



Smoking, Health and Social Care (Scotland) Act 2005

2005 asp 13

PART 6

MISCELLANEOUS

Child care agencies and housing support services

33 Registration of child care agencies and housing support services

- (1) Subsections (2) to (4) apply where—
- (a) on 1st April 2003 a person was providing a care service to which the 2003 Order applies;
 - (b) the service—
 - (i) was, by virtue of article 3(1) of the 2003 Order, treated as if it were registered on that date; and
 - (ii) by virtue of article 3(2) of that Order, ceased on 1st October 2003 or on 1st April 2004 to be treated as if it were registered; and
 - (c) the person continued (or continues) to provide the service after it ceased to be so treated as if it were registered at any time during which it was not registered.
- (2) If any of the circumstances mentioned in subsection (3) apply, the service is, subject to subsection (4), to be treated for all purposes as if it were registered—
- (a) on 1st October 2003 or, as the case may be, 1st April 2004; and
 - (b) for the period during which there was (or is) a continuation of service as mentioned in subsection (1)(c).
- (3) The circumstances are—
- (a) that an application for registration of the service was made by the person before 30th September 2004;
 - (b) that—
 - (i) no application for registration of the service was made by the person before that date; and
 - (ii) the person ceased to provide the service before that date.

Changes to legislation: There are currently no known outstanding effects for the Smoking, Health and Social Care (Scotland) Act 2005, Section 33. (See end of Document for details)

- (4) The service ceases to be so treated as registered by virtue of subsection (2) on whichever of the following first occurs—
- (a) where the Commission decides to refuse the application and—
 - (i) no appeal is made under section 20(1) of the 2001 Act against the decision, the fifteenth day after the day on which notice of the decision is given under section 17(3) of that Act;
 - (ii) such an appeal is made timeously and the sheriff confirms the decision, the day on which the sheriff does so;
 - (iii) such an appeal is made timeously but is abandoned, the day on which abandonment of the appeal is intimated to the sheriff clerk or if abandonment is not so intimated the day on which the sheriff deems the appeal to have been abandoned;
 - (b) where the Commission decides (other than in accordance with an application under section 14(1)(b) of the 2001 Act) to cancel the registration of the service effected by virtue of subsection (2) and—
 - (i) no appeal is made under section 20(1) of the 2001 Act against the decision, the fifteenth day after the day on which notice of the decision is given under section 17(3) of that Act;
 - (ii) such an appeal is made timeously and the sheriff confirms the decision, the day on which the sheriff does so;
 - (iii) such an appeal is made timeously but is abandoned, the day on which abandonment of the appeal is intimated to the sheriff clerk or if abandonment is not so intimated the day on which the sheriff deems the appeal to have been abandoned;
 - (c) where the sheriff grants an application by the Commission under section 18 of that Act for cancellation of the registration of the service, the day on which the sheriff does so;
 - (d) the day on which the person ceases to provide the service;
 - (e) 1st April 2006 or such later day as may be substituted for it by order made by the Scottish Ministers.
- (5) In this section—
- “the 2003 Order” means the Regulation of Care (Scotland) Act 2001 (Commencement No. 3 and Transitional Provisions) Order 2003 (SSI 2003 No. 205 (C.9));
 - “the Commission” means the Scottish Commission for the Regulation of Care;
 - “registered” means registered under Part 1 of the 2001 Act; and references to “registration” are to be construed accordingly.

Changes to legislation:

There are currently no known outstanding effects for the Smoking, Health and Social Care (Scotland) Act 2005, Section 33.