



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

2003 asp 13

PART 4

HEALTH BOARD AND LOCAL AUTHORITY FUNCTIONS

CHAPTER 2

LOCAL AUTHORITY FUNCTIONS

Appointment of mental health officers

32 Appointment of mental health officers

- (1) A local authority shall appoint a sufficient number of persons for the purpose of discharging, in relation to their area, the functions of mental health officers under—
 - (a) this Act;
 - (b) the 1995 Act; and
 - (c) the Adults with Incapacity (Scotland) Act 2000 (asp 4).
- (2) A local authority shall appoint under subsection (1) above only persons—
 - (a) who are officers of a local authority; and
 - (b) who satisfy such requirements as the Scottish Ministers may direct as to—
 - (i) registration;
 - (ii) education and training;
 - (iii) experience;
 - (iv) competence as respects persons who have or have had a mental disorder; and
 - (v) any other matters that may be specified in the direction.
- (3) A person duly appointed by a local authority before the day on which this section comes into force to discharge the functions of a mental health officer shall, for the purposes of this Act, be deemed to have been appointed under subsection (1)

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Appointment of mental health officers 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*

above; and references in subsections (4) and (5) below to a person appointed under subsection (1) above shall include references to a person deemed by virtue of this subsection to have been so appointed.

- (4) A local authority shall, in accordance with directions given by the Scottish Ministers, provide or secure the provision of training for persons appointed by them under subsection (1) above as respects requirements in directions under subsections (2) above and (5) below.
- (5) A local authority shall terminate the appointment of a person appointed under subsection (1) above if the person—
 - (a) ceases to be an officer of a local authority; or
 - (b) does not satisfy—
 - (i) any requirement in a direction under subsection (2) above; or
 - (ii) such other requirements as to any of the matters mentioned in paragraph (b) of that subsection as the Scottish Ministers may, from time to time, by direction specify.
- (6) The validity of any acts or omissions of a person appointed as a mental health officer in the discharge of the functions of such an officer prior to a termination of appointment by virtue of subsection (5) above is not affected by such termination.
- (7) Directions given by the Scottish Ministers under this section shall be given to local authorities collectively.

Commencement Information

- I1** S. 32 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), art. 2, [Sch. 1](#)
- I2** [S. 32](#) 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:

Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Appointment of mental health officers 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.

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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\(3\)](#)