



National Health Service Reform and Health Care Professions Act 2002

2002 CHAPTER 17

PART 2

[^{F1}HEALTH AND SOCIAL CARE PROFESSIONS ETC.]

Appeals

30 Medical practitioners

(1) The Medical Act 1983 (c. 54) is amended as follows.

(2) In section 40 (appeals)—

- (a) in subsection (1), paragraph (c) is omitted,
- (b) after subsection (1), there is inserted—

“(1A) A decision of the General Council under section 39 above giving a direction for erasure is also an appealable decision for the purposes of this section.”,

- (c) for subsection (3) there is substituted—

“(3) 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 36(6), 36A(7), or 37(6) above, or section 41(7) or 45(7) below, appeal against the decision to the relevant court.

(3A) In subsection (3), “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,

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- (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 (including one appealing against a decision falling within subsection (1)(e)), means the High Court of Justice in England and Wales.
- (3B) A person in respect of whom an appealable decision falling within subsection (1A) above 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 39(2), appeal against the decision to a county court or, in Scotland, the sheriff in whose sheriffdom the address in the register is situated.”
- (d) subsections (4) to (6), (9) and (10) are omitted, and
 - (e) for subsections (7) and (8) there is substituted—
 - “(7) On an appeal under this section from the Professional Conduct Committee, the Committee on Professional Performance or the Health Committee, 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 the committee concerned, or
 - (d) remit the case to the committee concerned 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.
 - (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, 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.”
- (3) In Schedule 4 (proceedings before Professional Conduct, Health and Preliminary Proceedings Committees)—
- (a) in paragraph 3(b), the words “to Her Majesty in Council” are omitted and for “the Judicial Committee” there is substituted “ the court (or the sheriff) ”,
 - (b) in paragraph 10(1)—
 - (i) for “section 37 of this Act and” there is substituted “ section 37 of this Act, ”,
 - (ii) after “or 37 of this Act”, there is inserted “ and a direction for erasure given by the General Council under section 39 of this Act ”, and
 - (iii) in paragraph (a), for the words “mentioned in subsection (3) of that section” there is substituted “ specified in that section ”,
 - (c) paragraph 10(2) is omitted, and

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- (d) in paragraph 10(3)—
 - (i) “or (2)” is omitted,
 - (ii) “or that sub-paragraph as applied by sub-paragraph (2) above” is omitted,
 - (iii) for “mentioned in section 40(3)” there is substituted “ specified in section 40 ”, and
 - (iv) for “mentioned in the said section 40(3)” there is substituted “ specified in section 40 of this Act ”.

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