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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 95**

**PUBLIC HEALTH**

**The Smoking, Health and Social Care (Scotland)  
Act 2005 (Consequential Amendments) Order 2006**

*Made - - - - 3rd March 2006*  
*Laid before the Scottish*  
*Parliament - - - - 3rd March 2006*  
*Coming into force in accordance with article 1*

The Scottish Ministers, in exercise of the powers conferred by section 39 of the Smoking, Health and Social Care (Scotland) Act 2005<sup>(1)</sup> and of all other powers enabling them in that behalf, hereby make the following Order:

**Citation and commencement**

1. This Order may be cited as the Smoking, Health and Social Care (Scotland) Act 2005 (Consequential Amendments) Order 2006 and shall come into force at 0600 hours on 26th March 2006.

**Consequential Amendments**

2.—(1) The Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984<sup>(2)</sup> shall be amended as follows.

(2) In paragraph (b) of the proviso to regulation 6<sup>(3)</sup>, after “regulation 12(1)(b)” insert “or (bb)”.

(3) In regulation 12(1), after sub-paragraph (b) insert—

“(bb) advertisements required to be displayed by or under section 3 of the [Smoking, Health and Social Care \(Scotland\) Act 2005 \(asp 13\)](#)”.

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(1) 2005 asp 13 (“the 2005 Act”).

(2) S.I.1984/467; the relevant amending instruments are S.I. 1992/1763 and S.S.I. 2003/503, Schedule 1, paragraph 17.

(3) Regulation 6 was amended by the Title Conditions (Scotland) Act 2003 (Consequential Provisions) Order 2003 (S.S.I. 2003/503), Schedule 1, paragraph 17.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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St Andrew's House,  
Edinburgh  
3rd March 2006

*ANDREW P KERR*  
A member of the Scottish Executive

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## EXPLANATORY NOTE

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

This Order makes amendments to the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984 (“the 1984 Regulations”) in consequence of the Smoking, Health and Social Care (Scotland) Act 2005 (“the 2005 Act”). The amendments will come into force at 0600 on 26th March 2006, which is the date that Part 1 of the 2005 Act and the regulations made thereunder (the Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006, [S.S.I. 2006/90](#) (“the 2006 Regulations”)) will come into force, so far as not already in force.

Section 3(1) of the 2005 Act creates an offence if notices (“no-smoking notices”) are not displayed by the person having the management or control of the no-smoking premises in accordance with that section. Section 3(3) of the 2006 Act enables Scottish Ministers, by regulations, to provide further as to the manner of display, form and content of the no-smoking notices and that any such provision is to be treated for the purposes of section 3(1) as if incorporated in it. Regulation 2 of the 2006 Regulations makes such further provision in relation to the display of no-smoking notices.

The 1984 Regulations provide for the control by planning authorities of the display of advertisements, with regulation 12 providing for deemed consent for the display of certain advertisements. Article 2(3) of this order will amend regulation 12(1) to provide for deemed consent for the display of no-smoking notices. Article 2(2) then disapplies the fourth standard condition (requirement to obtain the permission of the owner of land prior to displaying an advertisement on land) set out in Schedule 1 to the 1984 Regulations by amending the proviso to regulation 6 of the 1984 Regulations.