



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

2003 asp 13

PART 23

GENERAL

328 Meaning of “mental disorder”

- (1) Subject to subsection (2) below, in this Act “mental disorder” means any—
- (a) mental illness;
 - (b) personality disorder; or
 - (c) learning disability,
- however caused or manifested; and cognate expressions shall be construed accordingly.
- (2) A person is not mentally disordered by reason only of any of the following—
- (a) sexual orientation;
 - (b) sexual deviancy;
 - (c) transsexualism;
 - (d) transvestism;
 - (e) dependence on, or use of, alcohol or drugs;
 - (f) behaviour that causes, or is likely to cause, harassment, alarm or distress to any other person;
 - (g) acting as no prudent person would act.

Commencement Information

- II** **S. 328** in force at 5.10.2005 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, Section 328 is up to date with all changes known to be in force on or before 28 April 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.

[View outstanding changes](#)

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\(3\)](#)