



National Health Service (Amendment) Act 1995

1995 CHAPTER 31

England and Wales

2 Interim suspension of practitioners.

[^{F1}(1) After section 49 of the National Health Service Act 1977 there shall be inserted the following sections—

“ Applications for interim suspension.

- (1) A Health Authority who have made representations under section 46 above 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 46(2)(c) above 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.

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- (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.

Continuation of suspension pending appeal.

- (1) Where—
- (a) on disposing of a case under section 46 above, the Tribunal make a direction under subsection (2)(b) of that section, and
 - (b) the person to whom the direction relates is a person to whom section 49A(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 46(2)(b) above relates.
- (2) A direction under subsection (1) above shall cease to have effect—
- (a) where no appeal against the direction under section 46(2)(b) above 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 46(2)(c) above, section 49(A)(3) above 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 46(2)(b) above relates are, or may be, provided under this Part of this Act.

Sections 49A and 49B: procedure etc.

- (1) Before making a direction under section 49A(2) or 49B(1) above in relation to any person, the Tribunal shall give him an opportunity—
- (a) to appear before them, either in person or 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—
- (a) make provision for, or for the determination of, procedure in relation to determining applications under section 49A above or the exercise of the power conferred by section 49B(1) above, and

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- (b) provide for the functions of the Tribunal under section 49A or 49B above to be carried out, or to be carried out in prescribed circumstances, by the chairman or a deputy chairman of the Tribunal.

Suspension provisions in Scotland or Northern Ireland.

- (1) This section applies where, under any provisions in force in Scotland or Northern Ireland corresponding to section 49A or 49B above, 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 46(1) above, 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.

Payments in consequence of suspension.

- (1) Regulations may provide for the making to persons to whom section 49A(3) or 49D(2) above 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.”]
- (2) In section 46(1) of that Act for “49” there shall be substituted “ 49C ”.

Textual Amendments

- F1** S. 2(1) repealed (14.12.2001 for E. and 1.7.2002 for W.) by 2001 c. 15, ss. 67(2), 70(2), Sch. 6 Pt. I (with ss. 64(a), 65(4)); S.I. 2001/3738, art. 2(4) (subject to art. 2(5)(6)); S.I. 2002/1475, arts. 1(3), 2(1), Sch. Pt. 1 (which repeal is also purported to be brought into force (26.8.2002 for W.) by S.I. 2002/1919, arts. 1(3), 2, Sch. Pt. 1)

Commencement Information

- I1** S. 2 wholly in force at 1.4.1996; s. 2 not in force at Royal Assent see s. 14(3); s. 2 in force for certain purposes at 21.12.1995 by S.I. 1995/3090, art. 2; s. 2 in force at 1.4.1996 insofar as not already in force by S.I. 1996/552, art. 2

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 2(2) repealed by [1999 c. 8 Sch. 5](#)

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](#))