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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 121 (C. 14)**

**NATIONAL HEALTH SERVICE**

**The Smoking, Health and Social Care (Scotland)  
Act 2005 (Commencement No. 4) Order 2006**

*Made - - - - 6th March 2006*

The Scottish Ministers, in exercise of the powers conferred by sections 40(1) and 43(3) and (4) of the Smoking, Health and Social Care (Scotland) Act 2005<sup>(1)</sup>, 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. 4) Order 2006.

2. In this Order—

“the Act” means the Smoking, Health and Social Care (Scotland) Act 2005; and

“the 1978 Act” means the National Health Service (Scotland) Act 1978<sup>(2)</sup>.

**Appointed days**

3. The days appointed for the coming into force of the following provisions of the Act are:—

(a) 7th March 2006 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; and

(b) 1st April 2006 for the provisions of the Act specified in column 1 of Schedule 2 to this Order, in so far as those provisions are not already in force, 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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(1) 2005 asp 13.  
(2) 1978 c. 29.

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St Andrew's House,  
Edinburgh  
6th March 2006

*LEWIS MACDONALD*  
A member of the Scottish Executive

## SCHEDULE 1

Article 3(a)

## Provisions of the Act coming into force on 7th March 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	Free oral health assessments and dental examinations	Only for the purpose of enabling the Scottish Ministers to make regulations under sections 70A(1) and 71 of the 1978 Act and section 20 of the National Health Service (Primary Care) Act 1997(3) to come into force not earlier than 1st April 2006.
Section 13	Free eye examinations and sight tests	Only for the purpose of enabling the Scottish Ministers to make regulations under sections 26 and 70 of the 1978 Act to come into force not earlier than 1st April 2006.
Section 19	Lists of persons undertaking to provide or approved to assist in the provision of general ophthalmic services	Only for the purpose of enabling the Scottish Ministers to make regulations under section 26(2), (2A) and (2B) of the 1978 Act to come into force not earlier than 1st April 2006.
Section 26	Disqualification by the NHS Tribunal	Only for the purpose of enabling the Scottish Ministers to make regulations under section 29(4)(b), 29A(5), 32 and 32A of the 1978 Act to come into force not earlier than 1st April 2006.
Section 27	Corresponding provision in England, Wales and Northern Ireland	Only for the purpose of enabling the Scottish Ministers to make regulations under section 32D(3) of the 1978 Act to come into force not earlier than 1st April 2006.

(3) 1997 c. 46.

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## SCHEDULE 2

Article 3(b)

## 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 19	Lists of persons undertaking to provide or approved to assist in the provision of general ophthalmic services	
Section 26(1), (2)(a), (b), (c) (i), (d), (e)(i) and (f), (3)(a), (d) and (e), (4)(a) and (c), (5)(a), (6) and (7)(b)(ii) and (c)	Disqualification by the NHS Tribunal	
Section 26(2)(c)(ii)		Only for the purpose of substituting in section 29(6) of the 1978 Act for the words from “list”, where it second occurs, to the end, the words “list – (a) in relation to a list referred to in subsection (8) (a), perform; and (b) in relation to the list referred to in subsection (8)(d), undertake to provide or are approved to assist in providing”.
Section 26(2)(e)(ii)		Only for the purpose of substituting in section 29(8) of the 1978 Act for paragraphs (c) to (e) the new paragraph (d).
Section 26(3)(c)		Only for the purpose of applying in relation to the list referred to in section 29(8)(d) of the 1978 Act.
Section 26(4)(b)		Only for the purpose of substituting for section 29B(2) of the 1978 Act the new subsection (2)(a) and (b).
Section 26(7)(d)		Only for the purpose of inserting section 26(7) of the 1978 Act enabling regulations to be made as regards section 26(2) of that Act.
Section 27	Corresponding provision in England, Wales and Northern Ireland	

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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(5), (10) to (14) and (20)	Minor and consequential Amendments	
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 repeal</i>
National Health Service (Scotland) Act 1978 (c. 29)	<p>In section 29A, in subsection (5), the words “(including provision modifying the effect of this Part)”.</p> <p>Section 29B(3).</p> <p>In section 29B(4), the words “or declaration”.</p> <p>In section 30(2), in paragraph (a) the words from “or” to the end of the paragraph, and the words from “, and, on a review” to the end of the subsection.</p> <p>Section 30(4).</p> <p>In section 30(5), the words from “and” to the end.</p> <p>Section 30(6) and (7)(b) and (c) and the word “or” immediately preceding paragraph (b).</p> <p>Section 31.</p> <p>In section 32A, in subsection (3) paragraph (c) and the word “and” immediately preceding that paragraph and in subsection (6) paragraph (b) and the word “, and” immediately preceding that paragraph.</p> <p>In section 32B, in each of subsections (1) and (2)(a) the word “national” and subsection (3).</p>
Health and Social Security Act 1984 (c. 48)	In Schedule 1, in Part II, paragraphs 2, 3 and 4.
Health Act 1999 (c. 8)	<p>Section 56(3) and (4).</p> <p>In Schedule 4, paragraphs 49, 51(d) and (g), 52(c) and 53.</p> <p>In Schedule 5, in the entry concerning section 32A of the 1978 Act, the words “and, in subsection (6)(a), “prepared under this Part of this Act””.</p>

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<i>Enactment</i>	<i>Extent of repeal</i>
Community Care and Health (Scotland) Act 2002 (asp 5)	In schedule 2, paragraphs 2(6)(c), (7), (8), (9) (b), (10)(b) and (11).
Primary Medical Services (Scotland) Act 2004 (asp 1)	Section 5(3)(a).  In the schedule, paragraph (11)(a) and (13).

### EXPLANATORY NOTE

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

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

Article 3(a) appoints 7th March 2006 as the day for the coming into force of sections 12 (free oral health assessments and dental examinations), 13 (free eye examinations and sight tests), 19 (lists of persons undertaking to provide or approved to assist in the provision of general ophthalmic services), 26 (disqualification by the NHS Tribunal) and 27 (corresponding provision in England, Wales and Northern Ireland) of the Act, but only for the purpose of making regulations under the National Health Service (Scotland) Act 1978 (“the 1978 Act”).

Article 3(b) appoints 1st April 2006 as the day for the coming into force of sections 19, (lists of persons undertaking to provide or approved to assist in the provision of general ophthalmic services), 26(1), (2)(a), (b), (c)(i), (d), (e)(i) and (f), (3)(a), (d) and (e), (4)(a) and (c), (5)(a), (6) and (7)(b) (ii) and (c) (disqualification by the NHS Tribunal) and 27 (corresponding provision in England, Wales and Northern Ireland) of, and schedule 2, paragraphs 2(5), (10) to (14) and (20) (minor and consequential amendments) to, the Act.

Article 3(b) also appoints 1st April 2006 as the day for the coming into force of section 26(2)(c) (ii) and (e)(ii), (4)(b) and (7)(d) but only for the purposes specified in column 3 of Schedule 2. The purposes specified in column 3 of Schedule 2 relate to the amendments made by section 19 of the Act to section 26(2) of the 1978 Act relating to the lists to be prepared and maintained by Health Boards of persons undertaking to provide or approved to assist in the provision of general ophthalmic services.

Article 3(b) also brings into force on 1st April 2006 the repeals specified in the table to Schedule 2.

### NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

The following provisions of the Act have been brought into force by commencement order made before the date of this Order:–

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 11, 16, 28 to 32, 36 and 37	17th October 2005	2005/492

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 42(1) and (2) (partially)	17th October 2005	
Paragraphs 1 and 2(1) of schedule 2	17th October 2005	
Schedule 3 (partially)	17th October 2005	
Sections 3(3) and 4(2), (3) and (7)	1st November 2005	<a href="#">2005/492</a>
Section 6 (partially)	1st November 2005	
Section 38	1st November 2005	
Section 42(1) and (2) (partially)	1st November 2005	
Paragraphs 2, 4(1), 5(2) and 12 of schedule 1 (partially)	1st November 2005	
Paragraph 2(19)(a)(iv) of schedule 2	1st November 2005	
Schedule 3 (partially)	1st November 2005	
Section 4(6), (8) and (9)	16th December 2005	<a href="#">2005/642</a>
Section 35	19th December 2005	<a href="#">2005/492</a>
Section 4 (partially)	7th February 2006	<a href="#">2006/47</a>

Sections 1 to 10 of, and schedule 1 to, the Act will be brought into force by [S.S.I. 2005/492](#), in so far as not already in force, at 0600 hours on 26th March 2006. That Order also brings into force sections 12, 13 and 42(1) (partially) of, and paragraph 2(19)(a)(ii) of schedule 2 to, the Act on 1st April 2006.