



National Health Service (Amendment) Act 1995

1995 CHAPTER 31

Scotland

8 Interim suspension of practitioners.

After section 32 of the National Health Service (Scotland) Act 1978 there shall be inserted the following sections—

“32A Applications for interim suspension.

- (1) A Health Board who have made representations under section 29 may, at any time before the case is disposed of by the Tribunal, apply to the Tribunal for a direction to be made under subsection (2) below in relation to the person to whom the case relates.
- (2) If, on an application under this section, the Tribunal are satisfied that it is necessary to do so in order to protect patients, they shall direct that subsection (3) below shall apply to the person concerned as respects services of the kind to which the case in question relates.
- (3) A person to whom this subsection applies shall—
 - (a) be deemed to have been removed from any relevant list in which his name is included,
 - (b) be disqualified for inclusion in any relevant list in which his name is not included, and
 - (c) be deemed to be a person in relation to whom there is in force a declaration under section 29(3)(c) concerning his fitness to be engaged in the provision of services of the relevant kind.
- (4) A direction under subsection (2) above shall cease to have effect on the Tribunal’s disposing of the case in connection with which it is made.

Changes to legislation: National Health Service (Amendment) Act 1995, Section 8 is up to date with all changes known to be in force on or before 12 October 2023. 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) In subsection (2) above, the reference to patients is to persons to whom services of the kind to which the case in question relates are, or may be, provided under this Part of this Act.
- (6) In the application of subsection (3) above to any person—
 - (a) “relevant list” means a list prepared under this Part of this Act of persons undertaking to provide services of the kind to which the direction applying the subsection to him relates, and
 - (b) “services of the relevant kind” means services of the kind to which that direction relates.

32B Continuation of suspension pending appeal.

- (1) Where—
 - (a) on disposing of a case under section 29, the Tribunal make a direction under subsection (3)(b) of that section, and
 - (b) the person to whom the direction relates is a person to whom section 32A(3) above would, apart from this section, cease to apply on the disposal of the case,
 the Tribunal may, if they consider it necessary to do so in order to protect patients, direct that that provision shall continue to apply to him as respects services of the kind to which the direction under section 29(3)(b) relates.
- (2) A direction under subsection (1) above shall cease to have effect—
 - (a) where no appeal against the direction under section 29(3)(b) is brought, at the end of the period for bringing an appeal, and
 - (b) where an appeal against that direction is brought, when the appeal process has been exhausted.
- (3) Where the power conferred by subsection (1) above is exercisable by virtue of a direction which is not coupled with a declaration under section 29(3)(c), section 32(A)(3) shall have effect, in relation to the exercise of that power, with the omission of paragraph (c).
- (4) In subsection (1) above, the reference to patients is to persons to whom services of the kind to which the direction under section 29(3)(b) relates are, or may be, provided under this Part of this Act.

32C Sections 32A and 32B: procedure etc.

- (1) Before making a direction under section 32A(2) or 32B(1) in relation to any person, the Tribunal shall give him an opportunity—
 - (a) to appear before them, either—
 - (i) in person; or
 - (ii) by counsel or solicitor or such other representative as may be prescribed; and
 - (b) to be heard and to call witnesses and produce other evidence.
- (2) Regulations may—

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- (a) make provision for, or for the determination of, procedure in relation to determining applications under section 32A or the exercise of the power conferred by section 32B(1), and
- (b) provide for the functions of the Tribunal under section 32A or 32B to be carried out, or to be carried out in prescribed circumstances, by the chairman or a deputy chairman of the Tribunal.

32D Suspension provisions in England and Wales or in Northern Ireland.

- (1) This section applies where, under any provisions in force in England and Wales or in Northern Ireland corresponding to section 32A or 32B, a person (“the practitioner”) is disqualified for inclusion in all lists prepared under the provisions in force there corresponding to the provisions of this Part of this Act of persons undertaking to provide services of one or more of the kinds specified in section 29(1), other than those in which his name is included.
- (2) The practitioner shall, while he is so disqualified—
 - (a) be disqualified for inclusion in any list prepared under this Part of this Act of persons undertaking to provide services of the same kinds (“relevant list”) in which his name is not included, and
 - (b) be deemed to have been removed from any relevant list in which his name is included.

32E Payments in consequence of suspension.

- (1) Regulations may provide for the making to persons to whom section 32A(3) or 32D(2) applies of payments in consequence of the application of that provision.
- (2) Regulations under subsection (1) above may provide for the determination by the Secretary of State in a prescribed manner of anything for which provision may be made by regulations under that subsection.”

Commencement Information

- II** S. 8 wholly in force at 1.4.1996; s. 8 not in force at Royal Assent see s. 14(3); s. 8 in force for certain purposes at 1.1.1996 by S.I. 1995/3214, art. 2, Sch.; s. 8 in force at 1.4.1996 insofar as not already in force by S.I. 1996/552, art. 2

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Commencement Orders yet to be applied to the National Health Service (Amendment) Act 1995

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2003/53 art. 2-4 commences \(2001 c. 15\)](#)