

## SCHEDULES

### SCHEDULE 4

#### PROCEEDINGS BEFORE PROFESSIONAL CONDUCT, HEALTH AND PRELIMINARY PROCEEDINGS COMMITTEES

##### *Procedure of and evidence before the Professional Conduct Committee and the Health Committee*

- 1 (1) Subject to the provisions of this paragraph, the General Council shall make rules for the Professional Conduct Committee and for the Health Committee with respect to the times and places of the meetings of the Committee and the mode of summoning the members, the reference of cases to the Committee (whether by the Preliminary Proceedings Committee or otherwise) and the procedure to be followed and rules of evidence to be observed in proceedings before the Committee.
- (2) Rules made under this paragraph for the Professional Conduct Committee shall include provision—
- (a) 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 to whose registration the proceedings relate;
  - (b) securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the Committee ;
  - (c) enabling any party to the proceedings to be represented by counsel or a 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) requiring proceedings before the Committee to be held in public except in so far as may be provided by the rules;
  - (e) requiring that where, in a case in which it is alleged that a person has been guilty of serious professional misconduct, the Committee judge that the allegation has not been proved they shall record a finding that the person is not guilty of such misconduct in respect of the matters to which the allegation relates.
- (3) Rules made under this paragraph for the Health Committee shall include provision—
- (a) 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 to whose registration the proceedings relate ;
  - (b) securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the Committee ;
  - (c) enabling any party to the proceedings to be represented by counsel or a 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.

- (4) Before making rules under this paragraph the General Council shall consult with such bodies of persons representing medical practitioners, or medical practitioners of any description, as appear to the Council requisite to be consulted.
- (5) Rules under this paragraph shall not come into force until approved by order of the Privy Council, and the Privy Council may approve such rules either as submitted to them or subject to such modifications as appear to them to be requisite; but where the Privy Council propose to approve any rules subject to modifications they shall notify to the General Council the modifications they propose to make and consider any observations of the General Council on them.
- 2 (1) For the purpose of proceedings before the Professional Conduct Committee or the Health Committee in England or Wales or in Northern Ireland the Committee may administer oaths, and any party to the proceedings may issue a writ of sub poena ad testificandum or 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 36 of the Supreme Court Act 1981 or section 67 of the Judicature (Northern Ireland) Act 1978 (which provide a special procedure for the issue of such writs so as to be in force throughout the United Kingdom) shall apply in relation to proceedings before the Professional Conduct Committee or the Health Committee in England and Wales or, as the case may be, in Northern Ireland as those provisions apply in relation to causes or matters in the High Court or actions or suits pending in the High Court of Justice in Northern Ireland.
- (3) For the purpose of proceedings before the Professional Conduct Committee or the Health Committee in Scotland, the 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—
- (a) to grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the Committee, and for the issue of letters of second diligence against any witness or haver failing to appear after due citation ;
  - (b) to grant warrant for the recovery of documents ; and
  - (c) to grant commissions to persons to take the evidence of witnesses or to examine havers and receive their exhibits and productions.
- 3 Where—
- (a) several sittings of the Professional Conduct Committee, of the Health Committee or of the General Council are required to enable the Committee or the Council to dispose of a case; or
  - (b) on an appeal to Her Majesty in Council under section 40 of this Act, the case is remitted to the Committee or to the General Council for the Committee or the Council to dispose of the case in accordance with directions given by the Judicial Committee;

the validity of the proceedings on the case before the Professional Conduct Committee, the Health Committee or the General Council, as the case may be, shall not be called into question by reason only that members of the Committee or Council who were present at a former meeting were not present at a later meeting of the Committee or Council or that members present at a later meeting were not present at a former meeting of the Committee or Council, as the case may be.