the hearing, may postpone a hearing at any time before it begins and may adjourn the proceedings from time to time as it thinks fit.

5. Where a hearing is postponed or proceedings are adjourned the Clerk shall send the osteopath notice of the date on which the Tribunal is to hold the postponed hearing or to resume the hearing that has been adjourned.

6. A postponed or resumed hearing shall not be fixed for any date earlier than the end of the period of 14 days beginning with the date upon which notice of the postponed or resumed hearing is sent.

Absence of the Osteopath

7. Where the osteopath is neither present nor represented at the hearing, the Tribunal may nevertheless proceed with the hearing if it is satisfied that all reasonable steps have been taken under paragraph 2 to serve the notice of the hearing on the osteopath.

Procedure at the Hearing

8. (1) (a) The osteopath shall present his appeal and any case in support of it and he may call and question witnesses and may give evidence on his own behalf.
- (b) The osteopath or any person called on his behalf may be cross-examined by the General Council and in the case of persons called on his behalf, may be re-examined by the osteopath who may give evidence a second time.
- (c) The General Council may present a case in favour of the decision appealed against and may call and question witnesses.
- (d) The General Council and any person called on its behalf may be cross-examined by the osteopath and in the case of persons called on its behalf, may be re-examined by the General Council.
- (e) The General Council may address the Tribunal concerning the decision appealed against.
- (f) The osteopath may address the Tribunal concerning the decision appealed against.

(2) Where the General Council or the osteopath are legally represented, references in sub-paragraph (1) to the General Council or to the osteopath—

- (a) presenting the case;
- (b) calling or questioning witnesses;
- (c) cross-examining or re-examining witnesses; or
- (d) addressing the Tribunal

shall be read as references to the representative of the General Council or the osteopath as the case may be.

(3) Members of the Tribunal may with the consent of its Chairman question any person giving evidence at the hearing.

- (4) Where it appears to the Tribunal necessary or expedient, either—
- (a) for the proper or expeditious running of the hearing; or
- (b) for the convenience of a witness at a hearing

that the procedure set out in sub-paragraph (1) should be changed, the Tribunal may after giving the General Council and the osteopath or their representatives the opportunity to be heard on the matter, decide to change the procedure and in particular, the Tribunal may decide that the order of

the calling of witnesses be different from that set out in sub-paragraph (1) and that a witness may be recalled to give further evidence.

Evidence

9. The Tribunal shall have the power to administer oaths and all evidence given orally shall be on oath or be affirmed.

10.—(1) The Tribunal may, if satisfied that the interests of justice will not thereby be prejudiced and after giving the parties an opportunity to be heard on the question of admissibility, admit into evidence without strict proof, copies of documents which are themselves admissible, photographs, certificates of conviction, and sentence, the records and registers of the General Council, notes of proceedings before the Tribunal or any other material, and the Tribunal may take note without strict proof of the professional qualifications, registration, address and identity of the osteopath or of any other person.

(2) The Tribunal may by summons require any person to attend at a time and place stated in the summons to give evidence or to produce any documents in his custody or under his control which relate to any matter in issue before the Tribunal and shall pay or tender the necessary expenses of attendance.

(3) Any person summoned to attend under the provisions of this Schedule shall be informed of the offence under section 32(2) of the Act which may be committed in the event of non-compliance.

(4) Both parties to the proceedings may seek an order of the Tribunal requiring persons to attend and give evidence or to produce documents before the Tribunal.

(5) Any person who is called as a witness to the proceedings shall be excluded from them until he is called to give evidence, unless the Tribunal gives him leave to be present. This sub-paragraph does not apply to the parties to the proceedings.

Decision of the Tribunal

11.—(1) The Tribunal shall decide the appeal in private but give its determination in public in accordance with paragraph 3 of this Schedule.

(2) The reasons for any decision of the Tribunal shall be given in writing and the Clerk to the Tribunal shall—

- (a) as soon as practicable after the hearing send a copy of the decision and reasons to the osteopath and to the Registrar; and
- (b) inform the osteopath of his right to appeal against the decision of the Tribunal in accordance with section 31(1)(b) of the Act.