
SCOTTISH STATUTORY INSTRUMENTS

2005 No.161 (C.6)

MENTAL HEALTH

**The Mental Health (Care and Treatment) (Scotland)
Act 2003 (Commencement No. 4) Order 2005**

Made - - - - 17th March 2005

The Scottish Ministers, in exercise of the powers conferred by section 333(2), (3) and (4) of the Mental Health (Care and Treatment) (Scotland) Act 2003⁽¹⁾, hereby make the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Mental Health (Care and Treatment) (Scotland) Act 2003 (Commencement No. 4) Order 2005.

(2) In this Order, “the Act” means the Mental Health (Care and Treatment) (Scotland) Act 2003.

Appointed days

2. The provisions of the Act specified in column 1 of Schedule 1 to this Order and whose subject matter is specified in column 2 of that Schedule shall come into force on 21st March 2005, but, where a particular purpose is specified in relation to any provision in column 3 of that Schedule, that provision shall come into force on that day only for that purpose.

3. All the provisions of the Act shall, in so far as not then in force, come into force on 5th October 2005, with the exception of Chapter 3 of Part 17 (detention in conditions of excessive security).

4. The provisions of the Act specified in column 1 of Schedule 2 to this Order and whose subject matter is specified in column 2 of that Schedule shall come into force on 6th January 2006 but, where a particular purpose is specified in relation to any provision in column 3 of that Schedule, that provision shall come into force on that day only for that purpose.

St Andrew’s House, Edinburgh
17th March 2005

RHONA BRANKIN
A member of the Scottish Executive

(1) 2003 asp 13.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Article 2

PROVISIONS OF THE ACT COMING INTO FORCE ON 21ST MARCH 2005

| <i>Column 1</i> <i>Provision of the Act</i> | <i>Column 2</i> <i>Subject matter</i> | <i>Column 3</i> <i>Purpose</i> |
|--|---|--|
| Section 15 | Medical examination | Only for the purpose of enabling regulations to be made |
| Section 17 | Duties of Scottish Ministers, local authorities and others as respects Commission | Only for the purpose of enabling regulations to be made |
| Section 22 | Approved medical practitioners | Only for the purposes of enabling directions to be made and medical practitioners to be approved |
| Section 32 | Appointment of mental health officers | Only for the purpose of enabling directions to be made |
| Section 36 | Emergency detention in hospital | Only for the purpose of enabling regulations to be made |
| Section 44 | Short term detention in hospital | Only for the purpose of enabling regulations to be made |
| Section 47 | Extension of detention pending application for compulsory treatment order | Only for the purpose of enabling regulations to be made |
| Section 58 | Medical examination: requirements | Only for the purpose of enabling regulations to be made |
| Section 64 | Powers of Tribunal on application under section 63: compulsory treatment order | Only for the purpose of enabling regulations to be made |
| Section 66 | Measures that may be authorised | Only for the purpose of enabling regulations to be made |
| Section 76 | Care plan: preparation, placing in medical records etc. | Only for the purpose of enabling regulations to be made |
| Section 87 | Determination extending order: notification etc. | Only for the purpose of enabling regulations to be made |
| Section 92 | Application to Tribunal | Only for the purpose of enabling regulations to be made |

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| <i>Column 1</i> <i>Provision of the Act</i> | <i>Column 2</i> <i>Subject matter</i> | <i>Column 3</i> <i>Purpose</i> |
|--|---|--|
| Section 95 | Application to Tribunal by responsible medical officer | Only for the purpose of enabling regulations to be made |
| Section 96 | Recorded matters: reference to Tribunal by responsible medical officer | Only for the purpose of enabling regulations to be made |
| Section 109 | Ancillary powers of Tribunal | Only for the purpose of enabling regulations to be made |
| Section 133 | Mentally disordered offenders: compulsion orders | Only for the purpose of enabling regulations to be made |
| Section 134 | Power of court to detain acquitted persons | Only for the purpose of enabling regulations to be made |
| Section 137 | Part 9 care plan | Only for the purpose of enabling regulations to be made |
| Section 149 | Application to Tribunal for extension of order following first review | Only for the purpose of enabling regulations to be made |
| Section 153 | Determination extending compulsion order: notification | Only for the purposes of enabling regulations to be made |
| Section 158 | Application to Tribunal for extension and variation of compulsion order | Only for the purpose of enabling regulations to be made |
| Section 161 | Application to Tribunal by responsible medical officer | Only for the purpose of enabling regulations to be made |
| Section 173 | Applications to Tribunal: ancillary powers | Only for the purpose of enabling regulations to be made |
| Section 191 | Application to Tribunal | Only for the purpose of enabling regulations to be made |
| Section 231 | Social circumstances report: mental health officer's duties | Only for the purpose of enabling regulations to be made |
| Section 233 | Designated medical practitioners | Only for the purposes of enabling regulations to be made, compiling lists of medical practitioners and requiring those medical |

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| <i>Column 1</i> <i>Provision of the Act</i> | <i>Column 2</i> <i>Subject matter</i> | <i>Column 3</i> <i>Purpose</i> |
|--|--|--|
| | | practitioners to undertake training |
| Section 234 | Certain surgical operations etc. | Only for the purpose of enabling regulations to be made |
| Section 237 | Electro-convulsive therapy etc. | Only for the purpose of enabling regulations to be made |
| Section 240 | Treatments given over period of time etc. | Only for the purpose of enabling orders and regulations to be made |
| Section 244 | Scottish Ministers' power to make provision in relation to treatment for certain informal patients | Only for the purpose of enabling regulations to be made |
| Section 245 | Certificates under sections 235, 236, 239 and 241 | Only for the purpose of enabling regulations to be made |
| Section 246 | Certificates under section 238 | Only for the purpose of enabling regulations to be made |
| Section 256 | Named person: application by patient etc. | Only for the purpose of enabling regulations to be made |
| Section 260 | Provision of information to patient | Only for the purpose of enabling regulations to be made |
| Section 279 | Information for research | Only for the purpose of enabling regulations to be made |
| Section 281 | Correspondence of certain persons detained in hospital | Only for the purpose of enabling regulations to be made |
| Section 282 | Correspondence: supplementary | Only for the purpose of enabling regulations to be made |
| Section 283 | Review of decision to withhold postal packet | Only for the purpose of enabling regulations to be made |
| Section 284 | Certain persons detained in hospital: use of telephones | Only for the purpose of enabling regulations to be made |

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| <i>Column 1</i> <i>Provision of the Act</i> | <i>Column 2</i> <i>Subject matter</i> | <i>Column 3</i> <i>Purpose</i> |
|--|---|--|
| Section 285 | Directions as to implementation of regulations under section 284(1) | Only for the purpose of enabling directions to be made |
| Section 286 | Safety and security in hospitals | Only for the purpose of enabling directions and regulations to be made |
| Section 289 | Cross border transfer: patients subject to requirement other than detention | Only for the purpose of enabling regulations to be made |
| Section 290 | Cross border transfer: patients subject to detention requirement or otherwise in hospital | Only for the purpose of enabling regulations to be made |
| Section 293 | Removal order | Only for the purpose of enabling regulations to be made |
| Section 295 | Recall or variation of removal order | Only for the purpose of enabling regulations to be made |
| Section 298 | Removal under section 297: further provision | Only for the purpose of enabling regulations to be made |
| Section 299 | Nurse's power to detain pending medical examination | Only for the purpose of enabling regulations to be made |
| Section 309 | Patients from other jurisdictions | Only for the purpose of enabling regulations to be made |
| Section 310 | Regulations as to absconding by other patients | Only for the purpose of enabling regulations to be made |
| Section 313 | Persons providing care services: sexual offences | Only for the purpose of enabling regulations to be made |
| Section 324 | Appeals: general provisions | Only for the purpose of enabling regulations to be made |
| Section 327 | Directions | |
| Schedule 1, paragraph 3 | Membership | Only for the purpose of enabling orders and regulations to be made |

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| <i>Column 1</i> <i>Provision of the Act</i> | <i>Column 2</i> <i>Subject matter</i> | <i>Column 3</i> <i>Purpose</i> |
|--|---|---|
| Schedule 1, paragraph 8 | Regulations as to proceedings and delegation of functions | Only for the purpose of enabling regulations to be made |

SCHEDULE 2

Article 4

PROVISIONS OF THE ACT COMING INTO FORCE ON 6TH JANUARY 2006

| <i>Column 1</i> <i>Provision of the Act</i> | <i>Column 2</i> <i>Subject matter</i> | <i>Column 3</i> <i>Purpose</i> |
|--|---|---|
| Section 268 | Detention in conditions of excessive security: hospitals other than state hospitals | Only for the purpose of enabling regulations to be made |
| Section 273 | Interpretation of Chapter | Only for the purpose of enabling regulations to be made |

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints dates for the coming into force of the remaining provisions of the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the Act”). The Act received Royal Assent on 25th April 2003.

Article 2 appoints 21st March 2005 as the day for the coming into force of the provisions of the Act specified in Schedule 1 to this Order. With the exception of section 327 (which is brought into force fully), these provisions are all brought into force for the limited purposes of making orders, directions and regulations. In addition, sections 22 and 233 are brought into force for purposes related to approving and designating medical practitioners.

Article 3 appoints 5th October 2005 as the day for the coming into force of the remaining provisions of the Act (with the exception of Chapter 3 of Part 17) to the extent that they are not already in force at that date.

Chapter 3 of Part 17 of the Act (detention in conditions of excessive security) comes into force on 1st May 2006 by virtue of section 333(2) of the Act. However, in exercise of the power conferred by that section, article 4 advances the date when sections 268 and 273 are brought into force, for the purpose of making regulations. That advanced date is 6th January 2006.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by Commencement Order made before the date of this Order:–

| <i>Provision</i> | <i>Date of Commencement</i> | <i>S.S.I. No.</i> |
|---|-----------------------------|-------------------|
| Section 4(3) (partially) | 1st July 2003 | 2003/316 |
| Section 21(1) and (3) | 3rd May 2004 | 2004/153 |
| Section 21(4) (partially) | 26th March 2004 | 2004/153 |
| Section 21(4) (partially) | 3rd May 2004 | 2004/153 |
| Section 250 (partially) | 1st September 2004 | 2004/367 |
| Section 250 | 4th October 2004 | 2004/367 |
| Section 253 (partially) | 1st September 2004 | 2004/367 |
| Section 253 | 4th October 2004 | 2004/367 |
| Section 258 | 1st September 2004 | 2004/367 |
| Section 274 | 26th March 2004 | 2004/153 |
| Section 275 (partially) | 1st September 2004 | 2004/367 |
| Section 275 | 4th October 2004 | 2004/367 |
| Section 329 | 26th March 2004 | 2004/153 |
| Schedule 1, paragraph 10 | 1st July 2003 | 2003/316 |
| Schedule 2, paragraph 1(1) (partially) | 26th March 2004 | 2004/153 |
| Schedule 2, paragraph 1(1) | 1st September 2004 | 2004/367 |
| Schedule 2, paragraph 1(2)(c) (partially) | 26th March 2004 | 2004/153 |
| Schedule 2, paragraph 1(2) | 3rd May 2004 | 2004/153 |
| Schedule 2, paragraphs 3 to 13, 15 and 16 | 3rd May 2004 | 2004/153 |
| Schedule 2, paragraph 3(3) (partially) | 26th March 2004 | 2004/153 |