

SMOKING, HEALTH AND SOCIAL CARE (SCOTLAND) ACT 2005

EXPLANATORY NOTES

THE ACT

Part 2: General Dental Services, General Ophthalmic Services and Personal Dental Services

Section 19 – Lists of persons undertaking to provide or approved to assist in the provision of general ophthalmic services

60. A new subsection (2) is substituted in section 26 of the 1978 Act for the existing subsection (2). As with existing subsection (2) this provides a regulation-making power as to arrangements made by medical practitioners and ophthalmic opticians undertaking to provide general ophthalmic services (GOS). The regulations as to arrangements shall provide for the listing of those who are approved to assist in the provision of GOS in the area of the Health Board for the first time. Paragraph (a) sets out those persons who will be listed on each part of a list to be prepared, maintained and published by each Health Board. Under (2)(a)(i), ophthalmic contractors, i.e. those persons who undertake to provide GOS, will be named on the first part of the list. The second part will include those persons who are approved by the Board to assist in the provision of GOS and this is provided for in (2)(a)(ii).
61. A new, expanded subsection (2)(b) replaces the former subsection (2)(c). Regulations will also provide for the procedure by which patients will have a right to choose the person that examines their eyes as well as the person that tests their sight or gives a prescription. Previously, the right to choose related only to the person by whom a patient's sight would be tested or from whom any prescription could be obtained but the Act now proposes that GOS should include eye examinations.
62. A new subsection (2A) is inserted into section 26. Paragraphs (a) to (j) of subsection (2A) set out issues that may be included in the regulations as to the preparation, maintenance and publication of the list.
63. Paragraph (a) provides that the first or second part of the list or both parts may be divided into further sub-parts to enable different categories of persons undertaking to provide or assist with GOS provision to be distinguished as necessary – for example, those who provide domiciliary visits to nursing homes and similar establishments.
64. Paragraphs (b) to (j) provide that the regulating making powers may include: particular provision as to eligibility and applications for inclusion in a list; the grounds on which an application must be granted or refused or a removal made and the consequences of removal; requirements with which a person included in a list must comply; circumstances in which a listed person may not withdraw from that list; the grounds under which a Health Board may suspend a person from its list; provision as to payments while subject to suspension by a Board; and disclosure of information about

*These notes relate to the Smoking, Health and Social Care (Scotland)
Act 2005 (asp 13) which received Royal Assent on 5 August 2005*

applications, refusal of applications, or suspensions, removal or references to the Tribunal.

65. A new subsection (2B) is inserted into section 26 of the 1978 Act. Under this, regulations may provide that a person who acts as practitioner in a Health Board area may not provide GOS unless named on the first part of the Board's list and a person who acts only as an assistant practitioner in a Health Board area may not assist with GOS provision unless named on the second part of the Board's list.