



Medical Act 1983

1983 CHAPTER 54

[^{F1}PART V

FITNESS TO PRACTISE AND MEDICAL ETHICS

[^{F1}40 [^{F2}Appeals^{F3}...]

(1) The following decisions are appealable decisions for the purposes of this section, that is to say—

- (a) a decision of [^{F4}a Medical Practitioners Tribunal] under section 35D above giving a direction for erasure, for suspension or for conditional registration or varying the conditions imposed by a direction for conditional registration;
- (b) a decision of [^{F4}a Medical Practitioners Tribunal] under section 41(9) below giving a direction that the right to make further applications under that section shall be suspended indefinitely; ^{F5}...
- ^{F5}(c)

[A decision under regulations made—

- ^{F6}(1A) (a) under section 31 above by virtue of subsection (8) of that section; or
- (b) under section 31A(1)(c) above,

not to restore a person's name to the register for a reason that relates to his fitness to practise is also an appealable decision for the purposes of this section.]

^{F7}(1B)

^{F8}(2)

(3) In subsection (1) above—

- (a) references to a direction for suspension include a reference to a direction extending a period of suspension; and
- (b) references to a direction for conditional registration include a reference to a direction extending a period of conditional registration.

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(4) A person in respect of whom an appealable decision falling within subsection (1) has been taken may, before the end of the period of 28 days beginning with the date on which notification of the decision was served under section 35E(1) above, or section 41(10)^{F9}... below, appeal against the decision to the relevant court.

^{F10}(4A) ^{F11}[A person in respect of whom an appealable decision falling within subsection (1A) ... has been taken may, before the end of the period of 28 days beginning with the date on which notification of the decision was served, appeal against the decision to the relevant court.]

(5) In [^{F12}subsections (4) and (4A)] above, “the relevant court”—
(a) in the case of a person whose address in the register is (or if he were registered would be) in Scotland, means the Court of Session;
(b) in the case of a person whose address in the register is (or if he were registered would be) in Northern Ireland, means the High Court of Justice in Northern Ireland; and
(c) in the case of any other person ^{F13}... , means the High Court of Justice in England and Wales.

^{F14}(6)

(7) On an appeal under this section from [^{F15}a Medical Practitioners Tribunal] , the court may—
(a) dismiss the appeal;
(b) allow the appeal and quash the direction or variation appealed against;
(c) substitute for the direction or variation appealed against any other direction or variation which could have been given or made by [^{F15}a Medical Practitioners Tribunal]; or
(d) remit the case to [^{F16}the MPTS for them to arrange for][^{F15}a Medical Practitioners Tribunal] to dispose of the case in accordance with the directions of the court,

and may make such order as to costs (or, in Scotland, expenses) as it thinks fit.

^{F17}(7A) [Where a case is referred under subsection (7)(d) to the MPTS, the MPTS must arrange for the case to be disposed of by a Medical Practitioners Tribunal in accordance with the directions of the court.]

(8) On an appeal under this section from the General Council, the court (or the sheriff) may—
(a) dismiss the appeal;
(b) allow the appeal and quash the direction appealed against ^{F18}...; or
(c) remit the case to the General Council to dispose of the case in accordance with the directions of the court (or the sheriff),

and may make such order as to costs (or, in Scotland, expenses) as it (or he) thinks fit.

(9) [^{F19}On an appeal under this section from the Adjudicator, the General Council may appear as respondent; and for the purpose of any order as to costs (or, in Scotland, expenses) in relation to any such appeal the General Council shall be deemed to be a party thereto, whether they appear on the hearing of the appeal or not.]]

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Textual Amendments

- F1** Pt. V substituted (1.7.2003 for the substitution of s. 41A(2)(a) and Pt. V heading for specified purposes as notified in the London Gazette dated 1.7.2003, 7.7.2004 for the substitution of s. 35CC(1) as notified in the London Gazette dated 2.7.2004, 1.11.2004 in so far as not already in force except for the substitution of ss. 41(7)(8), 41C, 44(4), 44A(3) as notified in the London Gazette dated 8.10.2004, 16.11.2009 for the insertion of s. 41C as notified in the London Gazette dated 21.8.2009) by [The Medical Act 1983 \(Amendment\) Order 2002 \(S.I. 2002/3135\)](#), art. 1(2)(3), **13** (with Sch. 2)
- F2** S. 40 title substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **16(1)**; S.I. 2015/1952, art. 2(1)
- F3** Words in s. 40 heading omitted (18.11.2016) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **8(5)** (with reg. 155)
- F4** Words in s. 40(1) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **16(1)**; S.I. 2015/1952, art. 2(1)
- F5** S. 40(1)(c) and preceding word omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **21(a)**
- F6** S. 40(1A) inserted (19.7.2006 for specified purposes, 13.6.2007 in so far as not already in force as notified in the London Gazette dated 18.5.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **49(a)** (with transitional provisions in S.I. 2007/2796, arts. 1(1), **3**)
- F7** S. 40(1B) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 1 para. 24(2)** (with reg. 12A, Sch. 1 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 9); 2020 c. 1, Sch. 5 para. 1(1)
- F8** S. 40(2) omitted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by virtue of [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), arts. 1(2)(b)(c)(3), **61** (with transitional provisions in S.I. 2007/2796, arts. 1(1), **3**)
- F9** Words in s. 40(4) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **21(b)**
- F10** S. 40(4A) inserted (19.7.2006 for specified purposes, 13.6.2007 in so far as not already in force as notified in the London Gazette dated 18.5.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **49(b)** (with transitional provisions in S.I. 2007/2796, arts. 1(1), **3**)
- F11** Words in s. 40(4A) omitted (31.12.2020) by virtue of [The European Qualifications \(Health and Social Care Professions\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/593\)](#), reg. 1(2), **Sch. 1 para. 24(3)** (with reg. 12A, Sch. 1 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 9); 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in s. 40(5) substituted (19.7.2006 for specified purposes, 13.6.2007 in so far as not already in force as notified in the London Gazette dated 18.5.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **49(c)** (with transitional provisions in S.I. 2007/2796, arts. 1(1), **3**)
- F13** Words in s. 40(5)(c) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **21(c)**
- F14** S. 40(6) omitted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by virtue of [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), arts. 1(2)(b)(c)(3), **61** (with transitional provisions in S.I. 2007/2796, arts. 1(1), **3**)

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- F15** Words in s. 40(7) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **16(2)(a)**; S.I. 2015/1952, art. 2(l)
- F16** Words in s. 40(7)(d) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **16(2)(b)**; S.I. 2015/1952, art. 2(l)
- F17** S. 40(7A) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **16(3)**; S.I. 2015/1952, art. 2(l)
- F18** Words in s. 40(8)(b) omitted (31.12.2020) by virtue of The European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/593), reg. 1(2), **Sch. 1 para. 24(4)** (with reg. 12A, Sch. 1 Pt. 2) (as amended by S.I. 2020/1394, regs. 4, 9); 2020 c. 1, Sch. 5 para. 1(1)
- F19** S. 40(9) substituted (11.2.2010 for specified purposes) by The General and Specialist Medical Practice (Education, Training and Qualifications) Order 2010 (S.I. 2010/234), art. 1(3)(4), **Sch. 1 para. 12**
- F20** Words in s. 40(9) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **16(4)**; S.I. 2015/1952, art. 2(l)

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Changes and effects yet to be applied to :

- s. 40(1)(a) words substituted by [2008 c. 14 Sch. 7 para. 10\(2\)](#)
- s. 40(1)(b) words substituted by [2008 c. 14 Sch. 7 para. 10\(2\)](#)
- s. 40(7) words substituted by [2008 c. 14 Sch. 7 para. 10\(3\)\(a\)](#)
- s. 40(7)(c) words substituted by [2008 c. 14 Sch. 7 para. 10\(3\)\(b\)](#)
- s. 40(7)(d) word substituted by [2008 c. 14 Sch. 7 para. 10\(3\)\(c\)](#)
- s. 40(9) substituted by [S.I. 2003/1250 art. 30\(1\)\(a\)](#) (This amendment not applied to [legislation.gov.uk](#). No commencement date has been notified in the Gazettes for this amendment)
- s. 40(9) words substituted by [2008 c. 14 Sch. 7 para. 10\(4\)](#)

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

- Act words substituted by [2005 c. 4 Sch. 11 para. 6](#)

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

- s. 29B(2A)-(2C) inserted by [S.I. 2008/3131 Sch. 1 para. 9\(2\)](#)
- s. 29B(2A)(a) word substituted by [S.I. 2010/234 Sch. 1 para. 2](#)
- s. 29B(3A) inserted by [S.I. 2008/3131 Sch. 1 para. 9\(3\)](#)
- s. 29E(1)(d)(e) inserted by [S.I. 2008/3131 Sch. 1 para. 12\(2\)\(b\)](#)
- s. 29E(2)(e)(f) inserted by [S.I. 2008/3131 Sch. 1 para. 12\(3\)\(b\)](#)
- s. 29F(1)(d)(e) inserted by [S.I. 2008/3131 Sch. 1 para. 14\(3\)](#)
- s. 35C(2)(f)(g) inserted by [S.I. 2008/1774 Sch. 1 para. 15](#) (This amendment not applied to [legislation.gov.uk](#). It was due to come into force on the coming into force of s. 44(1) of the Safeguarding Vulnerable Groups Act 2006 (c. 47), see art. 1(4). S. 44(1) was repealed without ever being in force on 10.9.2012 by 2012 c. 9, s. 75(6), Sch. 10 Pt. 5; [S.I. 2012/2234](#), art. 2)
- s. 35ZA inserted by [2008 c. 14 Sch. 7 para. 4](#)
- Sch. 1 para. 1A(1)(b)(iv)(v) inserted by [S.I. 2024/374 Sch. 5 para. 1\(2\)\(b\)\(iii\)](#)
- Sch. 3B para. 5(d)(e) inserted by [S.I. 2008/3131 Sch. 1 para. 19\(2\)\(b\)](#)
- Sch. 3B para. 6(1)(d)(e) inserted by [S.I. 2008/3131 Sch. 1 para. 19\(3\)\(a\)\(ii\)](#)
- Sch. 3B para. 6(2)(d)(e) inserted by [S.I. 2008/3131 Sch. 1 para. 19\(3\)\(b\)\(ii\)](#)
- Sch. 3B para. 7(1)(d)(e) inserted by [S.I. 2008/3131 Sch. 1 para. 19\(4\)\(a\)\(ii\)](#)
- Sch. 3B para. 7(2)(c) and word inserted by [S.I. 2008/3131 Sch. 1 para. 19\(4\)\(b\)\(ii\)](#)