

HEALTH (TOBACCO, NICOTINE ETC. AND CARE) (SCOTLAND) ACT 2016

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 1 – Tobacco, Nicotine Vapour Products and Smoking

Chapter 3 – Smoking Outside Hospitals

Section 20(2)

Section 4D: Meaning of “no-smoking area outside a hospital building” and related expressions

74. Subsection (1) defines the meaning of “no-smoking area outside a hospital building”. It is an area lying immediately outside the hospital building. It is bounded by a perimeter of a specified distance from the building. However, the area is limited to being within, and thereby cannot fall outside of, hospital grounds. Subsection (2) gives a power to the Scottish Ministers to make regulations prescribing the specified distance. The regulations can also make further provision about determining the perimeter around a building, for example they could make detailed provision on how to determine the starting point outside a building from which the specified distance is to be measured.
75. Subsection (3) defines “hospital”, “hospital building” and “hospital grounds” for the purposes of this section. A hospital means a health service hospital as defined in section 108(1) of the National Health Service (Scotland) Act 1978. A hospital building is simply a building on hospital grounds. Hospital grounds covers land in the vicinity of a hospital which is associated with it.
76. Subsection (4) allows the Scottish Ministers to make regulations which can—
- (a) exclude certain hospitals altogether from the ban on smoking outside hospitals,
 - (b) include certain land within the meaning of hospital grounds e.g. land which might not necessarily be in the vicinity of, or associated with, a hospital, so that it can be caught by a no-smoking area,
 - (c) exclude certain land from the meaning of hospital grounds e.g. land which despite being in the vicinity of, and associated with, a hospital, is not to be caught by a no-smoking area,
 - (d) make further provision to elaborate on the meaning of “hospital grounds” e.g. criteria could be set out for determining whether land is to be regarded as associated with a hospital or not,
 - (e) provide that certain buildings on hospital grounds are not to be regarded as hospital buildings for the purposes of the ban on smoking outside hospitals, and thereby, remove these buildings from having a perimeter applied from them, and

*These notes relate to the Health (Tobacco, Nicotine etc. and Care)
(Scotland) Act 2016 (asp 14) which received Royal Assent on 06 April 2016*

(f) provide that certain land within a no-smoking area is to be exempt from that area so that it is not an offence to smoke there or permit others to do so.

77. Subsection (5) allows regulations made under subsection (4) by the Scottish Ministers to make provision modifying the application of section 4C so that, for example, signage requirements can be adjusted, as appropriate, to take account of exceptions and other provision made by those regulations.