



Smoking, Health and Social Care (Scotland) Act 2005

2005 asp 13

PART 7

GENERAL

PROSPECTIVE

39 Ancillary provision

- (1) The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes, or in consequence, of this Act.
- (2) An order under this section may—
 - (a) make different provision for different purposes;
 - (b) modify any enactment, instrument or document.

40 Regulations or orders

- (1) Any power conferred by this Act on the Scottish Ministers to make orders or regulations—
 - (a) must be exercised by statutory instrument;
 - (b) may be exercised so as to make different provision for different purposes.
- (2) A statutory instrument containing an order or regulations made under this Act (except an order under section 43(3)) is, subject to subsection (3), subject to annulment in pursuance of a resolution of the Parliament.
- (3) A statutory instrument containing—
 - (a) regulations under section 3(3) [^{F1}, 4(2) or (8) or 4D(2)(a) or (4)(a)] or paragraph 2, 4(1), 5(2), 12 or 13 of schedule 1 or an order under section 9 or 33(4)(e);

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

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Smoking, Health and Social Care (Scotland) Act 2005. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) an order under section 39 containing provisions which add to, replace or omit any part of the text of an Act,
is not to be made unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament.

Textual Amendments

- F1** Words in s. 40(3)(a) substituted (2.3.2022 for specified purposes) by Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (asp 14), ss. 20(7), 36(2); S.S.I. 2022/43, reg. 2, sch.

41 Interpretation

In this Act—

- “the 1978 Act” means the National Health Service (Scotland) Act 1978 (c. 29);
“the 2001 Act” means the Regulation of Care (Scotland) Act 2001 (asp 8);
“council” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);
“prescribed” means prescribed by regulations made by the Scottish Ministers.

42 Minor and consequential amendments and repeals

- (1) Schedule 2 contains minor amendments and amendments consequential on the provisions of this Act.
- (2) The enactments specified in column 1 of schedule 3 are repealed to the extent specified in column 2.

Commencement Information

- I1** S. 42 in force for specified purposes at 6.8.2005
I2 S. 42(1)(2) in force at 17.10.2005 for specified purposes by S.S.I. 2005/492, art. 3(a), Sch. 1
I3 S. 42(1)(2) in force at 1.11.2005 for specified purposes by S.S.I. 2005/492, art. 3(b), Sch. 2
I4 S. 42(1) in force at 1.4.2006 for specified purposes by S.S.I. 2005/492, art. 3(e), Sch. 3
I5 S. 42(1)(2) in force at 2.7.2010 for specified purposes by S.S.I. 2010/185, art. 3(b), Sch. 2
I6 S. 42(2) in force at 1.4.2007 for specified purposes by S.S.I. 2007/218, art. 2, Sch.

43 Short title and commencement

- (1) This Act may be cited as the Smoking, Health and Social Care (Scotland) Act 2005.
- (2) Sections 33, 34, 41 and (in so far as it relates to paragraph 2(2) and (4) of schedule 2) 42 and paragraph 2(2) and (4) of schedule 2 come into force on the day after Royal Assent.
- (3) The remaining provisions of this Act, except this section and sections 39 and 40, come into force on such day as the Scottish Ministers may by order appoint, and an order under this section appointing a day for sections 1 to 10 or schedule 1 may specify the time in the day for the commencement of those provisions.
- (4) Different days may be appointed under subsection (3) for different purposes.

Status:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- sch. 1 para. 1(1A) inserted by [S.S.I. 2022/276 reg. 2\(b\)](#)