

1978 No. 1796

MEDICAL PROFESSION**The General Medical Council Disciplinary Committee
(Procedure) (Amendment) Rules Order of Council 1978***Made - - - - 8th December 1978**Laid before Parliament 15th December 1978**Coming into Operation 1st January 1979*

At the Council Chamber, Whitehall, the 8th day of December 1978

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

Whereas in pursuance of section 37(1) of the Medical Act 1956(a) as amended by section 13 of the Medical Act 1969(b) the Disciplinary Committee of the General Medical Council have made the General Medical Council Disciplinary Committee (Procedure) (Amendment) Rules 1978:

And whereas by subsection (3) of the said section 37 such Rules shall not come into force until approved by Order of the Privy Council:

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

This Order may be cited as the General Medical Council Disciplinary Committee (Procedure) (Amendment) Rules Order of Council 1978, and shall come into operation on 1st January 1979.

N. E. Leigh,

Clerk of the Privy Council.

(a) 1956 c. 76.

(b) 1969 c. 40.

APPENDIX

THE GENERAL MEDICAL COUNCIL DISCIPLINARY COMMITTEE
(PROCEDURE) (AMENDMENT) RULES 1978

In pursuance of section 37(1) of the Medical Act 1956, as amended by section 13 of the Medical Act 1969, the Disciplinary Committee of the General Medical Council hereby make the following Rules:—

Citation and Commencement

1. These Rules may be cited as the General Medical Council Disciplinary Committee (Procedure) (Amendment) Rules 1978, and shall come into operation on 1st January 1979.

Amendment of the 1970 Rules

2. The General Medical Council Disciplinary Committee (Procedure) Rules 1970(a) shall be amended as follows:—

(a) For Rule 46 there shall be substituted the following Rule:—

“46.—(1) All proceedings before the Committee shall take place in the presence of all parties thereto who appear therein and shall be held in public except as provided by the following paragraphs of this Rule.

(2)(a) If any party to any proceedings or any witness therein makes an application to the Committee for the public to be excluded from any proceedings or part thereof then if it appears to the Committee that any person would suffer undue prejudice from a public hearing or that for any other reason the circumstances and nature of the case make a public hearing unnecessary or undesirable, the Committee may direct that the public shall be so excluded.

(b) Where no such application has been made the Committee may of their own initiative direct that the public shall be excluded from any proceedings or part thereof if it appears to the Committee, after hearing the views of the parties thereon, that to do so would be in the interests of justice or desirable having regard to the nature either of the case or of the evidence to be given.

(c) A direction under this paragraph shall not apply to the announcement in pursuance of any of these Rules of a determination of the Committee.

(3) Subject to the provisions of section 38(2) of 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.”

(b) In the First Schedule for paragraphs 1 to 3 there shall be substituted the following paragraphs:—

“1.—(1) For the purpose of performing the functions specified in these Rules there shall continue to be a Committee of the Council known as the Penal Cases Committee.

(2) The Penal Cases Committee shall consist of the person who for the time being is President and of other members (hereinafter referred to as ‘the elected members of the Penal Cases Committee’) to be elected as hereinafter provided.

(3)(a) Until the succession day appointed under section 1 of the Medical Act 1978(b) the elected members of the Penal Cases Committee shall comprise two elected members of the Council,

two appointed or nominated members of the Council who shall be fully registered and one nominated member of the Council who is neither fully registered nor the holder of any qualification registrable under the Act.

(b) After the succession day the elected members of the Penal Cases Committee shall comprise six elected members of the Council, two appointed members and two nominated members who are neither fully registered nor the holder of any qualification registrable under the Act.

(4) At any meeting of the Penal Cases Committee the President, or in his absence such member of the Committee as the Committee may choose, shall be Chairman.

(5) The validity of any proceeding of the Penal Cases Committee shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

2.—(1) Subject to the provisions of this Schedule the elected members of the Penal Cases Committee shall be elected by the Council.

(2) Subject as aforesaid elections to the Penal Cases Committee shall take place annually, or at such lesser intervals as the Council may decide, and the elected members of the Penal Cases Committee shall hold office until the next election of such members and shall be eligible for re-election.

(3) If any of the elected members of the Penal Cases Committee vacates office otherwise than by the expiry of his term of office on the Committee, the vacancy shall be filled by co-option by the other members of the Committee from among the members of the Council, and the person co-opted shall hold office until the end of the term of office of the person in whose place he was co-opted.

(4) Notwithstanding anything in this Schedule, an elected member of the Penal Cases Committee shall, upon vacating office as a member of the Council, also cease to be a member of the Committee:

Provided that for the purposes of this paragraph a member of the Council shall not be deemed to have vacated office as a member of the Council if he has again been nominated, appointed or elected to be a member thereof not later than the day of his vacating office.

3. Elections of the members of the Penal Cases Committee shall be by ballot and every member of the Council may vote in the election for each category of member to be elected."

Dated the ninth day of November, nineteen hundred and seventy-eight.

EXPLANATORY NOTE

(This Note is not part of the Order.)

The Rules approved by this Order amend the General Medical Council Disciplinary Committee (Procedure) Rules 1970 by making new provision for the hearing of disciplinary proceedings in private, and increasing the number of elected members of the Penal Cases Committee of the Council.

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