



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.

Status: This is the original version (as it was originally enacted).

- (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.