

SMOKING, HEALTH AND SOCIAL CARE (SCOTLAND) ACT 2005

EXPLANATORY NOTES

CHILD CARE AGENCIES AND HOUSING SUPPORT SERVICES

Section 33 – Registration of child care agencies and housing support services

149. This section is concerned with persons providing certain child care agencies and housing support services on 1 April 2003 who were deemed to have their service registered with the Care Commission until 30 September 2003. Where a provider did not make an application to the Care Commission for registration before 1 October 2003 or did not have their application granted by 1 April 2004 their deemed registration lapsed and continuation of the service was unlawful. The effect of this provision is that where such a person applied for registration by 30 September 2004, they are to be treated as if their deemed registration had not lapsed and, subject to the earlier occurrence of certain events, they are deemed to be registered until 1 April 2006. It also provides that, where, before 1 April 2006, the application for registration is granted or refused, registration is cancelled, or if the provider ceases providing the service, the deemed registration ceases on the date that happens.
150. Subsection (1) provides that subsections (2) to (4) apply where:
- from 1 April 2003, a person was providing a housing support service or a previously unregulated child care agency which was deemed to be registered with the Care Commission under Part 1 of the 2001 Act by virtue of transitional provisions contained in subordinate legislation;
 - that deemed registration lapsed, either on 1 October 2003 because the provider had not submitted an application for registration before that date, or on 1 April 2004 because registration had not been granted; and
 - the provider continued to provide the service when it was no longer deemed registered.
151. Subsection (2) provides that, where the circumstances described in subsection (3) apply, such a service is to be treated as if it was registered, from the date deemed registration ran out and for the period during which the service continued to be provided until one of the events in subsection (4) occurs.
152. Subsection (3) provides that the circumstances referred to in subsection (2) are where an application for registration has been made before 30 September 2004 or no such application was made before that date and the person ceased providing the service before then.
153. Subsection (4) provides that the service ceases to be treated as if it were registered on the earliest of the following events:
- the date that the Commission refuses an application where no appeal is made under section 20(1) of the 2001 Act;

*These notes relate to the Smoking, Health and Social Care (Scotland)
Act 2005 (asp 13) which received Royal Assent on 5 August 2005*

- the date that the sheriff confirms the Commission's decision after a timeous appeal has been made;
- where an appeal is made under section 20(1) but is later abandoned, the date on which that is intimated to the sheriff clerk or, where there is no intimation, the date on which it is deemed by the Sheriff to be abandoned;
- the date the Care Commission decides (other than in the case of an application from the provider) to cancel the registration effected by subsection (2);
- where there is no appeal under section 17(3) of the 2001 Act from the provider against the Care Commission's decision to cancel the registration effected by subsection (2), the fifteenth day after the day the Care Commission gave notice of that intention;
- where there is such appeal and the sheriff decides to grant it, the day the sheriff decides to do so;
- the day the sheriff grants an application by the Care Commission under section 18 of the 2001 Act for cancellation of registration;
- where an appeal under section 17(3) is made and later abandoned, the date on which that is intimated to the sheriff clerk or, where there is no intimation, the date on which it is deemed by the court to be abandoned.
- the day the person ceases to provide the service; or
- 1 April 2006 – unless this date has been changed to a later one in an order made by Scottish Ministers.