



National Health Service (Scotland) Act 1978

1978 CHAPTER 29

PART II

PROVISION OF SERVICES

Provisions as to disqualification of practitioners

[^{F1}29 The NHS tribunal.

(1) The tribunal constituted in accordance with Schedule 8 shall continue under the name of “the NHS Tribunal” and that Schedule shall continue to have effect in relation to the Tribunal.

[^{F2}(2) If the Tribunal receive from a Health Board representations that a person—

- (a) who has applied to be included; or
- (b) who is included,

in any list meets any of the conditions for disqualification, the Tribunal shall inquire into the case.]

(3) If the Tribunal receive such representations from any other person, they may inquire into the case.

(4) Representations under this section shall be made—

- (a) in the prescribed manner; and
- (b) where ^{F3} . . . regulations prescribe the time within which such representations are to be made, within that time.

(5) Subsections (6) to (11) apply for the purposes of this group of sections.

(6) The first condition for disqualification is that the [^{F4}inclusion or continued] inclusion of the person concerned in the list would be prejudicial to the efficiency of the services which those included in the [^{F5} list—

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- (a) in relation to a list referred to in subsection (8)(a), (cc) or (e), perform;
 - (b) in relation to a list referred to in subsection (8)(c) or (d), undertake to provide or are approved to assist in providing;]
- . undertake to provide ^{F6}
- (7) The second condition for disqualification is that the person concerned—
- (a) has (whether on his own or together with another) by an act or omission caused, or risked causing, detriment to any health scheme by securing or trying to secure for himself or another any financial or other benefit; and
 - (b) knew that he or (as the case may be) the other was not entitled to the benefit.
- [The third condition for disqualification is that the person concerned is unsuitable ^{F7}(7A) (by virtue of professional or personal conduct) to be included, or to continue to be included, in the list.]
- (8) A “list” means—
- [^{F8}(a) a list of health care professionals of a prescribed description performing primary medical services [^{F9}or approved to assist in the provision of such services];]
 - [^{F10}(aa) a list of medical practitioners approved to perform personal medical services—
 - (i) in accordance with section 17C arrangements; or
 - (ii) in connection with the provision of such services under a pilot scheme;]
 - (b) ^{F11}
 - [^{F12}(c) a list of dental practitioners and bodies corporate referred to in section 25(1) undertaking to provide, and of persons who are approved to assist in providing, general dental services;
 - (cc) a list of persons performing personal dental services;
 - (d) a list of medical practitioners and ophthalmic opticians undertaking to provide, and of persons who are approved to assist in providing, general ophthalmic services; or
 - (e) a list of registered pharmacists performing pharmaceutical care services,] prepared (in each case) under [^{F13}or by virtue of this Part or Part I of this Act].
- [In subsection (8)(a), “health care professional” has the same meaning as in section ^{F14}(8A) [^{F15}17P].]
- (9) “Health scheme” means—
- (a) any of the health services under section 1(1) or any corresponding enactment extending to England and Wales or Northern Ireland; and
 - (b) any prescribed scheme,
- and regulations may prescribe any scheme for the purposes of this subsection which appears to the Secretary of State to be a health or medical scheme paid for out of public funds.
- (10) Detriment to a health scheme includes detriment to any patient of, or person working in, that scheme or any person liable to pay charges for services provided under that scheme.
- (11) Cases in which representations are made that the first condition for disqualification is met are referred to below as efficiency cases; ^{F16} . . . cases in which representations

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are made that the second condition for disqualification is met are referred to below as fraud cases [F17]; and cases in which representations are made that the third condition for disqualification is met are referred to below as unsuitability cases].

(12) In this section and sections 29A to 29C—

- (a) “this group of sections” means this and those sections and Schedule 8; and
- (b) the NHS Tribunal is referred to as the Tribunal.]

Textual Amendments

- F1 S. 29 substituted (31.1.2004 for certain purposes and otherwise 4.3.2004) by 1999 c. 8, ss. 58(1), 67(1); S.S.I. 2004/32, **art. 2(1)(2)** (with saving for effect of 1999 c. 8, s. 58 by S.S.I. 2004/31, **art. 3**)
- F2 Words in s. 29(2) substituted (7.3.2006 for certain purposes otherwise 1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(2)(a)**, 43(3); S.S.I. 2006/121, **art. 3(a)(b)**, Schs. 1, 2
- F3 Words in s. 29(4)(b) repealed (7.3.2006 for certain purposes otherwise 1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(2)(b)**, 43(3); S.S.I. 2006/121, **art. 3(a)(b)**, Schs. 1, 2
- F4 Words in s. 29(6) substituted (7.3.2006 for certain purposes otherwise 1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(2)(c)(i)**, 43(3); S.S.I. 2006/121, **art. 3(a)(b)**, Schs. 1, 2
- F5 Words in s. 29(6) substituted (7.3.2006, 1.4.2006 and 2.7.2010 for certain purposes and otherwise prosp.) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(2)(c)(ii)**, 43(3); S.S.I. 2006/121 {art. 3(a)(b)}, Schs. 1, 2; S.S.I. 2010/185 {art. 3(b)}, Sch. 2
- F6 Words in s. 29(6) omitted (1.4.2004) by virtue of The Primary Medical Services (Scotland) Act 2004 (Modification of Enactments) Order 2004 (S.S.I. 2004/167), **art. 2**, **Sch. para. 1(1)(a)**
- F7 S. 29(7A) inserted (7.3.2006 for certain purposes otherwise 1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(2)(d)**, 43(3); S.S.I. 2006/121, **art. 3(a)(b)**, Schs. 1, 2
- F8 S. 29(8)(a) substituted for s. 29(8)(a)(aa) (13.2.2004 for certain purposes otherwise 1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), **ss. 5(3)(b)**, 9(1); S.S.I. 2004/58, **art. 2(1)(3)**, Sch.
- F9 Words in s. 29(8)(a) added (4.3.2004) by 2002 asp 5, ss. 25, 27(2), **Sch. 2 para. 2(4)(b)(i)**; S.S.I. 2004/33, **art. 2(1)(c)** (with savings for effects of 2002 asp 5, Sch. 2 para. 2(4) by S.S.I. 2004/34, art. 3(2))
- F10 S. 29(8)(aa) inserted (1.4.2004) by 2002 asp 5, ss. 25, 27(2), **Sch. 2 para. 2(4)(b)(ii)**; S.S.I. 2004/33, **art. 2(2)** (with savings for effects of 2002 asp 5, Sch. 2 para. 2(4) by S.S.I. 2004/34, art. 3(2))
- F11 S. 29(8)(b) repealed (7.3.2006 for certain purposes otherwise 1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(2)(e)(i)**, 43(3); S.S.I. 2006/121, **art. 3(a)(b)**, Schs. 1, 2
- F12 S. 29(8)(c)-(e) substituted (7.3.2006, 1.4.2006 and 2.7.2010 for certain purposes otherwise prosp.) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(2)(e)(ii)**, 43(3); S.S.I. 2006/121 {art. 3(a)(b)}, Schs. 1, 2; S.S.I. 2010/185 {art. 3(b)}, Sch. 2
- F13 Words in s. 29(8) substituted (4.3.2004 for certain purposes otherwise 1.4.2004) by 2002 asp 5, ss. 25, 27(2), **Sch. 2 para. 2(4)(b)(iii)**; S.S.I. 2004/33, **art. 2(1)(d)**, Sch. (with savings for effects of 2002 asp 5, Sch. 2 para. 2(4) by S.S.I. 2004/34, art. 3(2))
- F14 S. 29(8A) inserted (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), **ss. 5(3)(c)**, 9(1); S.S.I. 2004/58, **art. 2(1)(3)**, Sch.
- F15 Words in s. 29(8A) substituted (1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), ss. 42(1), 43(3), **Sch. 2 para. 2(10)**; S.S.I. 2006/121, **art. 3(b)**, Sch. 2
- F16 Word in s. 29(11) repealed (7.3.2006 for certain purposes otherwise 1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(2)(f)(i)**, 43(3); S.S.I. 2006/121 {art. 3(a)(b)}, Schs. 1, 2

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F17 Words in s. 29(11) inserted (7.3.2006 for certain purposes otherwise 1.4.2006) by [Smoking, Health and Social Care \(Scotland\) Act 2005 \(asp 13\)](#), **ss. 26(2)(f)(ii)**, 43(3); S.S.I. 2006/121 {art. 3(a)(b)}, Schs. 1, 2

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 10C(3A) inserted by [2019 asp 6 s. 6\(3\)\(a\)](#)
- s. 10I(1)(b)(c) and word inserted by [2019 asp 6 s. 6\(4\)\(b\)](#)
- s. 16A(5) added by [2002 asp 5 Sch. 2 para. 2\(2\)](#)
- s. 19A(2)(b) words repealed by [2003 asp 4 sch. 4 para. 5\(4\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(a) words substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(b) substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(c) words substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(c\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 19B(2)(e) word substituted by [2003 asp 4 sch. 4 para. 5\(5\)\(d\)](#) (This amendment not applied to legislation.gov.uk. Sch. 4 para. 5(4)-(9) omitted (1.4.2004) by virtue of S.S.I. 2004/167, Sch. para. 7)
- s. 70A inserted by [1997 c. 46 s. 26\(2\)](#)
- s. 70A(2) word substituted by [2005 asp 13 s. 14\(3\)](#)
- s. 85AB(7) inserted by [2005 asp 13 sch. 2 para. 2\(18\)\(b\)](#)
- Sch. 11 para. 2(1A) inserted by [2005 asp 13 s. 14\(6\)\(a\)](#)