



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

2005 asp 13

## PART 6

### MISCELLANEOUS

#### *Amendment of Regulation of Care (Scotland) Act 2001*

#### **29 Independent health care services**

In section 2(5) of the 2001 Act (meaning of “independent health care service”), after paragraph (d) insert “,

but a service may be excepted from this definition by regulations”.

#### **30 Implementation of certain decisions under the 2001 Act**

(1) The 2001 Act is amended as follows.

(2) In section 16 (right to make representations to Scottish Commission for the Regulation of Care as respects proposals under Part 1), for subsection (2) substitute—

“(2) Where such a notice has been given—

(a) the Commission may not decide to implement the proposal until (whichever first occurs)—

(i) where the person to whom the notice was given makes such representations as are mentioned in subsection (1) above, it has considered those representations;

(ii) that person notifies the Commission in writing that such representations will not be made;

(iii) the period of fourteen days mentioned in that subsection elapses without such representations being made and without the Commission receiving such notification; and

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*Status: This is the original version (as it was originally enacted).*

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- (b) where the circumstances are as mentioned in paragraph (a)(ii) or (iii) above, the Commission shall implement the proposal unless it appears to it that it would be inappropriate to do so.”.
- (3) In section 37 (right to make representations to Commission under Part 2 as respects conditions), for subsection (2) substitute—
  - “(2) Where a notice to which this section applies has been given—
    - (a) the Commission may not decide to implement the proposal until (whichever first occurs)—
      - (i) where the local authority to whom the notice was given make such representations as are mentioned in subsection (1) above, it has considered those representations;
      - (ii) the local authority notify the Commission that such representations will not be made;
      - (iii) the period of fourteen days mentioned in that subsection elapses without such representations being made and without the Commission receiving such notification; and
    - (b) where the circumstances are as mentioned in paragraph (a)(ii) or (iii) above, the Commission shall implement the proposal unless it appears to it that it would be inappropriate to do so.”.
- (4) In section 48 (right to make representations to Scottish Social Services Council as respects proposal in notice under section 46(2) or 47(1)), for subsection (2) substitute—
  - “(2) Where such a notice has been given—
    - (a) the Council may not decide to implement the proposal until (whichever first occurs)—
      - (i) where the person to whom the notice was given makes such representations as are mentioned in subsection (1) above, it has considered those representations;
      - (ii) that person notifies the Council in writing that such representations will not be made;
      - (iii) the period of fourteen days mentioned in that subsection elapses without such representations being made and without the Council receiving such notification; and
    - (b) where the circumstances are as mentioned in paragraph (a)(ii) or (iii) above, the Council shall implement the proposal unless it appears to it that it would be inappropriate to do so.”.
- (5) In section 51(1) (appeal against decision of Council), for the words from “section” to “proposal” substitute “subsection (2) of section 50 of this Act of a decision mentioned in that subsection”.

### **31 Frequency of inspection of care services under the 2001 Act**

- (1) The 2001 Act is amended as follows.
- (2) In section 25 (inspection of registered care services), after subsection (5) insert—

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*Status: This is the original version (as it was originally enacted).*

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“(5A) The Scottish Ministers may, after consulting the Commission and thereafter such other persons (or groups of persons) as they consider appropriate, by order amend—

- (a) subsection (3)(a) above by substituting for “twelve months” in either or both sub-paragraphs (i) and (ii) a different period (being a period which is not less than twelve months);
- (b) subsection (5) above by substituting for “twelve months” in either or both paragraphs (a) and (b) a different period (being a period which is not less than twelve months).

(5B) An order under subsection (5A) above may make different provision for different purposes.”.

- (3) In section 78 (orders and regulations), in subsection (2)(b), after the word “3” insert “or 25(5A)”.

## **32 Provision of information to the Scottish Social Services Council**

After section 57 of the 2001 Act, insert—

*“Notification of dismissal etc. for misconduct  
and provision of other information to Council*

### **57A Notification of dismissal etc. to Council**

The employer of a social service worker shall—

- (a) on dismissing the social service worker on grounds of misconduct; or
- (b) on the social service worker resigning or abandoning the worker’s position in circumstances where, but for the resignation or abandonment—
  - (i) the worker would have been dismissed on grounds of misconduct; or
  - (ii) dismissal on such grounds would have been considered by the employer,

forthwith notify the Council of the dismissal, resignation or abandonment; and the employer shall in doing so provide the Council with an account of the circumstances which led to the dismissal or which were present when the resignation or abandonment took place.

### **57B Provision of other information to Council by employer**

The employer of a social service worker shall, when requested to do so by the Council, provide it with such information as respects the worker as it may reasonably require in connection with the exercise of the functions assigned to it under this Act or any other enactment.”.