

Status: Point in time view as at 02/07/2010. This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Smoking, Health and Social Care (Scotland) Act 2005, SCHEDULE 2. (See end of Document for details)

SCHEDULE 2 **S**

(introduced by section 42(1))

MINOR AND CONSEQUENTIAL AMENDMENTS

Public Health (Scotland) Act 1897 (c. 38)

F11

Textual Amendments

F1 Sch. 2 para. 1 repealed (1.10.2009) by Public Health etc. (Scotland) Act 2008 (asp 5), s. 128(2), Sch. 3 Pt. 1 (with s. 127); S.S.I. 2009/319, art. 2(a), Sch. 1

Commencement Information

I1 Sch. 2 para. 1 in force at 17.10.2005 by S.S.I. 2005/492, art. 3(a), Sch. 1

National Health Service (Scotland) Act 1978 (c. 29)

- 2 (1) The 1978 Act is amended as follows.
- (2) In section 2(1) (Health Boards and Special Health Boards), in each of paragraphs (a) and (b), for the words “under this Act” substitute “relating to the health service”.
- (3) In section 4 (Scottish Dental Practice Board)—
- (a) in subsection (1A)—
- (i) in paragraph (a), for the words from the second “to” to “he” substitute “or body corporate entitled, by virtue of section 43 of the Dentists Act 1984 (c. 24), to carry on the business of dentistry to submit to the Board, in relation to treatment which he, or as the case may be, it”;
- (ii) in paragraph (b), after the words “a dental practitioner” insert “or such a body corporate”;
- (b) in subsection (1B), after the words “dental practitioner” insert “or body corporate”.
- (4) In section 10(3) (Common Services Agency), for the words “under this Act” substitute “relating to the health service”.
- (5) In section 17AA(3) (meaning of “ophthalmic list” for purpose of section), in the definition of “ophthalmic list”—
- (a) for the words from “a list” to the end of paragraph (a) substitute “—
- (a) in relation to a list published in accordance with regulations made under paragraph (a) of section 26(2) of this Act, the first part of the list which is referred to in sub-paragraph (i) of that paragraph;”;
- (b) at the beginning of each of paragraphs (b) and (c) insert “a list published in accordance with regulations made under”.
- (6) In section 17C(2A)(b)(ii) (other Part 1 services which may be included in arrangements for the provision of personal dental services), after the word “Part” insert “(but not pharmaceutical care services).”.

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- (7) In section 17D (persons with whom agreements may be made)—
- (a) in subsection (1)(b)(vi), for the words “an individual” substitute “a person”;
 - (b) in subsection (2)—
 - (i) in paragraph (b)(v) of the definition of “NHS employee”, for the words “an individual” substitute “a person”;
 - (ii) in paragraph (c)(i) of that definition, for the words from the beginning to “or” substitute “a dental practitioner or body corporate whose name is included in the first part of a list prepared under section 25(2) of this Act or in a list prepared under ”;
 - (iii) in paragraph (c)(ii) of that definition, after the word “who” insert “, or body corporate which, ”;
 - (iv) in paragraph (b) of the definition of “qualifying body”, for the words “which, in accordance with the provisions of Part IV of the Dentists Act 1984, is entitled to carry on the business of dentistry” substitute “entitled, by virtue of section 43 of the Dentists Act 1984 (c. 24), to carry on the business of dentistry ”;
 - (v) in the definition of “section 17C employee”, for the words from “by” to the end substitute “by a person providing services in accordance with the arrangements ”.
- (8) In section 28A(1) (remuneration for provision of Part II services), for the words “, general ophthalmic services or pharmaceutical services” substitute “ or general ophthalmic services ”.
- (9) In section 28C(3) (indemnity cover)—
- (a) in the definition of “list”, for the words from “has” to the end substitute “means—
 - (a) the first part of a list prepared under section 25(2);
 - (b) the first part of a list prepared under section 26(2);”;
 - (b) in the definition of “Part II services”, for the words “general dental services, general ophthalmic services or pharmaceutical services” substitute “ general dental services or general ophthalmic services ”.
- (10) In section 29(8A) (meaning of health care professional in section 29(8)(a)), for the words “17D” substitute “ 17P ”.
- (11) In section 30(1) (review etc. of disqualification), for the words “any disqualification, conditional disqualification or declaration of unfitness” substitute “ a disqualification or conditional disqualification ”.
- (12) In section 32(1)(a) (regulations as to sections 29 and 31), for the words “31” substitute “ 30 ”.
- (13) In section 32A(3) (interim suspension), after paragraph (a) insert “ and ”.
- (14) In section 32E(1) (payments in consequence of suspension), for the words “32D(2)” substitute “ 32D(3) ”.
- (15) In section 33 (powers of Scottish Ministers where services are inadequate), for the words from “any list” to the end of paragraph (d) substitute “—
- (a) the first part of any list prepared under section 25(2), being the part which is of dental practitioners and bodies corporate referred to in section 25(1) who undertake to provide general dental services;

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- (b) the first part of any list prepared under section 26(2), being the part which is of medical practitioners and ophthalmic opticians who undertake to provide general ophthalmic services.”
- (16) In section 64(5) (permission for use of facilities in private practice), in paragraph (b), after the word “provide” insert “ dental, ”.
- (17) In section 85AA (means of meeting expenditure of Health Boards out of public funds)—
- (a) in subsection (2)(b), for the words “paragraphs (b) to (e)” substitute “ paragraph (b) ”;
- (b) in subsection (4)—
- (i) in paragraph (a)(ii), for the words “paragraphs (b) or (c)” substitute “ paragraph (b) ”;
- (ii) paragraphs (c) and (e) are repealed;
- (c) in subsection (5), for the words “paragraphs (b) to (e)” substitute “ paragraph (b) ”.
- (18) In section 85AB (further provision as to expenditure on drugs)—
- (a) in subsection (6), for the words “pharmaceutical services” substitute “ pharmaceutical care services ”;
- (b) after that subsection insert—
- “(7) In this section, “drugs” includes—
- (a) medicines; and
- (b) appliances included in a list specified in directions given under regulations made under section 2CA(5).”.
- (19) In section 108 (interpretation)—
- (a) in subsection (1)—
- (i) after the definition of “dispensing optician”, insert—
- ““Drug Tariff” means the Drug Tariff required to be prepared, maintained and published by the Scottish Ministers under section 17W of this Act;”;
- (ii) after the definition of “general medical services contract”, insert—
- ““general ophthalmic services” is to be construed in accordance with section 26(1F);”;
- (iii) after the definition of “personal dental services”, insert—
- ““pharmaceutical care services” is to be construed in accordance with section 2CA(5);
- “pharmaceutical care services contract” has the meaning given by section 17Q(2);”;
- (iv) for the definition of “the Research Trust”, substitute—
- ““the Research Trust” means the Scottish Hospital Endowments Research Trust constituted under subsection (1) of section 12 of this Act (before the repeal of that subsection by section 38(2)(a) of the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13);”;
- (b) after that subsection, insert—

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“(1A) References in this Act to “carrying on the business of dentistry” are to be construed in accordance with section 40 of the Dentists Act 1984 (c. 24).”.

(20) In Schedule 8, in paragraph 8(2)(b), for the words “disqualification, conditional disqualification or declaration of unfitness” substitute “ disqualification or conditional disqualification ”.

Commencement Information

- I2** Sch. 2 para. 2(2)(4) in force at 6.8.2005
- I3** Sch. 2 para. 2(1) in force at 17.10.2005 by [S.S.I. 2005/492](#), art. 3(a), **Sch. 1**
- I4** [Sch. 2 para. 2\(3\)\(16\)\(19\)\(b\)](#) in force at 2.7.2010 by [S.S.I. 2010/185](#), art. 3(b), **Sch. 2**
- I5** [Sch. 2 para. 2\(5\)](#)[Sch. 2 para. 2\(10\)-\(14\)\(20\)](#) in force at 1.4.2006 by [S.S.I. 2006/121](#), art. 3(b), **Sch. 2**
- I6** [Sch. 2 para. 2\(15\)](#) in force at 2.7.2010 for specified purposes by [S.S.I. 2010/185](#), art. 3(b), **Sch. 2**
- I7** [Sch. 2 para. 2\(19\)\(a\)\(ii\)](#) in force at 1.4.2006 by [S.S.I. 2005/492](#), art. 3(e), **Sch. 3**
- I8** [Sch. 2 para. 2\(19\)\(a\)\(iv\)](#) in force at 1.11.2005 by [S.S.I. 2005/492](#), art. 3(b), **Sch. 2**

Health and Medicines Act 1988 (c. 49)

- 3 In section 17 of the Health and Medicines Act 1988—
- (a) in subsection (1)—
 - (i) for the words “17P, 25(2), 26(2) or 27(2)” substitute “ 17F, 17P, 17X, 25(2) or 26(2) ”;
 - (ii) after the words “1978” insert “(referred to in this section as “the 1978 Act”)”;
 - (iii) in paragraph (a), for the words from “or” to the end, substitute “or—
 - (i) in relation to section 17F of the 1978 Act, personal dental services;
 - (ii) in relation to section 17P of that Act, primary medical services;
 - (iii) in relation to section 17X of that Act, pharmaceutical care services”;
 - (b) in subsection (2)(a)(ii), for the words from “or,” to the end substitute “ or, with any requirements placed on him by regulations made under section 17F, 17P, 17X, 25(2) or, as the case may be, 26(2) of the 1978 Act ”;
 - (c) in subsection (2)(b)—
 - (i) after the words “dental practitioner” insert “ or body corporate entitled, by virtue of section 43 of the Dentists Act 1984 (c. 24), to carry on the business of dentistry ”;
 - (ii) after the word “his” insert “ or its ”.

Commencement Information

- I9** [Sch. 2 para. 3\(c\)](#) in force at 2.7.2010 by [S.S.I. 2010/185](#), art. 3(b), **Sch. 2**

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PROSPECTIVE

National Health Service (Primary Care) Act 1997 (c. 46)

- 4 (1) The National Health Service (Primary Care) Act 1997 is amended as follows.
- (2) In section 1 (pilot schemes)—
- (a) in subsection (3)(b), after the word “services” insert “ nor pharmaceutical care services ”;
 - (b) in subsection (8), at end insert “;
“pharmaceutical care services” has the same meaning as for the purposes of Part 1 of the 1978 Act.”.
- (3) In section 3(3) (persons with whom pilot schemes for personal dental services may be made)—
- (a) in paragraph (b) of the definition of “dental list”—
 - (i) after the word “Scotland,” insert “ the first part of ”;
 - (ii) for the words “section 25(2)(a)” insert “ section 25(2) ”;
 - (b) in the definition of “NHS employee”—
 - (i) in paragraph (b), after the words “dental practitioner” insert “ or body corporate ”;
 - (ii) in paragraph (c), after the word “who” insert “ , or body corporate which, ”.
- (4) In section 17(5) (the Dental Practice Boards)—
- (a) after the words “dental practitioner” insert “ or body corporate ”;
 - (b) after the word “he” insert “ or it ”.

PROSPECTIVE

Police Act 1997 (c. 50)

- 5 In section 115 of the Police Act 1997 (enhanced criminal record certificates)—
- (a) in subsection (6C) (as inserted by section 70(3)(c) of the Criminal Justice (Scotland) Act 2003 (asp 7))—
 - (i) for paragraph (b) substitute—
 - “(b) dental practitioners or bodies corporate undertaking to provide, and persons approved to assist in providing, general dental services;”;
 - (ii) in paragraph (c), after the word “provide” insert “ , and persons approved to assist in providing, ”;
 - (iii) paragraph (d) is repealed;
 - (b) in subsection (6D)(a) (as inserted by the said section 70(3)(c)), for the words “(c) or (d)” substitute “ (b) or (c) ”;
 - (c) in subsection (6E) (as inserted by the said section 70(3)(c)), for the words “section 17P of the National Health Service (Scotland) Act 1978 (persons performing primary medical services)” substitute “ section 17F (persons performing personal dental services), 17P (persons performing

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primary medical services) or 17X (persons performing pharmaceutical care services) of the National Health Service (Scotland) Act 1978 ”.

PROSPECTIVE

The Scottish Public Services Ombudsman Act 2002 (asp 11)

6 In paragraph 14 of schedule 4 to the Scottish Public Services Ombudsman Act 2002, for the words “17P, 25(2), 26(2) or 27(2)” substitute “ 17F, 17P, 17X, 25(2) or 26(2) ”.

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