

SCHEDULES

SCHEDULE 2

Section 10.

PROCEDURE OF DISCIPLINARY COMMITTEE

- 1 For the purpose of any proceedings before the Disciplinary Committee, 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 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, 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.
- 2 (1) Subject to the next following sub-paragraph, 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 by the rules, to any person whose case has been referred to the Committee under section 10(2) of this Act, and that such notice shall include a statement of the alleged facts and circumstances on which the proceedings are to be based ;
 - (b) for determining who, in addition to the person aforesaid, shall be a party to the proceedings ;
 - (c) for securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the Committee ;
 - (d) for enabling any party to the proceedings to be represented by counsel or solicitor or otherwise ;
 - (e) for requiring the proceedings to be held in public except so far as may be provided by the rules ;
 - (f) for securing that where evidence is tendered which would be inadmissible in criminal proceedings in Scotland it shall not be admitted by the Committee unless, after consultation with the assessor acting under paragraph 3 of this Schedule, the Committee is satisfied that its duties under this Act require that it should be admitted ;
 - (g) for requiring, in cases where it is alleged that a person is guilty of infamous conduct in any professional respect, that where the Committee judges that the allegation has not been proved it shall record a finding that the person is not guilty of such conduct in respect of the matters to which the allegation relates.
- (2) As respects proceedings for—
 - (a) the restoration to the register of the name of a person whose name was previously removed from the register by direction of the Disciplinary Committee,
 - (b) the determination of an application under section 10(3)(d) of this Act, or

Status: This is the original version (as it was originally enacted).

- (c) the determination of a second or subsequent application for registration by a person whose original application has been refused in pursuance of a direction by the Disciplinary Committee under section 11(2) of this Act, the Council shall have power to make rules with respect to all or any of the matters mentioned in the foregoing sub-paragraph, but shall not be required to do so; and separate rules under this paragraph may be made as respects such proceedings.
- (3) Rules under this paragraph shall not come into force until approved by the Lord President of the Court of Session.
- 3 (1) For the purpose of advising the Disciplinary Committee on questions of law arising in proceedings before it, there shall in all such proceedings be an assessor to the Committee who shall be an advocate or solicitor of not less than ten years' standing appointed by the Council; but if no assessor appointed by the Council is available to act in any particular proceedings the Committee may appoint an assessor qualified as aforesaid for those proceedings.
- (2) The Lord President of the Court of Session may, by statutory instrument, make rules as to the functions of assessors appointed under this paragraph, and in particular such rules may contain provision 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 by 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 while the Committee is deliberating in private, 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 such a question as aforesaid ;
- and may contain such incidental and supplementary provisions as the Lord President considers expedient.
- (3) The Statutory Instruments Act 1946 shall apply to any statutory instrument made by the Lord President under the last foregoing sub-paragraph as if the instrument had been made by a Minister of the Crown.
- (4) Except in the case of an assessor appointed by the Committee itself under sub-paragraph (1) above, an assessor may be appointed under this paragraph 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) The Council shall pay to an assessor appointed under this paragraph remuneration at such rates as may be determined by the Council with the consent of the Lord President.