

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^(a), 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.

RHONA BRANKIN

A member of the Scottish Executive

St Andrew’s House,
Edinburgh
17th March 2005

(a) 2003 asp 13.

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

<i>Column 1 Provision of the Act</i>	<i>Column 2 Subject matter</i>	<i>Column 3 Purpose</i>
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
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

<i>Column 1 Provision of the Act</i>	<i>Column 2 Subject matter</i>	<i>Column 3 Purpose</i>
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 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

<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 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
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

<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 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
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

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