

# **SMOKING, HEALTH AND SOCIAL CARE (SCOTLAND) ACT 2005**

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## **EXPLANATORY NOTES**

### **SCOTTISH HOSPITAL ENDOWMENTS RESEARCH TRUST**

#### **Part 7: General**

##### ***Section 39 – Ancillary provisions***

190. This section enables the Scottish Ministers to make further provision, by order, which is incidental to or consequent on the Act and to allow transitional or savings provisions as required in implementing the Act's provisions.

##### ***Section 40 – Regulations or orders***

191. This section provides that powers to make orders or regulations in the Act shall be exercisable by statutory instrument. Subsection (2) provides that except where otherwise provided, the statutory instruments containing such orders or regulations shall be subject to negative procedure in the Scottish Parliament. Subsection (3) provides that the following orders or regulations shall be the subject of affirmative resolution:
- (a) regulations under sections 3(3) or 4(2) or (8) or paragraph 2, 4(1), 5(2), 12 or 13 of Schedule 1;
  - (b) an order under section 9(1) or 33(4)(e); and
  - (c) an order under section 39 which contains provisions which alter the text of an Act.

##### ***Section 41 – Interpretation***

192. This section defines terms used throughout the Act and is self-explanatory.

##### ***Section 42 – Minor and consequential amendments and repeals***

193. **Section 42** introduces schedule 2 (which makes minor and consequential amendments) and schedule 3 (which contains consequential repeals).

##### ***Section 43 – Short title and commencement***

194. This section provides for the short title of the Act. Further, the section allows the Scottish Ministers to bring the provisions of the Act into force by order, except for sections 33, 34, 41 and (insofar as it relates to paragraph 2(2) and (4) of schedule 2) 42 and in schedule 2 paragraphs 2(2) and (4) which will come into force on the day after Royal Assent, and sections 39, 40 and 43 which will come into force on Royal Assent. Different days may be appointed in the order for different provisions.
195. Subsection (3) provides that any order made which appoints a day for the commencement of sections 1 to 10 or schedule 1 (the prohibition and control of smoking provisions) may also specify a time of day .