

SMOKING, HEALTH AND SOCIAL CARE (SCOTLAND) ACT 2005

EXPLANATORY NOTES

AMENDMENT OF REGULATION OF CARE (SCOTLAND) ACT 2001

Section 30 – Implementation of certain decisions under the 2001 Act

138. This section amends sections 16(2), 37(2), 48(2) and 51(1) of the 2001 Act.
139. The Care Commission has powers under Part 1 (the Care Commission and Care Services) and Part 2 (Local Authority Adoption and Fostering Services etc.) of the 2001 Act to issue a condition notice to service providers already registered and those applying to register as providers of care services (for example to require a care home provider to keep a door closed at all times to prevent residents from having access to a busy road). When such a notice is issued the 2001 Act allows a person receiving the notice to make representation to the Care Commission. Subsection (2) and (3) respectively amend section 16(2) and 37(2) of the 2001 Act to make further provision regarding representations. In particular it requires that where representations are made to the Care Commission about a notice given under either 16(2)(a) or 37(2)(a) these will be considered by the Care Commission before it decides whether or not to do the thing proposed in the notice.
140. The Scottish Social Services Council (the Council) has the power under section 46 of the 2001 Act to grant registration to a social service worker either unconditionally or give notice to the worker that registration will be granted subject to certain conditions (for example to require a worker to complete a specific training requirement within a specified period of time). Section 48 allows the person who has received notice to make representations to the Council. Subsection (4) amends section 48 to make further provision about representations. In particular it requires that where representations are made these will be considered by the Council in deciding whether or not to do the thing proposed.
141. Subsection (5) amends section 51 to ensure that there is a right of appeal against all decisions of the Council and not just an appeal against the implementation of a proposal.