



Medical Act 1983

1983 CHAPTER 54

PART V

PROFESSIONAL CONDUCT AND FITNESS TO PRACTISE

38 Power to order immediate suspension after a finding of professional misconduct or unfitness to practise.

- (1) On giving a direction for erasure or a direction for suspension under section 36(1) or (2) [^{F1}, 36A] or 37(1) or (2) above [^{F1}, or under rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act,] in respect of any person the Professional Conduct Committee [^{F1}, the Committee on Professional Performance] or the Health Committee, if satisfied that to do so is necessary for the protection of members of the public or would be in the best interests of that person, may order that his registration in the register shall be suspended forthwith in accordance with this section; and in this subsection the reference to section 36(2) includes a reference to that provision as applied by section 36(5) and the reference to section 37(2) includes a reference to that provision as applied by section 37(5).
- (2) Where, on the giving of a direction an order under subsection (1) above is made in respect of a person, his registration in the register shall, subject to subsection (4) below, be suspended (that is to say, shall not have effect) from the time when the order is made until the time when the direction takes effect in accordance with paragraph 10 of Schedule 4 to this Act [^{F2} or in accordance with rules made by virtue of paragraph 5A(3) of that Schedule] or an appeal against it under section 40 below [^{F2} or paragraph 5A(4) of that Schedule] is (otherwise than by the dismissal of the appeal) determined.
- (3) Where the Professional Conduct Committee [^{F3}, the Committee on Professional Performance] or the Health Committee make an order under subsection (1) above the Registrar shall forthwith serve a notification of the order on the person to whom it applies.
- (4) If, when an order under subsection (1) above is made, the person to whom it applies is neither present nor represented at the proceedings, subsection (2) above shall have effect as if, for the reference to the time when the order is made, there were substituted

Status: Point in time view as at 01/07/1997. This version of this provision has been superseded.

Changes to legislation: Medical Act 1983, Section 38 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

a reference to the time of service of a notification of the order as determined for the purposes of paragraph 8 of Schedule 4 to this Act.

- (5) While a person’s registration in the register is suspended by virtue of subsection (1) above he shall be treated as not being registered in the register notwithstanding that his name still appears in it.
- (6) The court may terminate any suspension of a person’s registration in the register imposed under subsection (1) above, and the decision of the court on any application under this subsection shall be final.
- (7) In this section “the court”—
 - (a) in the case of a person whose address in the register is in Scotland, means the Court of Session;
 - (b) in the case of a person whose address in the register is in Northern Ireland, means the High Court of Justice in Northern Ireland; and
 - (c) in the case of any other person, means the High Court of Justice in England and Wales.

Textual Amendments

F1 Words in s. 38(1) inserted (1.7.1997) by 1995 c. 51, s. 4, **Sch. para. 7(2)(a)-(c)**; S.I. 1997/1315, **art. 2**

F2 Words in s. 38(2) inserted (1.7.1997) by 1995 c. 51, s. 4, **Sch. para. 7(3)(a)(b)**; S.I. 1997/1315, **art. 2**

F3 Words in s. 38(3) inserted (1.7.1997) by 1995 c. 51, s. 4, **Sch. para. 7(4)**; S.I. 1997/1315, **art. 2**

Status:

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