



# National Health Service (Scotland) Act 1978

## 1978 CHAPTER 29

### PART II

#### PROVISION OF SERVICES

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

#### <sup>F1</sup>[ <sup>F2</sup>32A] **Applications for interim suspension.**

- (1) A Health Board who have made representations under section 29 may, at any time before the case is disposed of by the Tribunal, apply to the Tribunal for a direction to be made under subsection (2) below in relation to the person to whom the case relates.
- [ A Health Board may, if they have requested a review of a conditional disqualification  
<sup>F3</sup>(1A) on the ground mentioned in section 30(3)(b) or (c), at any time before the review is concluded apply to the Tribunal for a direction to be made under subsection (2) in relation to the person to whom the review relates.]]
- (2) If, on an application under this section, the Tribunal are satisfied that [<sup>F4</sup>either of the conditions for doing so is satisfied], they shall direct that subsection (3) below shall apply to the person concerned as respects
- [<sup>F5</sup>(a) services of the kind to which the case in question, or the case to which the review in question, relates; and
- (b) if the services are either general dental services or personal dental services, both general dental services and personal dental services.]
- [ The conditions for giving such a direction are—  
<sup>F6</sup>(2A) (a) that it is necessary to do so in order to protect persons who are, or may be, provided with [<sup>F7</sup>primary medical services [<sup>F8</sup>, pharmaceutical care services] or] services under this Part [<sup>F9</sup>, section 17C arrangements or a pilot scheme]

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- to which the case in question, or the case to which the review in question, relates;]<sup>F10</sup> or
- (b) that it is otherwise in the public interest to do so.]]
- (3) A person to whom this subsection applies shall—
- (a) be deemed to have been removed from any relevant list in which his name is included,<sup>F11</sup> and]
- (b) be disqualified for inclusion in any relevant list in which his name is not included,<sup>F12</sup> . . .
- (c) <sup>F12</sup> . . . . .
- (4) A direction under subsection (2) above shall cease to have effect on the Tribunal’s disposing of the case [<sup>F13</sup>or review] in connection with which it is made.
- [ In subsection (2) above, the reference to patients is to persons to whom services of
- <sup>F14</sup>(5) the kind to which the case in question relates are, or may be, provided under this Part of this Act.]
- (6) In the application of subsection (3) above to any person—
- (a) “relevant list” means
- [<sup>F15</sup>(i) a list of persons performing;
- (ii) a list of persons undertaking to provide and of persons approved to assist in providing,
- services] of the kind to which the direction applying the subsection to him relates <sup>F16</sup> . . .
- (b) <sup>F16</sup> . . . . .
- [ Regulations may provide that where a Health Board, in accordance with regulations
- <sup>F17</sup>(7) made under section 17F, 17P, 17X, 25(2) or 26(2), suspend a person from a list prepared under regulations made under the section in question and the Board apply to the Tribunal for a direction to be made under subsection (2) in relation to the person to whom the suspension applies, the suspension may continue until the Tribunal determine the application.]]

#### 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** S. 32A inserted (1.1.1996 for certain purposes and otherwise 1.4.1996) by 1995 c. 31, **s. 8**; S.I. 1995/3214, art. 2, **Sch.**(with art. 3); S.I. 1996/552, **art. 2**
- F3** S. 32A(1A) inserted (4.3.2004) by 1999 c. 8, ss. 65(1), 67(1), Sch. 4 para. 51(a); S.S.I. 2004/32, **art. 2(2)(b)(c)** (with S.S.I. 2004/31, art. 3)
- F4** Words in s. 32A(2) substituted (4.3.2004) by 1999 c. 8, ss. 65(1), 67(1), Sch. 4 para. 51(b); S.S.I. 2004/32, **art. 2(2)(b)(c)** (with S.S.I. 2004/31, art. 3)
- F5** S. 32A(2)(a)(b) substituted for words (7.3.2006 for certain purposes otherwise prosp.) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(7)(a)**, 43(3); S.S.I. 2006/121, **art. 3(a)**, Sch. 1
- F6** S. 32A(2A) inserted (4.3.2004) by 1999 c. 8, ss. 65(1), 67(1), Sch. 4 para. 51(c); S.S.I. 2004/32, **art. 2(2)(b)(c)** (with S.S.I. 2004/31, art. 3)
- F7** Words in s. 32A(2A)(a) inserted (1.4.2004) by The Primary Medical Services (Scotland) Act 2004 (Modification of Enactments) Order 2004 (S.S.I. 2004/167), art. 2, **Sch. para. 1(3)(a)**

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- F8** Words in s. 32A(2A)(a) inserted (7.3.2006 for certain purposes otherwise prosp.) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(7)(b)(i)**, 43(3); S.S.I. 2006/121, **art. 3(a)**, Sch. 1
- F9** Words in s. 32A(2A)(a) inserted (1.4.2004) by 2002 asp 5, ss. 25, 27(2), Sch. 2 para. 2(9)(a); S.S.I. 2004/33, **art. 2(2)(b)** (with savings for effects of 2002 asp 5, Sch. 2 para. 2(9) by S.S.I. 2004/34, art. 3(2))
- F10** S. 32A(2A)(b) and word substituted for s. 32A(2A)(b) (7.3.2006 for certain purposes otherwise 1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(7)(b)(ii)**, 43(3); S.S.I. 2006/121, **art. 3(a)(b)**, Schs. 1, 2
- F11** Word in s. 32A(3) inserted (1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), ss. 42(1), 43(3), **Sch. 2 para. 2(13)**; S.S.I. 2006/121, **art. 3(b)**, Sch. 2
- F12** S. 32A(3)(c) and preceding word 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
- F13** Words in s. 32A(4) inserted (4.3.2004) by 1999 c. 8, ss. 65(1), 67(1), Sch. 4 para. 51(e); S.S.I. 2004/32, **art. 2(2)(b)(c)** (with S.S.I. 2004/31, art. 3)
- F14** S. 32A(5) repealed (4.3.2004) by 1999 c. 8, ss. 65, 67(1), Sch. 4 para. 51(f), Sch. 5; S.S.I. 2004/32, **art. 2(2)(b)(c)(d)** (with S.S.I. 2004/31, art. 3)
- F15** Words in s. 32A(6)(a) substituted (7.3.2006 for certain purposes otherwise 1.4.2006) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(7)(c)**, 43(3); S.S.I. 2006/121, **art. 3(a)(b)**, Schs. 1, 2
- F16** S. 32A(6)(b) and preceding word 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
- F17** Words in s. 32A(7) inserted (7.3.2006 and 1.4.2006 for certain purposes and otherwise prosp.) by Smoking, Health and Social Care (Scotland) Act 2005 (asp 13), **ss. 26(7)(d)**, 43(3); S.S.I. 2006/121, **art. 3(a)(b)**, Schs. 1, 2

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**Modifications etc. (not altering text)**

- C1** S. 32A functions modified (4.3.2004) by The National Health Service (Tribunal) (Scotland) Regulations 2004 (S.S.I. 2004/38), **reg. 27** (with savings in regs. 32-34)

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