

2000 No. 3214

CHIROPRACTORS

The General Chiropractic Council (Health Appeal Tribunal) Rules Order 2000

Made - - - - - 6th December 2000

Laid before Parliament 7th December 2000

Coming into force - - 18th December 2000

At the Council Chamber, Whitehall, the 6th day of December 2000

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

Whereas in pursuance of sections 30 and 35(2) of the Chiropractors Act 1994 ("the Act")^(a), and of all other powers enabling it in that behalf, the General Chiropractic Council has made the General Chiropractic Council (Health Appeal Tribunal) Rules 2000 as set out in the Schedule to this Order:

And whereas by section 35(1) of the Act such Rules shall not have effect until approved by the Privy Council:

Now, therefore, Their Lordships, having taken the Rules into consideration, are pleased to, and do hereby, approve them.

This Order may be cited as the General Chiropractic Council (Health Appeal Tribunal) Rules Order 2000 and shall come into force on 18th December 2000.

A. K. Galloway
Clerk of the Privy Council

SCHEDULE

**THE GENERAL CHIROPRACTIC COUNCIL (HEALTH APPEAL TRIBUNAL)
RULES 2000**

The General Chiropractic Council, in exercise of its powers under sections 30(2) to (4), (6) to (8) and (10) and 35(2) of the Chiropractors Act 1994, and of all other powers enabling it in that behalf, hereby makes the following Rules:—

PART I

Preliminary

Citation and Commencement

1. These Rules may be cited as the General Chiropractic Council (Health Appeal Tribunal) Rules 2000, and shall come into force on 18th December 2000.

^(a) 1994 c. 17.

Interpretation

2.—(1) In these Rules—

“the Act” means the Chiropractors Act 1994;

“the allegation” means the allegation falling within section 20(1) of the Act to which an allegation appeal relates;

“allegation appeal” means an appeal with respect to a decision of the Health Committee under section 23(2) of the Act;

“appeal” means an appeal under section 30(1) of the Act;

“the appellant” means the chiropractor who has made the appeal in question which is to be determined by the Tribunal;

“the clerk” means the clerk appointed under section 30(9) of the Act in relation to the appeal in question;

“the Council” means the General Chiropractic Council;

“party” means the appellant or the Solicitor, and references to “the parties” shall be construed accordingly;

“review appeal” means an appeal with respect to a decision of the Health Committee under section 23(4), (5) or (6) of the Act;

“the Solicitor” means a solicitor appointed by the Registrar for the purposes of presenting the Council’s case to a hearing held by the Tribunal; and

“the Tribunal” means the appeal tribunal established pursuant to Rule 4 to hear the appeal in question.

(2) References in these Rules to the Chairman of the Council include reference to an Acting Chairman exercising the functions of Chairman of the Council under Rule 7 of the General Chiropractic Council (Constitution and Procedure) Rules 1999(a).

PART II

Procedure before the hearing

Notice of appeal

3. An appeal shall be made by giving notice in writing to the Registrar, specifying the decision of the Health Committee in relation to which the appeal is brought.

Establishment of the Tribunal

4.—(1) As soon as practicable after the Registrar receives an appeal, the Chairman of the Council shall request either the Chairman of the General Council of the Bar or the President of the Law Society (or a person authorised by either of them) to select a person to act as the chairman of the appeal tribunal to hear the appeal (in these Rules referred to as “the Tribunal”).

(2) The chairman of the Tribunal selected under paragraph (1) shall be a person who is qualified as mentioned in section 27(4) of the Act and who is willing and able to act as chairman in the appeal.

(3) The member of the Tribunal referred to in section 30(7)(a) of the Act shall be a fully registered chiropractor willing and able to act in the appeal who is selected by the chairman of the Tribunal appointed under paragraph (1) from a list kept by the Registrar of fully registered chiropractors who have agreed to sit on appeal tribunals established under section 30 of the Act.

(4) The member of the Tribunal referred to in section 30(7)(b) of the Act shall be a registered medical practitioner willing and able to act in the appeal who is selected at the request of the chairman of the Tribunal by the President of the General Medical Council (or a person authorised by him).

(5) A member of the Council or of a committee or sub-committee of the Council shall not be appointed a member of the Tribunal.

(a) Scheduled to S.I. 1999/1537.

(6) A member of the Tribunal shall be entitled to the payment by the Council of his reasonable fees relating to his functions in connection with the Tribunal, which fees shall be determined in the event of a disagreement as to what those fees should be by a person appointed for the purpose—

- (a) in the case of the chairman of the Tribunal, by the Chairman of the Bar Council or, as the case may be, the President of the Law Society (according to the person making the selection under paragraph (1)), or a person authorised by the said Chairman or President,
- (b) in the case of the member appointed under paragraph (3), by the President of the Law Society or a person authorised by him,
- (c) in the case of the member appointed under paragraph (4), by the President of the General Medical Council or a person authorised by him;

and the reasonable costs of any such determination shall be payable by the parties to the disagreement in such proportions as the person determining the issue directs.

Notice of hearing

5.—(1) As soon as practicable after the Tribunal has been established in accordance with Rule 4 and a clerk appointed under section 30(9) of the Act, the clerk shall give notice to the appellant of the date, time and place of the hearing of the Tribunal which will consider the appeal.

(2) A notice given pursuant to paragraph (1) shall be given not later than the beginning of the period of 42 days ending with the date fixed for the opening of the hearing, and shall specify the requirement in Rule 8(3) that the appellant provide the list, statement and notice there mentioned.

Postponement

6. The chairman of the Tribunal may, of his own motion or on the application of a party to the proceedings, postpone a hearing of which notice has been given under Rule 5(1) before the hearing begins, and if he does so the clerk shall, as soon as practicable, inform the parties concerned of the postponement and give notice of the further date, time and place fixed for the opening of the hearing.

PART III

Procedure at the hearing

Opening and order of procedure

7.—(1) If the appellant does not appear and the Tribunal is satisfied that a notice has been given to him under Rules 5(1) or 6 (as the case may be), it may dismiss the appeal, or adjourn to give a further opportunity to the appellant to appear, or determine that proceedings on the appeal shall be heard and determined in the absence of the appellant.

- (2) At the opening of the hearing—
 - (a) in the case of an allegation appeal, the clerk shall read out the allegation and shall briefly state the nature of the order made by the Health Committee, and shall indicate whether the appeal relates only to the order made or is against the finding that the allegation is well founded, and
 - (b) in the case of a review appeal, the clerk shall briefly state the nature of the decision appealed against.
- (3) The order of proceedings on a hearing of the appeal shall be as follows—
 - (a) the Solicitor shall open the case for the Council, and shall call or produce evidence in support of the case of the Council (as respondent to the appeal);
 - (b) the appellant shall present his case and may call or produce evidence; and

- (c) the Tribunal shall hear such further submissions from the parties and receive such further evidence as it considers relevant, having regard to the justice of the case and the public interest.
- (4) Any witness called to give oral evidence may be cross-examined and re-examined, and may be questioned by the Tribunal.

Documents and evidence

8.—(1) Subject to the following provisions of this Rule, the Tribunal may consider the appeal on the basis of any of the following reports, written statements and documents submitted in evidence to it without the authors being called to give oral evidence, that is to say—

- (a) reports, written statements and other documents prepared or procured for the purposes of section 20(9)(b) of the Act or Rules 6(1) or (2) or 15(1) of the General Chiropractic Council (Health Committee) Rules 2000(a) or procured by the Solicitor for the purposes of the appeal, including any report prepared under Rule 4(3) of the General Chiropractic Council (Investigating Committee) Rules 2000(b);
- (b) reports, written statements and other documents prepared on behalf of the appellant;
- (c) such other reports, written statements and documents as the Tribunal determines after hearing the views of the parties, and having regard to all the circumstances and the justice of the case, can properly be admitted without such oral evidence.

(2) The Solicitor shall secure that not less than 28 days before the opening of any hearing, the appellant is provided with a list of every report, written statement or other document under paragraph (1)(a) which is to be produced in evidence, a statement as to which (if any) of those he intends to have adduced by way of oral evidence by its author, and a notice requiring the appellant to notify him before the end of the period of 14 days beginning with the day on which that notice was sent to the appellant whether the appellant requires any other author of a report, statement or other document so listed to attend the hearing to give oral evidence as to the matters with which it deals.

(3) The appellant shall secure that not less than 28 days before the opening of any hearing, the Solicitor is provided with a list of every report, written statement or other document under paragraph (1)(b) which is to be produced in evidence, a statement as to which (if any) of those he intends to have adduced by way of oral evidence by its author, and a notice requiring the Solicitor to notify him before the end of the period of 14 days beginning with the day on which that notice was sent to the Solicitor whether the Solicitor requires any other author of a report, statement or other document so listed to attend the hearing to give oral evidence as to the matters with which it deals.

(4) Any list provided by a party under paragraph (2) or (3) shall be accompanied by a copy of any report, statement or document listed of which the other party has not previously been sent a copy.

(5) The Solicitor and the appellant shall, as soon as practicable after supplying the other with the list referred to in paragraphs (2) and (3), send to the clerk three copies of the list and of the reports, statements and documents referred to in it; and the clerk shall secure that the members of the Tribunal are provided with a copy of the same.

(6) Where notification is given by the appellant under paragraph (2) or by the Solicitor under paragraph (3) requiring the author of a report, statement or other document to attend to give oral evidence, the report, statement or other document shall not be taken into account by the Tribunal in reaching its decision on the appeal without such oral evidence unless the Tribunal is of the view that, having regard to all the circumstances (including the difficulty or expense of obtaining such attendance) and the justice of the case, it is proper so to do.

- (7) The Tribunal may require a witness to appear before it and give evidence—
 - (a) on the application of the appellant, notwithstanding the absence of any notification by the appellant under paragraph (2),
 - (b) on the application of the Solicitor, notwithstanding the absence of any notification by the Solicitor under paragraph (3), or

(a) Scheduled to S.I. 2000/3291.
(b) Scheduled to S.I. 2000/2916.

(c) of its own motion,
and the Tribunal may require a person to attend before it to produce documents.

(8) The Tribunal may administer oaths.

(9) A party may admit a fact, and a fact so admitted may be received in evidence without further proof.

(10) No person may be required under these Rules to give evidence or produce any document or other material at any hearing held by the Tribunal which he could not be compelled to give or produce in civil proceedings in any court in that part of the United Kingdom in which the hearing takes place.

(11) The posting or leaving of a notice under Rule 13(1) for the purposes of Rules 5(1), 6 or 10(4) may be proved by a certificate in writing purporting to be signed by the person posting or leaving it, to which there shall be annexed (in the case of posting) any confirmation of the posting issued by or on behalf of the Post Office or other postal operator.

Hearing to be in public

9.—(1) Subject to Rules 7(1) and 10(5) and (6), and to the following provisions of this Rule, the hearing shall take place in the presence of the parties or their representatives and in public.

(2) The Tribunal may, if satisfied that it would be in the interests of the person making the allegation, or of any person giving evidence or of any patient, or if of the view that the evidence in question relates to matters properly to be treated as confidential between the appellant and a medical practitioner, determine that the public should be excluded from being present in any part of the proceedings.

(3) The Tribunal may deliberate together in the absence of the parties and their representatives and of the public at any time.

Adjournment of hearing

10.—(1) The Tribunal may adjourn the hearing from time to time as it thinks fit.

(2) In the case of an allegation appeal, the Tribunal may in particular adjourn any hearing after it has determined that an allegation is well founded for the purposes of allowing time to deliberate on the terms of any conditions of practice order that it is minded to make.

(3) Unless adjourned proceedings are to resume at a time, date or place not determined at the time of adjournment, upon adjourning the Tribunal shall announce the time, date and place to which the proceeding is adjourned.

(4) If an adjournment of proceedings is to a time, date or place not determined at the time of adjournment or is an adjournment under Rule 7(1) to give a further opportunity to the appellant to appear, the clerk shall secure that reasonable notice is given to the parties of the time, date or place of the resumption.

(5) If, on a hearing resuming after an adjournment under Rule 7(1) to give a further opportunity to the appellant to appear, the appellant does not appear, the Tribunal may, if satisfied that notice under paragraph (4) was duly given to him, act in any manner provided for in Rule 7(1).

(6) If, on a hearing resuming after adjournment in any other case, a party who was present in the earlier proceedings is absent, the Tribunal may proceed in that party's absence if it is satisfied that the time, date and place of the resumption were announced under paragraph (3) or notice under paragraph (4) was duly given to the party.

Representation

11.—(1) At any hearing, the appellant shall be entitled to be legally represented.

(2) The Solicitor may, with the approval of the Chairman of the Council, instruct Counsel to present the case for the Council.

PART IV

General

Notification of decision

12.—(1) After the Tribunal has made its decision on the appeal (including so far as relevant on any steps to be taken under section 23(2) of the Act as applied by section 30(11)(c) of the Act), it shall announce that decision and shall thereupon close the hearing; and as soon as practicable after that announcement the clerk shall notify in writing—

- (a) the appellant of the Tribunal's decision and its reasons for reaching it, and of the appellant's right of appeal on a point of law under section 31 of the Act; and
- (b) the Council and, in the case of an allegation appeal, the person making the allegation of the Tribunal's decision and its reasons for reaching it.

(2) If the Tribunal dismisses an appeal under Rules 7(1) or 10(5) because the appellant has not appeared, as soon as practicable after so doing the clerk shall notify in writing the appellant, the Council and (in the case of an allegation appeal) the person making the allegation of that fact.

Service and giving of documents

13.—(1) Any notice, document or other matter to be given to or served on the appellant by the clerk under these Rules may be served by sending it by a postal service in which delivery or receipt is recorded to, or leaving it at, the address of the appellant as appearing in the register pursuant to section 6(1)(b) of the Act, or if his last known place of residence differs from his address in the register and it appears to the clerk that, if the notice, document or other matter is sent to or left at that place of residence, it is more likely to reach him, it may be served by sending it by such a postal service to or leaving it at his last known place of residence.

(2) Any other notice, document or other matter to be given to or served on a person under these Rules may be sent by ordinary post.

(3) The address for service of the appellant for the purposes of paragraph (2) shall be any such address or place as is mentioned in paragraph (1) (treating the second reference in that paragraph to the clerk as a reference to the person sending the matter in question) and for the Solicitor shall be the address at which he ordinarily practises, or shall be such other address as any of them may specify for the purpose.

Given under the common seal of the General Chiropractic Council this 10th Day of November 2000.



Norman Morris
Chairman

Iain W. McColl
Member

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, which is made under the Chiropractors Act 1994, approves Rules made by the General Chiropractic Council which provide for the procedure to be followed by appeal tribunals dealing with appeals from decisions of its Health Committee.

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CHIROPRACTORS

The General Chiropractic Council (Health Appeal
Tribunal) Rules Order 2000

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