



# Health Services Act 1976

## 1976 CHAPTER 83

### PART III

#### CONTROL OF HOSPITAL BUILDING OUTSIDE NATIONAL HEALTH SERVICE, ETC.

#### 17 Appeals.

- (1) Where an application for an authorisation is refused or granted by [<sup>F1</sup>the Secretary of State] and the decision to refuse or grant it, as the case may be, involves a question of law, then—
  - (a) if the application is refused, the applicant or, if the applicant was afforded a hearing by [<sup>F1</sup>a person or persons appointed by the Secretary of State], the applicant or any other person who appeared (in person or not) and was heard at the hearing may on that question appeal from [<sup>F2</sup>the Secretary of State's] decision to the court; or
  - (b) if the application is granted in a case in which the applicant was afforded a hearing by [<sup>F1</sup>a person or persons appointed by the Secretary of State], any other person who so appeared and was heard may on that question appeal as aforesaid.
- (2) In the preceding subsection “the court” means—
  - (a) in England and Wales, the High Court;
  - (b) in Scotland, the Court of Session.
- (3) An appeal under this section must be brought before the end of the three months beginning with the date on which the applicant is notified of the Board's decision on his application.
- (4) [<sup>F3</sup>The Secretary of State] and (if he would not be so entitled apart from this subsection) the applicant shall each be entitled to appear and be heard on any appeal under this section.
- (5) Rules of court relating to appeals under this section may provide for excluding so much of section 63(1) of the <sup>M1</sup>Supreme Court of Judicature (Consolidation) Act 1925 as requires appeals to the High Court to be heard and determined by a Divisional Court;

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*Changes to legislation: There are currently no known outstanding effects for the Health Services Act 1976, Section 17. (See end of Document for details)*

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but no appeal to the Court of Appeal shall be brought by virtue of this section except with the leave of the High Court or the Court of Appeal.

- (6) In relation to proceedings in the High Court or the Court of Appeal or the Court of Session brought by virtue of this section the power to make rules of court shall include power to make rules prescribing the powers of the court with respect to—
- (a) the giving of any decision which might have been given by [<sup>F4</sup>the Secretary of State] on the application;
  - (b) the remitting of the application, with the court's decision on any question of law decided by it on appeal, for re-hearing and determination by [<sup>F4</sup>the Secretary of State];
  - (c) the giving of directions to [<sup>F4</sup>the Secretary of State]
- (7) On any appeal brought under or by virtue of this section the court may, if the decision is in favour of the appellant, order [<sup>F4</sup>the Secretary of State] (whether or not [<sup>F5</sup>he] appears on the appeal) to pay the costs or, in Scotland, the expenses of the appellant or any other person.
- (8) An appeal shall lie, with the leave of the Court of Session or the House of Lords, from any decision of the Court of Session under this section, and such leave may be given on such terms as to costs or otherwise as the Court of Session or the House of Lords may determine.

#### Textual Amendments

- F1** Words substituted by [Health Services Act 1980 \(c. 53\)](#), [Sch. 2 para. 5\(a\)](#)
- F2** Words substituted by [Health Services Act 1980 \(c. 53\)](#), [Sch. 2 para. 5\(b\)](#)
- F3** Words substituted by [Health Services Act 1980 \(c. 53\)](#), [Sch. 2 para. 5\(c\)](#)
- F4** Words substituted by [Health Services Act 1980 \(c. 53\)](#), [Sch. 2 para. 1](#)
- F5** Word substituted by [Health Services Act 1980 \(c. 53\)](#), [Sch. 2 para. 5\(d\)](#)

#### Marginal Citations

- M1** [1925 c. 49](#).

**Changes to legislation:**

There are currently no known outstanding effects for the Health Services Act 1976, Section 17.