
STATUTORY INSTRUMENTS

1976 No. 700**FARRIERS REGISTRATION COUNCIL****The Farriers Registration Council Disciplinary Committee
(Procedure) Rules Approval Instrument 1976**

Made - - - - *5th May 1976*

Coming into Operation *8th June 1976*

Whereas the Farriers Registration Council have, in exercise of their powers under paragraph 4(4) of Schedule 3 to the Farriers (Registration) Act 1975(a), made rules of procedure and have submitted them to the Lord Chancellor and the Lord Advocate for their approval:

Now, therefore, the Lord Chancellor, with respect to England and Wales, and the Lord Advocate, with respect to Scotland, in exercise of the powers conferred on them by paragraphs 4(6) and 7 of Schedule 3 to the said Act, hereby approve the said rules as set out in the Schedule hereto.

This instrument may be cited as the Farriers Registration Council Disciplinary Committee (Procedure) Rules Approval Instrument 1976 and shall come into operation on 8th June 1976.

Dated 3rd May 1976.

Elwyn-Jones, C.

Dated 5th May 1976.

Ronald King Murray,
Lord Advocate.

SCHEDULE

**The Farriers Registration Council Disciplinary Committee
(Procedure) Rules 1976**

PART I

CITATION, INTERPRETATION AND APPLICATION TO SCOTLAND

1.—(1) These Rules may be cited as the Farriers Registration Council Disciplinary Committee (Procedure) Rules 1976.

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

“the Act” means the Farriers (Registration) Act 1975;

“appellant” means a person appealing to the Committee pursuant to section 9 of the Act;

“applicant” means a person applying for the restoration of his name to the register pursuant to section 15(7) of the Act;

“the Chairman” means the Chairman or the Acting Chairman of the Committee;

“the Committee” means the Disciplinary Committee set up by the Council pursuant to section 14(1) of the Act;

“the complainant” means a person or body by whom a complaint has been made to the Council in a case to which these Rules apply;

“the Council” means the Farriers Registration Council;

“disciplinary case” means a disciplinary case as defined in section 13(1) of the Act which the Investigating Committee decide ought to be referred to the Committee pursuant to section 13(2) of the Act;

“inquiry” means the proceedings at which the Committee consider and determine any disciplinary case or other case to which these Rules apply;

“the Investigating Committee” means the committee set up by the Council pursuant to section 13(1) of the Act;

“the Legal Assessor” means an assessor appointed by the Council or the Committee for the purposes of paragraph 5 of Schedule 3 to the Act;

“party to the inquiry” means the complainant (if any), the Solicitor and any person on whom a notice of inquiry has been served in accordance with these Rules; provided that a complainant who does not appear at the inquiry shall not thereafter be treated as a party to it;

“register” means the register maintained in accordance with section 3 of the Act;

“registrar” means the registrar of the Council;

“respondent” means, in relation to a disciplinary case, the person liable to have his name removed from the register;

“the Solicitor” means a solicitor nominated by the Council to act as their solicitor for the purposes of these Rules and, in relation to any inquiry, includes counsel instructed by the Solicitor to act on his behalf.

(3) In the application of these Rules to Scotland—

(a) for the references to a complainant there shall be substituted references to a complainer;

(b) for the references in Parts I–IV and VI of these Rules to a respondent there shall be substituted references to a defender.

(4) In these Rules a form referred to by number means the form so numbered in the Appendix to these Rules, or a form substantially to the like effect, with such variations as the circumstances of the particular case may require.

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

PART II

DISCIPLINARY CASES—PRELIMINARY PROCEEDINGS

Notice of inquiry

2.—(1) The Solicitor shall, as soon as may be after a disciplinary case has been referred to the Committee, serve upon the respondent a notice of inquiry in Form 1 specifying—

- (i) the charge or charges, the alleged facts relied on in relation to each charge and the provision of section 15 of the Act under which each charge is brought; and
- (ii) the day, time and place at which the Committee will hold an inquiry into these matters.

(2) The notice shall be accompanied by a copy of the Act and of these Rules.

(3) If there is a complainant, the Solicitor shall send him a copy of the notice of inquiry and a copy of these Rules.

(4) The Committee shall not hold an inquiry unless a notice of inquiry has been served upon the respondent in accordance with these Rules.

(5) Except with the agreement of the respondent, the inquiry shall not be held within 28 days after the date of posting the notice of inquiry.

(6) A notice of inquiry may, with the leave of the Chairman, be amended at any time before the close of the inquiry:

Provided that, if it seems necessary in the interests of justice, the Chairman shall order the amended notice to be treated as a fresh notice for the purposes of this rule and the inquiry shall be postponed accordingly.

Postponement or cancellation of inquiry

3.—(1) The Chairman, of his own motion or upon the application of any party thereto, may postpone the hearing of any inquiry or may refer the matter to the Investigating Committee for further consideration as to whether an inquiry should be held.

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

Access to documents

4. Upon application by any party to the inquiry, the Solicitor shall send to that party a copy of any statutory declaration, complaint, answer, admission, explanation or other similar document received by the Council from any other party to the inquiry.

PART III

DISCIPLINARY CASES—INQUIRY PROCEDURE

The reading of the charge

5.—(1) The charge shall be read in the presence of the respondent by the Solicitor or by the Chairman:

Provided that if the respondent does not appear at the inquiry 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 it or to any part of it in point of law, and any other party may reply to any such objection; and if any such objection is upheld, no further proceedings shall be taken on that charge or on the part of it to which the objection relates.

Proof of the facts alleged

6.—(1) If the respondent appears at the inquiry the Chairman shall ask if all or any of the facts alleged in the charge are admitted.

(2) The complainant or, if no complainant appears, the Solicitor shall then open the case and may call witnesses and adduce evidence of any such facts not admitted by the respondent and of any matter connected with the facts alleged which may be relevant. The respondent may cross-examine any such witness and the witness may thereafter be re-examined.

(3) The respondent may then submit that the evidence called by the complainant or by the Solicitor does not establish the charge alleged or does not justify the removal of his name from the register. The Committee shall consider and determine any such submission, and the Chairman shall thereupon announce their determination.

(4) If no such submission is made or if any such submission is not upheld the respondent may then call witnesses and adduce evidence; such witnesses may be cross-examined and re-examined, and the respondent may address the Committee either before or after such evidence but not more than once save with the leave of the Committee. The complainant or, if no complainant appears, the Solicitor may address the Committee on any point of law raised by the respondent.

(5) Where the respondent adduces evidence the complainant or, if no complainant appears, the Solicitor may address the Committee thereon and may, with the leave of the Committee, call witnesses and adduce evidence in rebuttal, and such witnesses may be cross-examined and re-examined. The respondent shall have the right to address the Committee upon such address or evidence in rebuttal.

(6) The Committee shall then deliberate and decide, in relation to any charge which remains outstanding, whether the facts alleged in such charge have been proved and, in relation to any facts found to have been proved, whether they are such as to substantiate such charge, and the Chairman shall announce their findings.

(7) Where a charge includes an allegation that the respondent has been guilty of serious misconduct in a professional respect and the Committee find that such allegation has not been proved, a finding to that effect shall be recorded; and a copy of the finding so recorded shall be sent by the Solicitor to the respondent and to such other persons, being persons likely to be affected by the finding, as the Chairman may direct.

(8) Where the complainant appears but, in the opinion of the Committee, fails to conduct the case with due diligence and in accordance with these Rules, the Committee may direct that the same shall be conducted by the Solicitor, or such other person as the Committee may direct, or, if they think fit, they may summarily dismiss the charge.

7.—(1) Where the Committee find that a charge is proved, the Chairman shall invite the Solicitor to adduce evidence of the circumstances leading up to the facts found proved and as to the character and past conduct of the respondent.

(2) The respondent may then address the Committee in mitigation and adduce any relevant evidence.

(3) The Committee shall then, after due deliberation, either—

- (i) direct that the respondent's name be removed from the register; or
- (ii) direct that the registration of the respondent be suspended for a specified period; or
- (iii) make no direction with respect to the respondent; or
- (iv) postpone judgment.

(4) If the Committee decide under paragraph (3)(iv) of this rule to postpone judgment, they shall specify either a period for which judgment is postponed, or a date on which the Committee will meet for further consideration of their judgment.

(5) Any decision of the Committee under this rule shall be announced by the Chairman in such terms as the Committee may approve.

(6) A copy of the decision shall be sent by the Solicitor to the respondent and to such other persons, being persons likely to be affected by the finding, as the Chairman may direct.

Procedure upon postponement of judgment

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

- (a) The Solicitor shall, not less 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 setting out any material facts which have arisen since that hearing.
- (b) A copy of the notice and of any statement or statutory declaration sent in accordance with the provisions of the last foregoing sub-paragraph shall be sent to the complainant, if any, if he is then a party to the inquiry and he may in turn, if he so desires, send to the Solicitor a statement or statutory declaration, whether made by himself or not, as to the matters mentioned in sub-paragraph (iii) of the last foregoing paragraph or as to any other material facts which have arisen since the hearing. A copy of any such statement or statutory declaration shall thereupon be sent to the respondent.
- (c) 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 as to the conduct of the respondent or any material facts which may have arisen since the hearing, and shall hear any party to the inquiry who desires to be heard.
- (d) The Committee shall then consider their decision, and paragraphs (3) to (6) of rule 7 shall apply to their procedure.

(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 the provisions of rules 5 to 7 as may be applicable, and the Committee may apply paragraphs (3) to (5) of rule 7 simultaneously to the new charge and to 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 resumed proceedings shall not be called into question by reason only that members of the Committee who were present at any former meeting were not present at the resumed meeting.

(5) The Chairman, of his own motion or upon the application of any party thereto, may postpone the resumption of proceedings, and in that case the Solicitor shall, as soon as may be, inform all parties to whom notice of the resumption of proceedings has been given of the postponement, and of any date now fixed for the resumption of proceedings.

PART IV**RESTORATION OF NAMES AFTER REMOVAL FROM REGISTER**

9. Where an application is made in accordance with section 15(7) of the Act by a person whose name has been removed from the register in pursuance of a direction made under section 15 of the Act, the following provisions shall have effect:—

- (i) the Committee shall afford the applicant an opportunity of being heard by the Committee and of adducing evidence;
- (ii) the Committee may require such evidence as they think necessary concerning the identity or character of the applicant or his conduct since his name was removed from the register, and for this purpose may receive written or oral evidence;
- (iii) subject to the foregoing provisions of this rule and to Part VI of these Rules, the procedure of the Committee in connection with the application shall be such as they may determine.

PART V**APPEALS TO THE COMMITTEE PURSUANT TO SECTION 9 OF THE ACT***Procedure*

10.—(1) Any person wishing to appeal to the Committee pursuant to section 9 of the Act shall, within 14 days of receipt of the notification of refusal to enter his name in the register, or in the appropriate Part thereof, as the case may be, notify the registrar in writing of his decision to appeal and of the grounds of his appeal.

(2) The registrar shall, within 14 days of receiving such notice of appeal, send his written observations thereon to the appellant, and shall forward copies of the notice of appeal and of his observations thereon to the Solicitor, the Chairman, and to such other persons having an interest in the matter as the Chairman may direct.

(3) The Solicitor shall, as soon as may be thereafter, send to the appellant a notice of inquiry in Form 2 specifying the day, time and place at which the Committee will hear the appeal. Copies of the notice of inquiry shall be sent to the registrar, the Chairman and to such other persons as the Chairman may direct.

(4) The Committee shall not hold an inquiry unless a notice of inquiry has been served on the appellant and the observations of the registrar sent to him in accordance with these Rules.

(5) Except with the agreement of the appellant, the inquiry shall not be held within 28 days after the date of posting the notice of inquiry.

(6) The registrar shall be the respondent to the appeal and may be represented at the inquiry by one of his officers, by counsel or by a solicitor.

(7) Subject to the foregoing provisions of this rule and to Part VI of these Rules, the procedure of the Committee in connection with the appeal shall be such as they may determine.

(8) If the Committee are satisfied that the application for registration should have been accepted or that the registrar has failed to enter the name of the appellant in the appropriate Part of the register, as the case may be, they shall direct the registrar to enter the name of the appellant in the appropriate Part of the register.

PART VI**GENERAL***Hearing and adjournment*

11.—(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 otherwise provided by this rule.

(2) Subject to the provisions of paragraph 5 of Schedule 3 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.

(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

12.—(1) Where a respondent, an applicant or an appellant has supplied to the Committee, or to the Solicitor acting 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 references without disclosing the same to the respondent, the applicant or the appellant, as the case may be.

(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 a court of law, the Committee shall not receive evidence of the 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) 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.

Determination of questions

13. Where on any question the Committee are not unanimous, their decision shall be that of the majority:

Provided that where on any question the votes are equal, the question shall be deemed to have been resolved in favour of the respondent in a disciplinary case, the appellant in proceedings under section 9 of the Act, or the applicant in proceedings under section 15(7) of the Act, as the case may be.

Procedure where there is more than one respondent

14. Nothing in this part of the 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 by 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; but any of the rights of a respondent under these Rules shall be exercised separately by each of the respondents who desires to invoke that right.

Service by post

15. Where a document is required by these Rules to be served upon or sent to any person, it shall be sent by post to his last known address.

Supplementary

16. Any party may appear either in person or by counsel or solicitor or, if the party so elects, by any officer or member of any organisation of which he is a member or by any member of his family.

17. A shorthand-writer shall be appointed by the Committee to take shorthand notes of proceedings before them (except that the Committee may dispense with a shorthand-writer in proceedings under Part IV of these Rules) and any party to an inquiry shall, on application to the Solicitor and on payment of the proper charge on a scale fixed by the Committee, be furnished by the Solicitor with a transcript of the shorthand notes on any part of the inquiry at which the party was entitled to be present.

Made by the Council on 8th March 1976.

H. W. J. Adams,
Registrar of the Council.

APPENDIX

FORM 1

FORM OF NOTICE OF PROCEEDINGS FOR THE PURPOSES OF SECTION 15 OF
THE FARRIERS (REGISTRATION) ACT 1975

Sir/Madam,

Notice is hereby given to you that in consequence of a complaint made against you to the Council/information received by the Council* an inquiry is to be held into the following charges, on which evidence will be placed before the Disciplinary Committee at the meeting referred to below.

[Here set out the charge or charges, numbering them consecutively where there is more than one charge. State the section, subsection and paragraph of the Act under which each charge is brought and the facts constituting the basis of such charge.]

You are hereby invited to send me an answer in writing to the above-mentioned charge(s), stating whether you admit or deny it(them) and also specifying which, if any, of the facts set out above you admit. Any answer, admission, or other statement or communication which you may desire to make with respect to the said charge(s) should be addressed to me at the above address.

Notice is further given to you that on (*day of the week*), the day of 19 , a meeting of the Disciplinary Committee of the Council will be held at (*address*) 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 pursuant to section 15 of the Farriers (Registration) Act 1975. You are invited to appear before the Committee at the place and time specified above to answer the charge(s). The Committee have power if you do not appear to hear and decide upon the said charge(s) in your absence.

If you wish to apply for the inquiry to be postponed you should notify me at the above address as soon as possible, stating the grounds upon which you desire a postponement.

I enclose a copy of the Farriers (Registration) Act 1975 and the Farriers Registration Council Disciplinary Committee (Procedure) Rules. Your attention is drawn to rule 16 with regard to your right to be represented by counsel, solicitor or other persons.

I am, Sir/Madam,
Your obedient servant,

Solicitor to the Council.

*Delete as appropriate.

FORM 2

FORM OF NOTICE OF PROCEEDINGS FOR THE PURPOSES OF SECTION 9 OF
THE FARRIERS (REGISTRATION) ACT 1975

Sir/Madam,

Notice is hereby given to you that a meeting of the Disciplinary Committee of the Farriers Registration Council will be held on (*day of the week*), the day of 19 , at (*address*) at (*time*) to inquire into your appeal under section 9 of the Farriers (Registration) Act 1975 against the refusal of your application for registration/the registrar's failure to enter your name in the appropriate Part of the register.*

You are invited to appear before the Committee at the place and time specified above to state your case in support of your appeal. The Committee have power, if you do not appear, to consider your appeal and decide upon it in your absence.

If you wish to apply for the inquiry to be postponed you should notify me at the above address as soon as possible, stating the grounds upon which you desire a postponement.

I enclose a copy of the Farriers (Registration) Act 1975 and the Farriers Registration Council Disciplinary Committee (Procedure) Rules. Your attention is drawn to rule 16 with regard to your right to be represented by counsel, solicitor or other persons.

I am, Sir/Madam,
Your obedient servant,

Solicitor to the Council.

EXPLANATORY NOTE

(*This Note is not part of the Instrument.*)

This Instrument contains the Rules, approved by the Lord Chancellor, with respect to England and Wales, and by the Lord Advocate, with respect to Scotland, which are to govern the procedure of the Disciplinary Committee set up by the Farriers Registration Council in accordance with the provisions of the Farriers (Registration) Act 1975.

*Delete as appropriate.

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