



Osteopaths Act 1993

1993 CHAPTER 21

Appeals

29 Appeals against decisions of the Registrar.

- (1) Where the Registrar—
 - (a) refuses to register an applicant for registration under this Act,
 - (b) registers such an applicant with provisional or conditional registration,
 - (c) refuses to renew any registration,
 - (d) removes the name of a registered osteopath from the register on the ground that he has breached one or more of the conditions subject to which his registration had effect (otherwise than under an order of the Professional Conduct Committee), or
 - (e) refuses to grant an application for the conversion of a conditional, or provisional, registration into full registration,the person aggrieved may appeal to the General Council.
- (2) Any such appeal shall be subject to such rules as the General Council may make for the purpose of regulating appeals under this section.
- (3) An appeal to the General Council must be made before the end of the period of 28 days beginning with the date on which notice of the Registrar's decision is sent to the person concerned.
- (4) Any person aggrieved by the decision of the General Council on an appeal under this section may appeal, on a point of law, to the appropriate court.
- (5) Any right of appeal given by this section shall be in addition to any right which the person concerned may otherwise have to appeal to a county court or, in Scotland, to the sheriff; but only one such right of appeal may be exercised in relation to the same decision.
- (6) In this section "the appropriate court" means—
 - (a) in the case of a person whose registered address is (or if he were registered would be) in Scotland, the Court of Session;

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- (b) in the case of a person whose registered address is (or if he were registered would be) in Northern Ireland, the High Court of Justice in Northern Ireland; and
- (c) in any other case, the High Court of Justice in England and Wales.

30 Appeals against decisions of the Health Committee.

- (1) Any person with respect to whom a decision of the Health Committee is made under section 23 may, before the end of the period of 28 days beginning with the date on which notification of the decision is sent to him, appeal against it in accordance with the provisions of this section.
- (2) An appeal under subsection (1) shall lie to an appeal tribunal, consisting of a chairman and two other members, established for the purposes of the appeal in accordance with rules made by the General Council for the purposes of this section.
- (3) The General Council shall make rules as to the procedure to be followed by an appeal tribunal hearing an appeal under this section.
- (4) The rules may, in particular, make similar provision to that made by virtue of section 26(2)(d), (f), (g), (h), (i) or (j).
- (5) No decision against which an appeal may be made under this section shall have effect before—
 - (a) the expiry of the period within which such an appeal may be made; or
 - (b) the appeal is withdrawn or otherwise disposed of.
- (6) The chairman of an appeal tribunal—
 - (a) shall be selected in accordance with rules made by the General Council; and
 - (b) shall be qualified as mentioned in section 27(4).
- (7) Each of the other two members of an appeal tribunal shall be selected in accordance with rules made by the General Council—
 - (a) one of them being a fully registered osteopath, and
 - (b) the other being a registered medical practitioner.
- (8) The rules may not provide for the selection of any member of an appeal tribunal to be by the General Council.
- (9) The chairman of an appeal tribunal shall appoint a person approved by the members of the tribunal to act as clerk of the tribunal.
- (10) Subject to any provision made by the rules, an appeal tribunal shall sit in public and shall sit—
 - (a) in Northern Ireland, in the case of an osteopath whose registered address is in Northern Ireland;
 - (b) in Scotland, in the case of an osteopath whose registered address is in Scotland; and
 - (c) in England and Wales, in any other case.
- (11) On any appeal under this section—
 - (a) the appeal shall be by way of a rehearing of the case;
 - (b) the General Council shall be the respondent; and

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- (c) the tribunal hearing the appeal shall have power to make any decision which the Health Committee had power to make under section 23.
- (12) An appeal tribunal shall have the same powers of interim suspension as the Health Committee has [^{F1}by virtue of] section 24(1)(b) and that section shall have effect in relation to suspension orders made by appeal tribunals with the necessary modifications.
- (13) No person shall be required by any rules made under this section to give any evidence or produce any document or other material at a hearing held by an appeal tribunal which he could not be compelled to give or produce in civil proceedings in any court in that part of the United Kingdom in which the hearing takes place.
- (14) An appeal tribunal shall have power to award costs.
- (15) Any expenses reasonably incurred by a tribunal, including any incurred in connection with the appointment of a clerk, shall be met by the General Council.

Textual Amendments

F1 Words in s. 30(12) substituted (5.7.1994) by 1994 c. 17, s. 42, Sch. 2 para. 7

31 Appeals against decisions of the Professional Conduct Committee and appeal tribunals.

- (1) Any person with respect to whom—
 - (a) a decision of the Professional Conduct Committee is made under section [^{F2}8 or]22, or
 - (b) a decision is made by an appeal tribunal hearing an appeal under section 30, may, before the end of the period of 28 days beginning with the date on which notification of the decision is sent to him, appeal against it in accordance with the provisions of this section.
- (2) No such decision shall have effect—
 - (a) before the expiry of the period within which an appeal against the decision may be made; or
 - (b) where an appeal against the decision has been duly made, before the appeal is withdrawn or otherwise disposed of.
- (3) An appeal under this section shall lie to Her Majesty in Council.
- (4) An appeal under subsection (1)(b) may only be on a point of law.
- (5) Any such appeal shall be dealt with in accordance with rules made by Her Majesty by Order in Council for the purposes of this section.
- (6) On an appeal under this section, the General Council shall be the respondent.
- (7) The ^{M1}Judicial Committee Act 1833 shall apply in relation to the Professional Conduct Committee, [^{F3}an appeal tribunal] and the General Council as it applies in relation to any court from which an appeal lies to Her Majesty in Council.

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- (8) Without prejudice to the application of that Act, on an appeal under this section to Her Majesty in Council, the Judicial Committee may in their report recommend to Her Majesty in Council—
- (a) that the appeal be dismissed;
 - (b) that the appeal be allowed and the decision questioned by the appeal quashed;
 - (c) that such other decision as the Professional Conduct Committee or (as the case may be) Health Committee could have made be substituted for the decision questioned by the appeal; or
 - (d) that the case be remitted to the Committee or appeal tribunal concerned to be disposed of in accordance with the directions of the Judicial Committee.

Textual Amendments

F2 Words in s. 31(1)(a) inserted (5.7.1994) by 1994 c. 17, s. 42, **Sch. 2 para. 8(a)**

F3 Words in s. 31(7) substituted (5.7.1994) by 1994 c. 17, s. 42, **Sch. 2 para. 8(b)**

Marginal Citations

M1 1833 c. 41.

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