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SCHEDULES

SCHEDULE 3

THE DISCIPLINARY COMMITTEE

PART II

Procedure of Disciplinary Committee

- 4 (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.
- (2) Section [F136 of the Supreme Court Act 1981] (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.
- (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 in any case where it is alleged that a person registered under this Act has been guilty of serious misconduct in any professional respect and where the Disciplinary Committee judge that the allegation has not been

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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;

- (e) 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 paragraph may be made as respects such proceedings and as respects such appeals.

- (5) Before making rules under this paragraph the Council shall consult such organisations as appear to the Council to be representative of the interests of farriers or of persons employing farriers.
- (6) Rules under this paragraph shall not come into force until approved by the Lord Chancellor, and the Lord Chancellor may approve rules under this paragraph either as submitted to him or subject to such modification as appears to him requisite: Provided that where the Lord Chancellor proposes to approve 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.

Textual Amendments

F1 Words substituted by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(1), **Sch. 5**

- 5 (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
- [^{F2}(a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or
- (b) an advocate or solicitor in Scotland of at least 10 years' standing.]
- (2) The power of appointing assessors under this paragraph 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 paragraph to act at these proceedings.
- (3) The Lord Chancellor may make rules as to the functions of assessors appointed under this paragraph, and in particular, rules under this paragraph 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 its 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 does not accept the advice of the assessor on any such question as aforesaid;

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

- (4) Subject to the provisions of this paragraph an assessor under this paragraph 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.

Textual Amendments

- F2** Sch. 3 Pt. II para. 5(1)(a)(b) substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 37\)](#), s. 71(2), [Sch. 10 para. 38](#)

6 The power to make or approve rules conferred on the Lord Chancellor by this Part of this Schedule shall be exercisable by statutory instrument.

7 In the application of this Part of this Schedule to Scotland, for the references to the Lord Chancellor there shall be substituted references to the Lord Advocate.

Modifications etc. (not altering text)

- C1** [Sch. 3 Pt. II para. 7](#): Functions of the Lord Advocate transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Advocate is entitled or subject in connection with any such function transferred to the Secretary of State for Scotland (19.5.1999) by [S.I. 1999/678](#), arts. 2, 3, [Sch.](#) (with art. 7)

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