



National Health Service Reform and Health Care Professions Act 2002

2002 CHAPTER 17

PART 2

[^{F1}HEALTH AND SOCIAL CARE PROFESSIONS ETC.]

[^{F1}*The Professional Standards Authority for Health and Social Care*]

29 Reference of disciplinary cases by [^{F1}Authority] to court

(1) This section applies to—

[^{F2}(a) a direction of the Fitness to Practise Committee of the General Pharmaceutical Council under article 54 of the Pharmacy Order 2010 (consideration by the Fitness to Practise Committee) or under section 80 of the Medicines Act 1968 (power to disqualify and direct removal from register),]

(b) a direction of the Statutory Committee of the Pharmaceutical Society of Northern Ireland under Article 20 of the Pharmacy (Northern Ireland) Order 1976 (S.I. 1976/1213 (N.I. 22)) (control of registrations by Statutory Committee) or section 80 of the Medicines Act 1968,

[^{F3}(c) a direction by [^{F4}a Medical Practitioners Tribunal] of the General Medical Council under section 35D of the Medical Act 1983 (c. 54) that the fitness to practise of a medical practitioner was impaired ^{F5}....,]

[^{F6}(ca) a direction by a Medical Practitioners Tribunal of the General Medical Council under paragraph 5A(3D) or 5C(4) of Schedule 4 to the Medical Act 1983 for suspension of a person's registration or for conditional registration,]

[^{F7}(e) a direction by the Professional Conduct Committee, the Professional Performance Committee or the Health Committee of the General Dental Council under any of sections 27B, 27C, 36P or 36Q of the Dentists Act 1984 following a determination that a person's fitness to practise as a dentist or as a member of a profession complementary to dentistry, or class of members of such a profession, is impaired ^{F8}....,]

Changes to legislation: National Health Service Reform and Health Care Professions Act 2002, Section 29 is up to date with all changes known to be in force on or before 21 May 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

- [^{F9}(f) a direction by the Fitness to Practise Committee of the General Optical Council under section 13F(2) of the Opticians Act 1989 (powers of Fitness to Practise Committee) ^{F10}....]
- [^{F11}(g) any step taken—
- (i) by the Professional Conduct Committee of the General Osteopathic Council under section 22 of the Osteopaths Act 1993 (which relates to action to be taken in cases of allegations referred to the Professional Conduct Committee), or
 - (ii) by the Health Committee of the General Osteopathic Council under section 23 of that Act (which relates to action to be taken in cases of allegations referred to the Health Committee).]
- [^{F12}(h) any step taken—
- (i) by the Professional Conduct Committee of the General Chiropractic Council under section 22 of the Chiropractors Act 1994 (which relates to action to be taken in cases of allegations referred to the Professional Conduct Committee), or
 - (ii) by the Health Committee of the General Chiropractic Council under section 23 of that Act (which relates to action to be taken in cases of allegations referred to the Health Committee).]
- (i) any corresponding measure taken in relation to a nurse [^{F13}or midwife under the Nursing and Midwifery Order 2001],
- [^{F14}(j) any corresponding measure taken in relation to a member of a profession regulated by [^{F15}the Health Professions Order 2001], under that Order.]
- (2) This section also applies to—
- (a) a final decision of the relevant committee not to take any disciplinary measure under the provision referred to in whichever of paragraphs (a) to (h) of subsection (1) applies,
 - (b) any corresponding decision taken in relation to a nurse [^{F16}or midwife under the Nursing and Midwifery Order 2001], or to any such person as is mentioned in subsection (1)(j) and
 - (c) a decision of the relevant regulatory body, or one of its committees or officers, to restore a person to the register following his removal from it in accordance with any of the measures referred to in paragraphs (a) to (j) of subsection (1).
- [^{F17}(2A) This section also applies to any steps or decisions which are taken by Social Work England (or any of its committees or officers) in connection with fitness to practise or discipline and which are of a description specified in regulations made by the Secretary of State.]
- (3) The things to which this section applies are referred to below as “relevant decisions”.
- [^{F18}(4) Where a relevant decision is made, the Authority may refer the case to the relevant court if it considers that the decision is not sufficient (whether as to a finding or a penalty or both) for the protection of the public.
- (4A) Consideration of whether a decision is sufficient for the protection of the public involves consideration of whether it is sufficient—
- (a) to protect the health, safety and well-being of the public;
 - (b) to maintain public confidence in the profession concerned; and
 - (c) to maintain proper professional standards and conduct for members of that profession.]

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- [^{F19}(5) In subsection (4) [^{F20}(subject to subsection (5A))], the “relevant court” —
- (a) in the case of a person who (in accordance with the rules applying to the body making the relevant decision) was, or was required to be, notified of the relevant decision at an address in Scotland, means the Court of Session,
 - (b) in the case of a person who (in accordance with the rules applying to the body making the relevant decision) was, or was required to be, notified of the relevant decision at an address in Northern Ireland, means the High Court of Justice in Northern Ireland, and
 - (c) in the case of any other person, means the High Court of Justice in England and Wales.]
- [^{F21}(5A) In relation to something that is a relevant decision as a result of subsection (2A), “the relevant court” means the High Court of Justice in England and Wales.]
- (6) [^{F22}The Authority] may not so refer a case after the end of the period of [^{F23}—
- (a) [^{F24}40 days beginning with the day which is the last day on which the practitioner concerned can appeal against the relevant decision][^{F25}, or
 - (b) in the case of a relevant decision against which it is not possible for the practitioner concerned to appeal, 56 days beginning with the day on which notification of the decision was served on the person to whom the decision relates].
- (7) If the [^{F26}Authority] does so refer a case—
- (a) the case is to be treated by the court to which it has been referred as an appeal by the [^{F26}Authority] against the relevant decision (even though the [^{F26}Authority] was not a party to the proceedings resulting in the relevant decision), and
 - (b) the body which made the relevant decision [^{F27}(as well as the person to whom the decision relates)] is to be a respondent.
- [^{F28}(7A) In a case where the relevant decision is taken by a committee, the reference in subsection (7)(b) to the body which made the decision is to be read as a reference to the body of which it is a committee.]
- (8) The court may—
- (a) dismiss the appeal,
 - (b) allow the appeal and quash the relevant decision,
 - (c) substitute for the relevant decision any other decision which could have been made by the committee or other person concerned, or
 - (d) remit the case to the committee or other person concerned to dispose of the case in accordance with the directions of the court [^{F29}or, in the case of a relevant decision within subsection (1)(c) or (ca) or a relevant decision within subsection (2)(a) or (c) not to take a disciplinary measure under a provision referred to in subsection (1)(c) or (ca), remit the case to the Medical Practitioners Tribunal Service for them to arrange for a Medical Practitioners Tribunal so to dispose of the case],
- and may make such order as to costs (or, in Scotland, expenses) as it thinks fit.
- [^{F30}(9) Where rules under paragraph 1 of Schedule 4 to the Medical Act 1983 provide, by virtue of paragraph 1(2E) of that Schedule, for the application of section 35D of that Act, the reference in subsection (1)(c) of this section to section 35D of that Act includes a reference to that section as so applied.

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- (10) The reference in subsection (1)(ca) to paragraph 5A(3D) of the Medical Act 1983 includes a reference to that provision as applied by section 35A(6E) of that Act.]

Textual Amendments

- F1** Word in s. 29 title substituted (1.12.2012) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 15 para. 62\(i\)](#); S.I. 2012/2657, art. 2(3)
- F2** S. 29(1)(a) substituted (27.9.2010) by [The Pharmacy Order 2010 \(S.I. 2010/231\), art. 1\(5\), Sch. 4 para. 10\(4\)](#); S.I. 2010/1621, art. 2(1), Sch.
- F3** S. 29(1)(c) substituted for s. 29(1)(c)(d) (1.11.2004 as notified in the London Gazette dated 8.10.2004) by [The Medical Act 1983 \(Amendment\) Order 2002 \(S.I. 2002/3135\), art. 1\(2\)\(3\), Sch. 1 para. 13](#) (with Sch. 2)
- F4** Words in s. 29(1)(c) 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\(3\), 18\(1\)](#); S.I. 2015/1952, art. 2(1) (with Sch. para. 3)
- F5** Words in s. 29(1)(c) omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 15 para. 73\(1\)\(a\)](#); S.I. 2012/1319, art. 2(3)
- F6** S. 29(1)(ca) 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\(3\), 18\(2\)](#); S.I. 2015/1952, art. 2(1) (with Sch. para. 3)
- F7** S. 29(1)(e) substituted (coming into force in accordance with art. 1(4)-(7) (see the London Gazette, issue nos. 57734, 57975, 58050 and 58769, dated respectively 19.8.2005, 5.6.2006, 21.7.2006 and 18.7.2008) of the amending S.I.) by [The Dentists Act 1984 \(Amendment\) Order 2005 \(S.I. 2005/2011\), Sch. 6 para. 4](#) (with Sch. 7) (with transitional provisions in S.I. 2006/1671)
- F8** Words in s. 29(1)(e) repealed (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\), ss. 118\(2\)\(c\), 170\(3\)\(4\), Sch. 15 Pt. 2](#); S.I. 2008/3244, art. 2(e)(j)
- F9** S. 29(1)(f) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\), Sch. 1 para. 13](#) (with Sch. 2)
- F10** Words in s. 29(1)(f) omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 15 para. 73\(1\)\(b\)](#); S.I. 2012/1319, art. 2(3)
- F11** S. 29(1)(g) substituted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\), ss. 118\(2\)\(e\), 170\(3\)\(4\)](#); S.I. 2008/3244, art. 2(e)
- F12** S. 29(1)(h) substituted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\), ss. 118\(2\)\(f\), 170\(3\)\(4\)](#); S.I. 2008/3244, art. 2(e)
- F13** Words in s. 29(1)(i) substituted (1.8.2004) by [The Health Act 1999 \(Consequential Amendments\) \(Nursing and Midwifery\) Order 2004 \(S.I. 2004/1771\), art. 1\(1\), Sch. para. 1\(a\)](#)
- F14** S. 29(1)(j) substituted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\), ss. 118\(2\)\(g\), 170\(3\)\(4\)](#); S.I. 2008/3244, art. 2(e)
- F15** Words in s. 29(1)(j) substituted (2.12.2019) by [Children and Social Work Act 2017 \(c. 16\), s. 70\(2\), Sch. 5 para. 47\(i\)](#); S.I. 2019/1436, reg. 2(s)
- F16** Words in s. 29(2)(b) substituted (1.8.2004) by [The Health Act 1999 \(Consequential Amendments\) \(Nursing and Midwifery\) Order 2004 \(S.I. 2004/1771\), art. 1\(1\), Sch. para. 1\(b\)](#)
- F17** S. 29(2A) inserted (1.4.2018 for specified purposes, 2.12.2019 in so far as not already in force) by [Children and Social Work Act 2017 \(c. 16\), s. 70\(2\), Sch. 4 para. 15\(2\)](#); S.I. 2018/346, reg. 4(cc)(iv); S.I. 2019/1436, reg. 2(r)
- F18** S. 29(4)(4A) substituted for s. 29(4) (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\(3\), 18\(3\)](#); S.I. 2015/1952, art. 2(1) (with Sch. para. 3)
- F19** S. 29(5) substituted (1.1.2009) by [Health and Social Care Act 2008 \(c. 14\), ss. 118\(3\), 170\(3\)\(4\)](#); S.I. 2008/3244, art. 2(f)

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- F20** Words in s. 29(5) inserted (1.8.2012) by Health and Social Care Act 2012 (c. 7), **ss. 223(9)**, 306(4); S.I. 2012/1319, art. 2(4)
- F21** S. 29(5A) substituted (2.12.2019) by Children and Social Work Act 2017 (c. 16), s. 70(2), **Sch. 4 para. 15(3)**; S.I. 2019/1436, reg. 2(r)
- F22** Words in s. 29(6) substituted (1.12.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 63**; S.I. 2012/2657, art. 2(3)
- F23** Words in s. 29(6) 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), **18(4)(a)**; S.I. 2015/1952, art. 2(l) (with Sch. para. 3)
- F24** Words in s. 29(6) substituted (1.1.2009) by Health and Social Care Act 2008 (c. 14), **ss. 118(4)**, 170(3)(4); S.I. 2008/3244, art. 2(f)
- F25** S. 29(6)(b) and preceding word 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), **18(4)(b)**; S.I. 2015/1952, art. 2(l) (with Sch. para. 3)
- F26** Words in s. 29(7) substituted (1.12.2012) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 15 para. 62(g)**; S.I. 2012/2657, art. 2(3)
- F27** Words in s. 29(7)(b) 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), **18(5)**; S.I. 2015/1952, art. 2(l) (with Sch. para. 3)
- F28** S. 29(7A) 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), **18(6)**; S.I. 2015/1952, art. 2(l) (with Sch. para. 3)
- F29** Words in s. 29(8)(d) 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), **18(7)**; S.I. 2015/1952, art. 2(l) (with Sch. para. 3)
- F30** S. 29(9)(10) 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), **18(8)**; S.I. 2015/1952, art. 2(l) (with Sch. para. 3)

Modifications etc. (not altering text)

- C1** S. 29(1)(c) modified (1.1.2009) by Health and Social Care Act 2008 (c. 14), **ss. 118(5)**, 170(3)(4); S.I. 2008/3244, art. 2(f)
- C2** S. 29(1)(f) modified (1.1.2009) by Health and Social Care Act 2008 (c. 14), **ss. 118(6)**, 170(3)(4); S.I. 2008/3244, art. 2(f)

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Changes and effects yet to be applied to :

- s. 29(1)(c) repealed by [2008 c. 14 s. 118\(2\)\(b\)Sch. 15 Pt. 2](#)
- s. 29(1)(f) repealed by [2008 c. 14 s. 118\(2\)\(d\)Sch. 15 Pt. 2](#)
- s. 29(2)(c) word inserted by [S.I. 2024/374 Sch. 5 para. 4\(3\)\(b\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 17(1)(fb) substituted for s. 17(1)(fa) by [2006 c. 28 Sch. 8 para. 50\(a\)](#) (Effect not applied. The amending provision was repealed 1.3.2007 by [2006 \(c. 43\), s. 8\(2\), Sch. 4](#))
- s. 26(4)(d) and word inserted by [S.I. 2024/374 Sch. 5 para. 4\(2\)\(b\)](#)
- s. 29(1)(ha)-(hc) inserted by [S.I. 2024/374 Sch. 5 para. 4\(3\)\(a\)](#)
- s. 29(7B) inserted by [S.I. 2024/374 Sch. 5 para. 4\(3\)\(c\)](#)