

*These notes relate to the Health (Tobacco, Nicotine etc. and Care)
(Scotland) Act 2016 (asp 14) which received Royal Assent on 06 April 2016*

HEALTH (TOBACCO, NICOTINE ETC. AND CARE) (SCOTLAND) ACT 2016

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 1 – Tobacco, Nicotine Vapour Products and Smoking

Chapter 3 – Smoking Outside Hospitals

Interpretation

Section 25 – Interpretation of Part 2

94. **Section 25(1)** defines certain terms used in Part 2.
95. “Care service” is defined by reference to section 47(1) of the Public Services Reform (Scotland) Act 2010 (“the PSR Act”) and covers the following: support services, care home services, school care accommodation services, nurse agencies, child care agencies, secure accommodation services, offender accommodation services, adoption services, fostering services, adult placement services, day care of children and housing support services. Each of those services is further defined in Schedule 12 to the PSR Act.
96. “Health service” is defined to cover services under the national health service continued under section 1 of the National Health Service (Scotland) Act 1978 and also independent health care services. Independent health care services are independent hospitals, private psychiatric hospitals, independent clinics, independent medical agencies and independent ambulance services (section 10F(1) of the 1978 Act).
97. “Social work service” is defined by reference to section 48 of the PSR Act. Section 48 defines such services by reference to local authority social work services functions (whether the services are provided by the local authority or by other persons that the local authority has entered into an arrangement with). Social work services functions are then listed in schedule 13 to the PSR Act which lists a range of statutory functions.
98. “Registered health professional” is defined by reference to section 60(2) of the Health Act 1999. Section 60(2) covers professions regulated under various enactments and also professions that might be regulated in the future by an Order in Council made using the powers in section 60. Those professions are: doctors, dentists, professions complementary to dentistry, optometrists, dispensing opticians, osteopaths, chiropractors, pharmacists, pharmacy technicians, nurses, midwives, arts therapists, biomedical scientists, chiropodists, podiatrists, dietitians, hearing aid dispensers, occupational therapists, operating department practitioners, orthoptists, paramedics, physiotherapists, practitioner psychologists, prosthetists, orthotists, radiographers, speech and language therapists.
99. “Provide” is defined for a health service, a care service, or a social work service as meaning to carry on or manage such a service. The term “provide” in relation to such

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services is already defined in other legislation in a similar way (see, for example, section 105 of the PSR Act). The definition makes clear that the term operates in the same way here.

100. Subsection (2) provides the Scottish Ministers with the power to make regulations to amend the definition of “responsible person” in subsection (1). Under section 32(2), any such regulations would be subject to the affirmative procedure.