



# National Health Service (Scotland) Act 1978

## 1978 CHAPTER 29

### PART II

#### PROVISION OF SERVICES

##### *Provisions as to disqualification of practitioners*

#### **29 Disqualification of persons providing services**

- (1) There shall be constituted a tribunal (hereafter in this Act referred to as " the Tribunal ") for the purpose of inquiring into cases where representations are made in the prescribed manner to the Tribunal by a Health Board or any other person that the continued inclusion of any person in any list prepared under this Part—
  - (a) of medical practitioners undertaking to provide general medical services;
  - (b) of medical practitioners undertaking to provide general ophthalmic services;
  - (c) of dental practitioners undertaking to provide general dental services;
  - (d) of ophthalmic opticians undertaking to provide general ophthalmic services;
  - (e) of dispensing opticians undertaking to provide general ophthalmic services; or
  - (f) of persons undertaking to provide pharmaceutical services,would be prejudicial to the efficiency of the services in question.
- (2) Schedule 8 shall have effect in relation to the Tribunal.
- (3) The Tribunal, on receiving representations from a Health Board, shall, and in any other case may, inquire into the case and, if they are of the opinion that the continued inclusion of the said person in any list to which the representations relate would be prejudicial to the efficiency of the said services, shall direct that his name be removed from that list, and may also, if they think fit, direct that his name be removed from, or not be included in, any corresponding list kept by any other Health Board under this Part.

- (4) An appeal shall lie to the Secretary of State from any direction of the Tribunal under subsection (3), and the Secretary of State may confirm or revoke that direction in whole or in part.
- (5) Where the Tribunal direct that the name of any person be removed from, or not included in, any list or lists, the Health Board or Boards concerned shall—
- (a) if no appeal is brought, at the end of the period for bringing an appeal, or
  - (b) if an appeal is brought and the direction of the Tribunal as regards any such list or lists is confirmed by the Secretary of State, on receiving notice of the Secretary of State's decision,
- remove the name of the person concerned from the list or lists in question.
- (6) The references in subsections (1), (3) and (5) to a Health Board shall include a reference to such committee or joint committee as may be prescribed.

### **30 Removal of disqualification**

- (1) Any person whose name has been removed by a direction under section 29 from any list or lists shall be disqualified for inclusion in any list to which that direction relates until the Tribunal or the Secretary of State direct under this section to the contrary.
- (2) For the purpose of deciding whether or not to issue a direction under this section (or under paragraph 6 of Schedule 15) the Tribunal or the Secretary of State, as the case may be, may hold an inquiry.

### **31 Disqualification provisions in England or Wales or Northern Ireland**

If—

- (a) under any provisions in force in England or Wales or Northern Ireland corresponding to the provisions of this Part, a person is for the time being disqualified for inclusion in all lists prepared under those provisions of persons undertaking to provide services of one or more of the kinds specified in section 29(1), then
- (b) that person shall, so long as that disqualification is in force, be disqualified for inclusion in a list prepared under this Part of persons undertaking to provide services of that kind or those kinds, and the name of that person shall be removed from any such list in which his name is included.

### **32 Regulations as to sections 29 to 31**

Regulations shall make provision—

- (a) with regard to the procedure for the holding of inquiries by the Tribunal or the Secretary of State under sections 29 to 31 and for the making and determining of appeals to the Secretary of State under that procedure, and, in particular, for securing that any person who is the subject of such an inquiry shall be informed, as soon as may be, of the substance of any charge or complaint to which the inquiry relates and shall have an opportunity—
  - (i) of appearing, either in person or by counsel or solicitor or such other representative as may be prescribed, before the Tribunal and, in the case of an inquiry by, or appeal to, the Secretary of State, before a person appointed by the Secretary of State, and

- (ii) of being heard by the Tribunal or the person so appointed, and of calling witnesses and producing other evidence on his behalf, and that the hearing, whether by the Tribunal or the person so appointed, shall be in public if the person who is the subject of the inquiry so requests;
- (b) for conferring on the Tribunal and on any person so appointed such powers as the Secretary of State considers necessary for the purpose of holding such inquiries, including power to require the attendance of witnesses and the production of documents and to administer oaths; and
- (c) for the publication of decisions of the Tribunal and the Secretary of State under this section and of the imposition and removal of any disqualification imposed by virtue of this section, and for the intimation to any person who is the subject of such an inquiry of the grounds upon which any disqualification has been imposed in his case.