



National Health Service (Amendment) Act 1949

1949 CHAPTER 93 12 13 and 14 Geo 6

PART I

MEDICAL PARTNERSHIPS

7 Removal of hardships.

- (1) Every agreement to which section one or either of the two last preceding sections of this Act applies shall be deemed to contain a provision entitling any person who was a party to the agreement on and immediately before the appointed day and who claims that he has suffered or will suffer hardship in consequence of the operation, in relation to the agreement, of the Act of 1946 or this Act or any regulations made under section thirty-six of the Act of 1946, to refer the matter to a single arbitrator to be appointed by agreement of all the parties or, in default of such agreement, to an arbitration committee appointed under this section.
- (2) On any such reference, the arbitrator or committee shall have power to modify the provisions of the agreement or the operation, as respects the relative rights and obligations of such parties to the agreement as aforesaid, of the Act of 1946 or this Act or any such regulations as aforesaid in any such manner as he or they may think equitable for the purpose of removing or preventing such hardship, including a power to direct the payment or repayment of money by any such party to the agreement as aforesaid:
Provided that no such modification shall have the effect of increasing or diminishing the aggregate amount of compensation payable under the Act of 1946 or this Act in respect of the shares of the partners in the goodwill of any partnership practice, being shares in respect of which such compensation is payable, or, in the case of an agreement to which the last preceding section applies, the amount of compensation payable under the Act of 1946 in respect of the goodwill of the employer's practice.
- (3) Where the arbitrator or committee acting under the powers conferred by the last foregoing subsection modifies the operation of the Act of 1946 or of this Act or

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any such regulations as aforesaid in relation to the provisions of the agreement, he, or they, as the case may be, shall immediately report any such modifications to the Minister who shall, from time to time, and in any event, not less than one year after receiving such a report, lay a statement before Parliament, giving the number and brief particulars of all such reports received by him.

- (4) On any such reference as aforesaid in the case of a partnership, the arbitrator or arbitration committee shall also have power to recommend that the partnership shall be dissolved and, if such a recommendation is made and proceedings are commenced, before the expiration of three months after the publication of the award, by any of the partners under section thirty-five of the ^{M1}Partnership Act 1890, for the dissolution of the partnership, the recommendation shall, if made by a single arbitrator, be evidence, and, if made by the arbitration committee, be conclusive evidence, that it is just and equitable that the partnership should be dissolved; but save as aforesaid, no such hardship as aforesaid shall be treated by the court under paragraph (f) of the said section thirty-five as a circumstance rendering it just and equitable that the partnership be dissolved.
- (5) On any such reference as aforesaid in the case of an agreement to which the last preceding section applies, the arbitrator or arbitration committee shall have power to determine the agreement on such terms, which may include the payment of money by either party, as the arbitrator or committee thinks just.
- (6) The said arbitration committee shall consist of three members, one of whom shall be ^{F1}a person who has a 7 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990) or an advocate or solicitor in Scotland] appointed by the Lord Chancellor, another shall be a medical practitioner appointed by the President of the British Medical Association who is or has been in general practice, and the third shall be appointed by the Minister and shall be a member of one or more of the following bodies:—
- The Institute of Chartered Accountants in England and Wales,
 - The Society of Incorporated Accountants and Auditors,
 - The Society of Accountants in Edinburgh,
 - The Institute of Accountants and Actuaries in Glasgow,
 - The Society of Accountants in Aberdeen,
 - The Association of Certified and Corporate Accountants,
 - The Institute of Chartered Accountants in Ireland.
- (7) There shall be paid out of moneys provided by Parliament to the members of the said arbitration committee such remuneration and allowances and such other expenses (if any) of the committee as the Minister may, with the approval of the Treasury, determine.
- (8) The provisions of ^{F2}Part I of the Arbitration Act 1996], with respect to—
- (a) the administration of oaths and the taking of affirmations;
 - (b) the correction in awards of mistakes and errors;
 - (c) the summoning, attendance and examination of witnesses and the production of documents;
 - (d) the costs of the reference and award; and
 - (e) the enforcement of an award and the entry of judgment in terms thereof;

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shall, with any necessary modifications, apply in respect of any arbitration under this section, but, save as aforesaid, [^{F2}Part I of that Act] shall not apply to any such arbitration.

- (9) On any reference under this section, the arbitrator or arbitration committee may, and if so ordered by the Court of Appeal shall, state in the form of a special case for determination by the Court of Appeal any question of law which may arise before the arbitrator or arbitration committee.

Textual Amendments

- F1** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2)(5), **Sch. 10 para. 9**
- F2** Words in s. 7(8) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 9** (with s. 81(2)); S.I. 1996/3146, **art. 3**
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Modifications etc. (not altering text)

- C1** “The Minister” means the Minister of Health (now the Secretary of State: S.I. 1969/1688, **art. 2**)
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Marginal Citations

- M1** 1890 c. 39.

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