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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 492 (C. 25 )**

**PUBLIC HEALTH**

**The Smoking, Health and Social Care (Scotland)  
Act 2005 (Commencement No. 1) Order 2005**

*Made - - - - 4th October 2005*

The Scottish Ministers, in exercise of the powers conferred by section 43(3) of the Smoking, Health and Social Care (Scotland) Act 2005<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Order:

**Citation and interpretation**

1. This Order may be cited as the Smoking, Health and Social Care (Scotland) Act 2005 (Commencement No. 1) Order 2005.
2. In this Order “the Act” means the Smoking, Health and Social Care (Scotland) Act 2005.

**Appointed days**

3. The days appointed for the coming into force of the following provisions of the Act are:—
  - (a) 17th October 2005 for the provisions of the Act specified in column 1 of schedule 1 to this Order but, where a particular purpose is specified in column 3 of that Schedule in relation to that provision, that provision shall only come into force, for the purpose specified in that column;
  - (b) 1st November 2005 for the provisions of the Act specified in column 1 of schedule 2 to this Order but, where a particular purpose is specified in column 3 of that Schedule in relation to that provision, that provision shall only come into force, for the purpose specified in that column;
  - (c) 19th December 2005 for section 35;
  - (d) 26th March 2006 for sections 1 to 10 and Schedule 1, in so far as those provisions are not already in force, and those provisions shall come into force on 0600 hours on that day; and
  - (e) 1st April 2006 for the provisions of the Act specified in column 1 of schedule 2 to this Order but, where a particular purpose is specified in column 3 of that Schedule in relation to that provision, that provision shall only come into force, for the purpose specified in that column.

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St Andrew's House, Edinburgh  
4th October 2005

*ANDREW P KERR*  
A member of the Scottish Executive

## SCHEDULE 1

Article 3(a)

## Provisions of the Act coming into force on 17th October 2005

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 11		
Section 16		
Sections 28 to 32		
Section 36		
Section 37		
Section 42(1) and (2)	Minor and Consequential amendments and repeals	Only for the purposes of bringing into force the provisions of Schedule 2 and 3 to the Act specified in this Schedule.
Schedule 2, paragraphs 1 and 2(1)		
Schedule 3	Repeals	Only for the purposes of bringing into force the repeals specified in the table in this Schedule.

**TABLE**

## REPEALS

<i>Enactment</i>	<i>Extent of Repeals</i>
<a href="#">Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)</a>	In schedule 2, paragraph 4(3)(b) and (6)(b).

## SCHEDULE 2

Article 3(b)

## Provisions of the Act coming into force on 1st November 2005

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 3(3)		
Section 4(2), (3) and (7)		
Section 6		Only for the purposes of bringing into force the provisions of Schedule 1 to the Act specified in this Schedule.
Section 38		

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<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 42(1) and (2)		Only for the purposes of bringing into force the provisions of Schedules 2 and 3 to the Act specified in this Schedule.
Schedule 1 Paragraphs 2, 4(1), 5(2) and 12		Only for the purpose of enabling the Scottish Ministers to make regulations to come into force not earlier than 0600 hours on 26th March 2006
Schedule 2 Paragraph 2(19)(a) (iv)	Amendment of the definition of Scottish Hospitals Endowments Research Trust in the National Health Service (Scotland) Act 1978.	
Schedule 3	Repeals	Only for the purposes of bringing into force the repeals specified in the table in this Schedule.

## TABLE

### REPEALS

<i>Enactment</i>	<i>Extent of Repeals</i>
Public Finance and Accountability (Scotland) Act 2000 (asp 1)	In schedule 4, paragraph 4(2).
Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)	In schedule 3, the entry relating to the Scottish Hospital Endowments Research Trust.
Freedom of Information (Scotland) Act 2002 (asp 13)	In schedule 1, paragraph 43

## SCHEDULE 3

Article 3(e)

### Provisions of the Act coming into force on 1st April 2006

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 12		
Section 13		
Section 42(1)	Minor and Consequential amendments and repeals	Only for the purposes of bringing into force the

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<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject matter</i>	<i>Column 3</i> <i>Purpose</i>
Schedule 2 Paragraph 2(19)(a) (ii)	Amendment of the definition of general medical services contract in the National Health Service (Scotland) Act 1978.	provisions of Schedule 2 to the Act specified in this Schedule.

### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force the following provisions of the [Smoking, Health and Social Care \(Scotland\) Act 2005 \(asp 13\)](#) (“the Act”):-

- Article 3(a) appoints 17th October 2005 as the day for the coming into force of sections 11 (relating to vision screening), section 16 (relating to the provision of assistance and support to persons providing general dental services), section 28 (which makes provision for payments to certain persons infected with Hepatitis C as a result of NHS treatment etc), sections 29, 30, 31, and 32, (which make amendments to the Regulation of Care (Scotland) Act 2001), section 36 (which makes provision for appeals under the Public Health (Scotland) Act 1897, section 37 (which makes provision with relation to joint ventures) and section 42(1) and (2) (minor and consequential amendments and repeals) but only for the purpose of bringing into force the minor amendments in paragraphs 1 and 2(1) of schedule 2 of the Act and the repeal of the Mental Health (Care and Treatment) (Scotland) Act 2003 in schedule 3 of the Act.
- Article 3(b) appoints 1st November 2005 as the day for the coming into force of section 38, section 42(1) (so far as relating to paragraph 19(a)(iv) of schedule 2) and paragraph 2(19)(a) (iv) of schedule 2 (Scottish hospitals endowments research trust). Article 3(b) also appoints 1st November 2005 as the day for the coming into force of sections 3(3), 4(2), 4(3), 4(7) and 6 and paragraphs 2, 4(1), 5(2) and 12 of Schedule 1, but only for the purpose of enabling regulations to be made under those provisions (which relate to smoking, prohibition and control). Article 3(b) also appoints 1st November 2005 as the day for the coming into force of section 42(2) (minor and consequential repeals) but only for the purpose of bringing into force the repeal of the provisions of the Public Finance and Accountability (Scotland) Act 2000, the Ethical Standards in Public Life etc. (Scotland) Act 2000 and the Freedom of Information (Scotland) Act 2002 in schedule 3 of the Act.
- Article 3(c) appoints 19th December 2005 as the day for the coming into force of section 35 (amendment of Adults with Incapacity (Scotland) Act 2000: authorisation of medical treatment).
- Article 3(d) appoints 0600 hours on 26th March 2006 as the day and hour for the coming into force of sections 1 10 (in so far as not already in force) (which relate to smoking, prohibition and control) and schedule 1 (which relate to the fixed penalties for offences under sections 1, 2 and 3).

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- Article 3(e) appoints 1st April 2006 as the day for the coming into force of section 12 (free oral health assessments and dental examinations), section 13 (free eye examinations and sight tests) and section 42(1) (in so far as relating to schedule 2, paragraph 2(19)(a)(ii)) and schedule 2, paragraph 2(19)(a)(ii) (amendment of the definition of general medical services contract).