



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

2005 asp 13

## PART 6

### MISCELLANEOUS

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

#### **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
  - (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—

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*Status: This is the original version (as it was originally enacted).*

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- (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”.