



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

2016 asp 14

## PART 3

### ILL-TREATMENT AND WILFUL NEGLECT

#### *Offences by care workers and care providers*

#### **27 Care provider offence**

- (1) A care provider commits an offence if—
- an individual who has the care of another individual by virtue of being part of the care provider's arrangements ill-treats or wilfully neglects that individual,
  - the care provider's activities are managed or organised in a way which amounts to a gross breach of a relevant duty of care owed by the care provider to the individual who is ill-treated or neglected, and
  - in the absence of the breach, the ill-treatment or wilful neglect would not have occurred or would have been less likely to occur.
- (2) An individual is “part of a care provider's arrangements” where the individual—
- is not the care provider, but
  - provides adult health care or adult social care as part of the adult health care or adult social care provided or arranged for by the care provider,
- including where the individual is not the care provider but supervises or manages individuals providing adult health care or adult social care as described in paragraph (b) or is a director or similar officer of an organisation which provides adult health care or adult social care as described there.
- (3) In this section—
- a “relevant duty of care” means a duty owed in connection with providing, or arranging for the provision of, adult health care or adult social care,
  - a breach of a relevant duty of care is a “gross” breach if the conduct alleged to amount to the breach falls far below what can reasonably be expected of the care provider in the circumstances.

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**Changes to legislation:** There are currently no known outstanding effects for the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016, Section 27. (See end of Document for details)

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- (4) A care provider who commits an offence under subsection (1) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum,
  - (b) on conviction on indictment, to a fine.

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**Commencement Information**

**II** S. 27 in force at 1.10.2017 by S.S.I. 2017/294, reg. 2, sch.

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