



Mental Health (Care and Treatment) (Scotland) Act 2003

2003 asp 13

PART 18

MISCELLANEOUS

Research

279 Information for research

- (1) A person having functions by virtue of this Act shall, on being required to do so by the Scottish Ministers—
 - (a) provide them or any other person specified in the requirement with such relevant information as is so specified; and
 - (b) do so in any such form as may be so specified.
- (2) The Scottish Ministers may, under subsection (1) above, require the provision of relevant information only if, in their opinion, it is needed by them (or, as the case may be, the other person specified in the requirement) for [^{F1}purposes mentioned in Article 89(1) of the [^{F2}UK GDPR] (archiving in the public interest, scientific or historical research and statistics)].
- (3) Information need not be provided under this section if, were it evidence which might be given in proceedings in any court in Scotland, the person having that evidence could not be compelled to give it in such proceedings.
- (4) Where information required under subsection (1) above—
 - (a) is, or refers to, information about a natural person and would identify or enable the identification of the person; and
 - (b) can reasonably be provided under subsection (1) above so as not to identify or enable the identification of the person,it shall be so provided.
- (5) Where—

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Research is up to date with all changes known to be in force on or before 25 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) the person required under subsection (1) above to provide the information is under a duty of confidentiality in respect of that information; and
 - (b) the person cannot provide the information without breaching the duty,
- the information shall not be provided unless the person to whom the duty is owed has consented to its provision.
- (6) On receipt of information provided under this section, the Scottish Ministers (or any other person provided under this section with the information) may, for the purposes referred to in subsection (2) above, do any, or all, of the following—
- (a) process the information;
 - (b) collate it;
 - (c) publish it or reports based on it.
- (7) Regulations may provide as to the procedure to be followed in making requirements under this section for information and in providing it.
- (8) Where information recorded otherwise than in legible form is required to be provided under this section, it shall be provided in legible form.
- (9) For the purposes of this section—
- (a) information is “relevant” if it is information as to the operation of this Act; and
 - (b) a person is under a duty of confidentiality in respect of information although the person could notwithstanding that duty be compelled to give evidence as to that information in proceedings in a court in Scotland.

[^{F3}(10) In this section, “the UK GDPR” has the meaning given in section 3(10) of the Data Protection Act 2018.]

Textual Amendments

- F1** Words in s. 279(2) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 98\(2\)](#) (with [ss. 117, 209, 210](#)); [S.I. 2018/625, reg. 2\(1\)\(g\)](#)
- F2** Words in s. 279(2) substituted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\), reg. 1\(2\), Sch. 3 para. 23\(2\)](#) (with [Sch. 3 para. 112](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F3** S. 279(10) substituted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\), reg. 1\(2\), Sch. 3 para. 23\(3\)](#) (with [Sch. 3 para. 112](#)); [2020 c. 1, Sch. 5 para. 1\(1\)](#)

Commencement Information

- I1** S. 279 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161, art. 2, Sch. 1](#)
- I2** S. 279 in force at 5.10.2005 in so far as not already in force by [S.S.I. 2005/161, art. 3](#) (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 64(8A)(8B) inserted by [2015 asp 9 s. 1\(2\)](#)
- s. 65(7) inserted by [2015 asp 9 s. 1\(3\)](#)