



National Health Service (Scotland) Act 1978

1978 CHAPTER 29

PART II

PROVISION OF SERVICES

Provisions as to disqualification of practitioners

^{F1}[^{F2}29A **The NHS Tribunal: supplementary.**

- (1) Where an ophthalmic optician is a body corporate, the body corporate is to be treated for the purposes of this group of sections as meeting the second condition for disqualification [^{F3}or, as the case may be, the third condition for disqualification] if any director meets that condition (whether or not he first met that condition when he was a director).
- ^{F4}(1A) [A body corporate entitled, by virtue of section 43 of the Dentists Act 1984 (c. 24), to carry on the business of dentistry is to be treated for the purposes of this group of sections as meeting the second condition for disqualification or, as the case may be, the third condition for disqualification if any director meets that condition (whether or not he first met that condition when he was a director).]
- (2) Where a body corporate carries on a retail pharmacy business, the body corporate is to be treated for the purposes of this group of sections as meeting the second condition for disqualification if any one of the body of persons controlling the body corporate meets that condition (whether or not he first met that condition when he was one of them).
- (3) A person who is included in any list (“the practitioner”) is to be treated for the purposes of this group of sections as meeting the second condition for disqualification if—
 - (a) another person, because of an act or omission of his occurring in the course of providing [^{F5}assisting in providing,][^{F6}, or as the case may be performing,] any services mentioned in section 29(8) on the practitioner’s behalf, meets that condition; and

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- (b) the practitioner failed to take all such steps as were reasonable to prevent acts or omissions within section 29(7)(a) occurring in the course of the provision [F7, [F8assistance in provision,] or performance,] of those services on his behalf.
- (3A) F9
- (4) The Tribunal is not required to inquire into a fraud case if they have previously inquired into representations in respect of the person concerned and the same acts or omissions.
- (5) In [F10an unsuitability case, a fraud case or an efficiency case], regulations may make provision F11. . . for the purpose of securing that the person subject to the inquiry is not added to any list until proceedings in that case are finally concluded.
- (6) For the purposes of this group of sections, in [F12an unsuitability,] a fraud or efficiency case proceedings are finally concluded—
- (a) if the Tribunal determine not to disqualify or conditionally disqualify him when they make that determination;
 - (b) if they determine to disqualify or conditionally disqualify him and no appeal is brought against the determination, at the end of the period for bringing an appeal;
 - (c) if they determine to disqualify or conditionally disqualify him and an appeal is brought against the determination, when the appeal process is exhausted.
- (7) An inquiry under section 29 is not affected by the person subject to the inquiry withdrawing from, withdrawing any application to be included in or being removed from the list to which the case relates.]]

Textual Amendments

- F1** Ss. 29, 29A-29C substituted for s. 29 (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 savings for effect of 1999 c. 58 by S.S.I. 2004/31, art. 3)
- F2** Ss. 29, 29A-29C substituted for s. 29 (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 savings for effect of 1999 c. 58 by S.S.I. 2004/31, art. 3)
- F3** Words in s. 29A(1) inserted (7.3.2006 for certain purposes otherwise 1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(3)(a)**, 43(3); S.S.I. 2006/121, **art. 3(a)(b)**, Schs. 1, 2
- F4** S. 29A(1A) inserted (7.3.2006 for certain purposes otherwise 2.7.2010) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(3)(b)**, 43(3); S.S.I. 2006/121, **art. 3(a)**, Sch. 1; S.S.I. 2010/185 {art. 3(b)}, Sch. 2
- F5** Words in s. 29A(3)(a) inserted (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(3)(c)(i)**, 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. 29A(3)(a) inserted (1.4.2004) by 2002 asp 5, ss. 25, 27(2), Sch. 2 para. 2(5)(a)(i); S.S.I. 2004/33, **art. 2(2)(b)**
- F7** Words in s. 29A(3)(b) inserted (1.4.2004) by 2002 asp 5, ss. 25, 27(2), Sch. 2 para. 2(5)(a)(ii); S.S.I. 2004/33, **art. 2(2)(b)**
- F8** Words in s. 29A(3)(b) inserted (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(3)(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
- F9** S. 29A(3A) repealed (1.4.2004) by Primary Medical Services (Scotland) Act 2004 (asp 1), ss. 8, 9(1), **Sch. para. 1(12)**; S.S.I. 2004/58, **art. 2(3)**

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- F10** Words in s. 29A(5) substituted (7.3.2006 for certain purposes otherwise 1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(3)(d)**, 43(3); S.S.I. 2006/121, **art. 3(a)(b)**, Schs. 1, 2
- F11** Words in s. 29A(5) repealed (1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), ss. 42(2), 43(3), **Sch. 3**; S.S.I. 2006/121, **art. 3(b)**, Sch. 2 Table
- F12** Words in s. 29A(6) inserted (7.3.2006 for certain purposes otherwise 1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(3)(e)**, 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 :

- s. 29A(2) repealed by [2005 asp 13 sch. 3](#)

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\(6\)\(a\)](#)