



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

2003 asp 13

PART 18

MISCELLANEOUS

Communications, security etc.

284 Certain persons detained in hospital: use of telephones

- (1) Regulations may make provision for or in connection with regulating the use of telephones by such persons detained in hospital as may be specified in the regulations (“specified persons”).
- (2) Provision under subsection (1) above may in particular—
 - (a) confer rights on specified persons to use telephones;
 - (b) make the entitlement to, or exercise of, any such rights subject to conditions imposed by or under regulations;
 - (c) restrict, or prohibit, the use of telephones by specified persons;
 - (d) authorise the managers of a hospital to intercept, or arrange for the interception of, telephone calls—
 - (i) to specified persons; or
 - (ii) made by specified persons;
 - (e) require the managers of a hospital to make, and maintain, records of such matters as may be specified in the regulations;
 - (f) require the managers of a hospital to inform persons specified in the regulations of matters so specified;
 - (g) confer power on the Commission to give to the managers of a hospital directions as to matters of any description specified in the regulations;
 - (h) require the managers of a hospital to comply with any directions given to them by virtue of paragraph (g) above.
- (3) The conditions mentioned in subsection (2)(b) above include in particular conditions as to payment of call charges for calls made by or on behalf of specified persons.

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Section 284 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

- (4) Regulations under this section may not authorise the interception of a telephone call made by a specified person to a person mentioned in subsection (6) below unless—
- (a) the person has requested the interception of telephone calls made by the specified person to the person; or
 - (b) the telephone call is or would be unlawful for any reason other than one arising from provision made by virtue of this section.
- (5) Regulations under this section may not authorise the interception of a telephone call made to a specified person by a person mentioned in subsection (6) below unless the telephone call is or would be unlawful for any reason other than one arising from provision made by virtue of this section.
- (6) The persons referred to in subsections (4) and (5) above are—
- (a) any of the persons mentioned in paragraphs (a) to (i), (k) to (n) and (p) of section 281(5) of this Act;
 - (b) the managers of the hospital in which the specified person is detained;
 - (c) a legally qualified person instructed by the specified person to act as the specified person’s legal adviser; and
 - (d) such other person as may be specified by the regulations.
- (7) In this section “intercept”, in relation to a telephone call, includes—
- (a) listen to, record or otherwise monitor; and
 - (b) interrupt, cut short, divert or prevent from being connected.
- (8) For the purposes of this section, a telephone call is made when the telephone number of the person being called has been dialled.

Commencement Information

- I1** S. 284 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), [art. 2](#), [Sch. 1](#)
- I2** S. 284 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\(3\)](#)