



Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016

2016 asp 14

PART 3

ILL-TREATMENT AND WILFUL NEGLECT

Remedial orders and publicity orders

30 Power to order offence to be remedied or publicised

- (1) This section applies where a care provider is convicted by a court of an offence under section 27(1).
- (2) The court may, instead of or in addition to dealing with the care provider in any other way, make either or both of the following orders—
 - (a) a remedial order,
 - (b) a publicity order.
- (3) A “remedial order” is an order requiring the care provider to take specified steps to remedy one or more of the following—
 - (a) the breach mentioned in section 27(1)(b) (the “relevant breach”),
 - (b) any matter that appears to the court to have resulted from the relevant breach and to be connected with the ill-treatment or neglect,
 - (c) any deficiency in the care provider's policies, systems or practices of which the relevant breach appears to the court to be an indication.
- (4) A “publicity order” is an order requiring the care provider to publicise in a specified manner—
 - (a) the fact that the care provider has been convicted of the offence,
 - (b) specified particulars of the offence,
 - (c) the amount of any fine imposed,
 - (d) the terms of any remedial order made.
- (5) An order made under subsection (2) is to be taken to be a sentence for the purposes of an appeal.

Changes to legislation: There are currently no known outstanding effects for the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016, Cross Heading: Remedial orders and publicity orders. (See end of Document for details)

- (6) The court may make an order under subsection (2)—
 - (a) at its own instance, or
 - (b) on the motion of the prosecutor.
- (7) An order made under subsection (2) must specify a period (the “compliance period”) within which the requirements specified in the order must be complied with.
- (8) On an application by the care provider in respect of whom the order under subsection (2) was made, the court may—
 - (a) extend the compliance period,
 - (b) vary the steps specified in a remedial order.
- (9) An application under subsection (8) must be made before the end of the compliance period.
- (10) A care provider who fails to comply with an order made under subsection (2) commits an offence.
- (11) A care provider who commits an offence under subsection (10) is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum,
 - (b) on conviction on indictment, to a fine.

Commencement Information

II S. 30 in force at 1.10.2017 by [S.S.I. 2017/294](#), [reg. 2](#), [sch.](#)

31 Remedial and publicity orders: prosecutor's right of appeal

- (1) The Criminal Procedure (Scotland) Act 1995 is amended in accordance with this section.
- (2) In section 108 (Lord Advocate's right of appeal against disposal)—
 - (a) in subsection (1), after paragraph (cd) insert—
 - “(ce) a decision under section 30(2) of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 not to make a remedial order,
 - (cf) a decision under section 30(2) of that Act not to make a publicity order,”
 - (b) in subsection (2)(b)(ii), for the words “or (cd)” substitute “, (cd), (ce) or (cf)”.
- (3) In section 175 (right of appeal from summary proceedings)—
 - (a) in subsection (4), after paragraph (cd) insert—
 - “(ce) a decision under section 30(2) of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 not to make a remedial order,
 - (cf) a decision under section 30(2) of that Act not to make a publicity order,”
 - (b) in subsection (4A)(b)(ii), for “or (cd)” substitute “, (cd), (ce) or (cf)”.

Changes to legislation: There are currently no known outstanding effects for the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016, Cross Heading: Remedial orders and publicity orders. (See end of Document for details)

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Commencement Information

I2 S. 31 in force at 1.10.2017 by [S.S.I. 2017/294](#), reg. 2, **sch.**

Changes to legislation:

There are currently no known outstanding effects for the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016, Cross Heading: Remedial orders and publicity orders.