



Medical Act 1983

1983 CHAPTER 54

[^{F1}PART V

FITNESS TO PRACTISE AND MEDICAL ETHICS]

38 [^{F1}Power to order immediate suspension etc.]

- (1) On giving a direction for erasure or a direction for suspension under section 35D(2), (10) or (12) above, or under [^{F2}paragraph 5A(3D) or 5C(4)] of Schedule 4 to this Act, in respect of any person the [^{F3}Medical Practitioners Tribunal], if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the best interests of that person, may order that his registration in the register shall be suspended forthwith in accordance with this section.
- (2) On giving a direction for conditional registration under section 35D(2) above, or under [^{F2}paragraph 5A(3D) or 5C(4)] of Schedule 4 to this Act, in respect of any person the [^{F4}Medical Practitioners Tribunal], if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the best interests of that person, may order that his registration be made conditional forthwith in accordance with this section.
- (3) Where, on the giving of a direction, an order under subsection (1) or (2) 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) or made conditional, as the case may be, from the time when the order is made until the time when—
 - (a) the direction takes effect in accordance with—
 - (i) paragraph 10[^{F5}, 10A or 10B] of Schedule 4 to this Act; ^{F6}...
 - ^{F6}(ii)
 - (b) an appeal against it under section 40 below or [^{F7}paragraph 5A(5) or 5C(7) of Schedule 4] is (otherwise than by the dismissal of the appeal) determined.
- (4) Where a [^{F8}Medical Practitioners Tribunal] make an order under subsection (1) or (2) above, [^{F9}the MPTS] shall forthwith serve a notification of the order on the person to whom it applies.

Changes to legislation: Medical Act 1983, Section 38 is up to date with all changes known to be in force on or before 25 April 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) View outstanding changes

- (5) If, when an order under subsection (1) or (2) above is made, the person to whom it applies is neither present nor represented at the proceedings, subsection (3) above shall have effect as if, for the reference to the time when the order is made, there were substituted 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.
- (6) Except as provided in subsection (7) below, 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.
- (7) Notwithstanding subsection (6) above, sections 35C to 35E above shall continue to apply to a person whose registration in the register is suspended.
- (8) The relevant court may terminate any suspension of a person’s registration in the register imposed under subsection (1) above or any conditional registration imposed under subsection (2) above, and the decision of the court on any application under this subsection shall be final.
- (9) In this section “the relevant court” has the same meaning as in section 40(5) below.

Textual Amendments

- F1** S. 38 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), **12(6)**; S.I. 2015/1952, art. 2(i)
- F2** Words in s. 38(1)(2) 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), **12(6)**; S.I. 2015/1952, art. 2(i); S.I. 2015/1952, art. 2(i)
- F3** Words in s. 38(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), **4(9)**; S.I. 2015/1952, art. 2(c)
- F4** Words in s. 38(2) 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), **4(9)**; S.I. 2015/1952, art. 2(c)
- F5** Words in s. 38(3)(a)(i) 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), **12(7)(a)**; S.I. 2015/1952, art. 2(i)
- F6** S. 38(3)(a)(ii) and preceding word omitted (31.12.2015) by virtue of 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), **12(7)(b)**; S.I. 2015/1952, art. 2(i)
- F7** Words in s. 38(3)(b) 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), **12(7)(c)**; S.I. 2015/1952, art. 2(i)
- F8** Words in s. 38(4) 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), **4(9)**; S.I. 2015/1952, art. 2(c)
- F9** Words in s. 38(4) 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), **12(8)**; S.I. 2015/1952, art. 2(i)

Changes to legislation:

Medical Act 1983, Section 38 is up to date with all changes known to be in force on or before 25 April 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.

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Changes and effects yet to be applied to :

- s. 38(1) word substituted by 2008 c. 14 Sch. 7 para. 9(2)(b)
- s. 38(1) words substituted by 2008 c. 14 Sch. 7 para. 9(2)(a)
- s. 38(2) word substituted by 2008 c. 14 Sch. 7 para. 9(2)(b)
- s. 38(2) words substituted by 2008 c. 14 Sch. 7 para. 9(2)(a)
- s. 38(3)(a)(i) words inserted by 2008 c. 14 Sch. 7 para. 9(3)(a)(i)
- s. 38(3)(a)(ii) repealed by 2008 c. 14 Sch. 7 para. 9(3)(a)(ii) Sch. 15 Pt. 2
- s. 38(3)(b) words substituted by 2008 c. 14 Sch. 7 para. 9(3)(b)
- s. 38(4) words substituted by 2008 c. 14 Sch. 7 para. 9(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)