



# Smoking, Health and Social Care (Scotland) Act 2005

2005 asp 13

## PART 2 **S**

### GENERAL DENTAL SERVICES, GENERAL OPHTHALMIC SERVICES, PERSONAL DENTAL SERVICES ETC.

#### 11 **Detection of vision problems in children** **S**

After section 38A of the 1978 Act, insert—

##### “38B Detection of vision problems in children

- (1) It is the duty of the Scottish Ministers, to such extent as they consider necessary to meet all reasonable requirements, to provide for the detection of vision problems in children.
- (2) In this section, “children” means persons under the age of 16 years.”.

#### Commencement Information

**II** S. 11 in force at 17.10.2005 by S.S.I. 2005/492, art. 3(a), Sch. 1

#### 12 **Free oral health assessments and dental examinations** **S**

- (1) Oral health assessments and dental examinations carried out on or after 1st April 2006 in accordance with arrangements made under section 17C of the 1978 Act, arrangements for the provision of general dental services under Part II of that Act or a pilot scheme under Part I of the National Health Service (Primary Care) Act 1997 (c. 46) (the “1997 Act”) are to be free of charge; and accordingly those Acts are amended as follows.
- (2) In the 1978 Act—

*Status: This version of this part contains provisions that are prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Smoking, Health and Social Care (Scotland) Act 2005, Part 2. (See end of Document for details)*

- (a) in section 70A(2) (personal dental services as respects which regulations under section 70A(1) may provide for the making and recovery of charges), for the words “other than those” substitute “except—
    - (a) oral health assessments and dental examinations carried out on or after 1st April 2006; and
    - (b) those services”;
  - (b) in section 71 (charges for general dental services under Part II)—
    - (i) in subsection (1), after the words “not being—” insert—
      - “(a) oral health assessments and dental examinations carried out on or after 1st April 2006;”;
    - (ii) in subsection (2), after “services” where it first occurs insert “ (but not being oral health assessments or dental examinations carried out on or after 1st April 2006) ”.
- (3) In the 1997 Act, in section 20 (charges for dental treatment in accordance with pilot schemes)—
- (a) in subsection (1), for the words from “dental” to the end substitute “personal dental services provided in accordance with pilot schemes except—
    - (a) those services to which section 78(1A) of the 1977 Act or (as the case may be) section 70(1A) of the 1978 Act applies; and
    - (b) oral health assessments and dental examinations carried out on or after 1st April 2006.”;
  - (b) subsection (2) is repealed.

#### Commencement Information

- I2** S. 12 in force at 7.3.2006 for specified purposes by S.S.I. 2006/121, art. 3(a), Sch. 1
- I3** S. 12 in force at 1.4.2006 in so far as not already in force by S.S.I. 2005/492, art. 3(e), Sch. 3

### 13 Free eye examinations and sight tests S

- (1) Arrangements under section 26(1) of the 1978 Act for the provision of general ophthalmic services are to include eye examinations and the provision of free eye examinations and sight tests in accordance with such arrangements is to be extended on and after 1st April 2006; and accordingly that Act is amended as follows.
- (2) In section 26 (arrangements for the provision of general ophthalmic services)—
  - (a) in subsection (1), for the words from “the testing” to the end substitute “ the carrying out of eye examinations including where clinically necessary testing of sight. ”;
  - (b) subsections (1A) to (1E) are repealed.
- (3) In paragraph 2A of Schedule 11 (additional provision as to regulations under section 70(1) on charges for optical appliances), sub-paragraph (3)(a) is repealed.

#### Commencement Information

- I4** S. 13 in force at 7.3.2006 for specified purposes by S.S.I. 2006/121, art. 3(a), Sch. 1
- I5** S. 13 in force at 1.4.2006 in so far as not already in force by S.S.I. 2005/492, art. 3(e), Sch. 3

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**Changes to legislation:** There are currently no known outstanding effects for the Smoking, Health and Social Care (Scotland) Act 2005, Part 2. (See end of Document for details)

PROSPECTIVE

## 14 Charges for certain dental appliances and general dental services **S**

- (1) The 1978 Act is amended as follows.
- (2) In section 70 (regulations as to charges for dental or optical appliances)—
  - (a) in subsection (1), for the words “optical appliances” substitute “ dental or optical appliances ”;
  - (b) subsection (1A) is repealed;
  - (c) in subsection (2), for the words “(1A)” substitute “ (1) ”.
- (3) In section 70A(2) (personal dental services as respects which regulations under section 70A(1) may provide for the making and recovery of charges), for the words “70(1A)” substitute “ 70(1) ”.
- (4) In section 71(1) (charges for certain general dental services), for the words “an amount calculated in accordance with section 71A” substitute “ the amount authorised by this section ”.
- (5) Section 71A (regulations as respects amount of any charge authorised by section 70(1A) for supply of dental appliances or by section 71 for certain general dental services) is repealed.
- (6) In paragraph 2 of Schedule 11 (additional provision as to regulations under section 70)—
  - (a) after sub-paragraph (1), insert—

“(1A) The dental appliances referred to in that section are dentures, bridges, crowns and orthodontic appliances.”;
  - (b) in sub-paragraph (2)(a), for the words “optical appliance” substitute “ dental or optical appliance ”;
  - (c) in sub-paragraph (3), the words “or (1A)” are repealed;
  - (d) in sub-paragraph (4), for the words “70(1A)” substitute “ 70(1) ”.

## 15 Arrangements for provision of general dental services **S**

- In section 25 of the 1978 Act (arrangements for provision of general dental services) in subsection (1)—
- (a) after the words “dental practitioners” insert “ or bodies corporate entitled, by virtue of section 43 of the Dentists Act 1984 (c. 24), to carry on the business of dentistry ”;
  - (b) after the words “dental practitioner” insert “ or body corporate ”.

### Commencement Information

- I6** S. 15 in force at 20.5.2010 for specified purposes by S.S.I. 2010/185, art. 3(a), **Sch. 1**  
**I7** S. 15 in force at 2.7.2010 in so far as not already in force by S.S.I. 2010/185, art. 3(b), **Sch. 2**

*Status: This version of this part contains provisions that are prospective.*  
*Changes to legislation: There are currently no known outstanding effects for the Smoking, Health and Social Care (Scotland) Act 2005, Part 2. (See end of Document for details)*

## 16 Assistance and support: general dental services **S**

After section 28C of the 1978 Act, insert—

*“Assistance and support: general dental services*

### **28D Assistance and support: general dental services**

- (1) A Health Board may provide assistance and support to any person providing, or proposing to provide, general dental services.
- (2) Assistance and support provided by a Health Board under subsection (1) is to be provided on such terms, including terms as to payment, as the Board think fit.
- (3) In this section, “assistance” includes financial assistance.”.

#### **Commencement Information**

**I8** S. 16 in force at 17.10.2005 by S.S.I. 2005/492, art. 3(a), Sch. 1

## 17 Lists of persons undertaking to provide or approved to assist in the provision of general dental services **S**

In section 25 of the 1978 Act (arrangements for provision of general dental services), for subsections (2) to (2B), substitute—

- “(2) Regulations may make provision as to the arrangements to be made under subsection (1), and shall include provision as to the preparation, maintenance and publication by every Health Board of a list—
- (a) the first part of which shall be of dental practitioners who, and bodies corporate referred to in that subsection which, undertake to provide general dental services under arrangements with the Board;
  - (b) the second part of which shall be of persons who do not undertake to provide such services under such arrangements but who are approved by the Board to assist in the provision of such services provided under such arrangements.
- (2A) In making provision as to the preparation, maintenance and publication of a list referred to in subsection (2), the regulations may include in particular provision as to—
- (a) the division of either part (or both parts) of a list into further sub-parts;
  - (b) eligibility for inclusion in a list;
  - (c) applications for inclusion (including provision for the procedure for applications to be made and dealt with and the documents to be supplied on application);
  - (d) the grounds on which an application for inclusion must be granted or refused;
  - (e) requirements with which a person included in a list must comply (including requirements as to standards of performance and patient care and as to declarations, consents or undertakings);

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- (f) suspension or removal from a list (including the grounds for and consequences of suspension or removal);
- (g) circumstances in which a person included in a list may not withdraw from it;
- (h) payments to be made by a Health Board in respect of a person suspended from a list (including provision for the amount of, or the method of calculating, the payment to be determined by the Scottish Ministers);
- (i) criteria to be applied in making decisions under the regulations;
- (j) disclosure of information about applicants for inclusion, refusals of applications, or suspensions, removals or references to the Tribunal, including in particular the disclosure of information about any such matter by a Health Board to the Scottish Ministers and by the Scottish Ministers to a Health Board.

(2B) Regulations may provide that—

- (a) a dental practitioner who, and a body corporate referred to in subsection (1) which, undertakes to provide general dental services under arrangements with a Health Board may not provide such services unless his name or, as the case may be, the body corporate's name is included in the first part of the Board's list referred to in subsection (2) (a);
- (b) a person who does not undertake to provide general dental services under arrangements with a Health Board may not assist in the provision of such services provided under arrangements with the Board unless his name is included in the second part of the Board's list referred to in subsection (2)(b).”.

#### Commencement Information

**I9** S. 17 in force at 20.5.2010 for specified purposes by S.S.I. 2010/185, art. 3(a), Sch. 1

**I10** S. 17 in force at 20.7.2010 in so far as not already in force by S.S.I. 2010/185, art. 3(b), Sch. 2

PROSPECTIVE

## 18 Lists of persons performing personal dental services under section 17C arrangements or pilot schemes **S**

After section 17E of the 1978 Act, insert—

### “17F Lists of persons performing personal dental services

- (1) Regulations may provide that a person may not perform personal dental services under section 17C arrangements or a pilot scheme with a Health Board unless his name is included in a list maintained under the regulations by the Board.
- (2) Regulations under subsection (1) may make provision in relation to such lists and in particular as to—
  - (a) the preparation, maintenance and publication of a list;

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- (b) eligibility for inclusion in a list;
- (c) applications for inclusion (including provision for the procedure for applications to be made and dealt with and the documents to be supplied on application);
- (d) the grounds on which an application for inclusion must be granted or refused;
- (e) requirements with which a person included in a list must comply (including requirements as to standards of performance and patient care and as to declarations, consents or undertakings);
- (f) suspension or removal from a list (including the grounds for and consequences of suspension or removal);
- (g) circumstances in which a person included in a list may not withdraw from it;
- (h) payments to be made by a Health Board in respect of a person suspended from a list (including provision for the amount of, or the method of calculating, the payment to be determined by the Scottish Ministers);
- (i) criteria to be applied in making decisions under the regulations;
- (j) disclosure of information about applicants for inclusion, refusals of applications, or suspensions, removals or references to the Tribunal, including in particular the disclosure of information about any such matter by a Health Board to the Scottish Ministers and by the Scottish Ministers to a Health Board.”.

## 19 **Lists of persons undertaking to provide or approved to assist in the provision of general ophthalmic services** **S**

In section 26 of the 1978 Act (arrangements for provision of general ophthalmic services), for subsection (2), substitute—

“(2) Regulations may make provision as to the arrangements to be made under subsection (1), and shall include provision—

- (a) as to the preparation, maintenance and publication by every Health Board of a list—
  - (i) the first part of which shall be of medical practitioners and ophthalmic opticians who undertake to provide general ophthalmic services under arrangements with the Board;
  - (ii) the second part of which shall be of persons who do not undertake to provide such services under such arrangements but who are approved by the Board to assist in the provision of such services provided under such arrangements;
- (b) conferring on any person a right to choose in accordance with the prescribed procedure the medical practitioner or ophthalmic optician by whom his eyes are to be examined, his sight is to be tested or from whom any prescription for the supply of optical appliances is to be obtained.

(2A) In making provision as to the matters referred to in subsection (2)(a), the regulations may include in particular provision as to—

- (a) the division of either part (or both parts) of a list into further sub-parts;

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- (b) eligibility for inclusion in a list;
- (c) applications for inclusion (including provision for the procedure for applications to be made and dealt with and the documents to be supplied on application);
- (d) the grounds on which an application for inclusion must be granted or refused;
- (e) requirements with which a person included in a list must comply (including requirements as to standards of performance and patient care and as to declarations, consents or undertakings);
- (f) suspension or removal from a list (including the grounds for and consequences of suspension or removal);
- (g) circumstances in which a person included in a list may not withdraw from it;
- (h) payments to be made by a Health Board in respect of a person suspended from a list (including provision for the amount of, or the method of calculating, the payment to be determined by the Scottish Ministers);
- (i) criteria to be applied in making decisions under the regulations;
- (j) disclosure of information about applicants for inclusion, refusals of applications, or suspensions, removals or references to the Tribunal, including in particular the disclosure of information about any such matter by a Health Board to the Scottish Ministers and by the Scottish Ministers to a Health Board.

(2B) Regulations may provide that—

- (a) a medical practitioner or ophthalmic optician who undertakes to provide general ophthalmic services under arrangements with a Health Board may not provide such services unless his name is included in the first part of the Board's list referred to in subsection (2)(a)(i);
- (b) a person who does not undertake to provide general ophthalmic services under arrangements with a Health Board may not assist in the provision of such services provided under arrangements with the Board unless his name is included in the second part of the Board's list referred to in subsection (2)(a)(ii)."

#### **Commencement Information**

**I11** S. 19 in force at 7.3.2006 for specified purposes by S.S.I. 2006/121, art. 3(a), **Sch. 1**

**I12** S. 19 in force at 1.4.2006 in so far as not already in force by S.S.I. 2006/121, art. 3(b), **Sch. 2**

**Status:**

This version of this part contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Smoking, Health and Social Care (Scotland) Act 2005, Part 2.