
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 452

**The Mental Health (Care and Treatment) (Scotland) Act
2003 (Transitional and Savings Provisions) Order 2005**

PART 8

SHORT TERM DETENTION

Short-term detention

33.—(1) The provisions of the 1984 Act shall continue to have effect in respect of a patient who is the subject of an emergency recommendation under section 24 of the 1984 Act until authority for that patient's detention under the recommendation has expired.

(2) A patient who immediately before 5th October 2005 was detained under section 25(2) of the 1984 Act shall be deemed to be detained under section 299(2) of the 2003 Act for the remainder of the 2 hour period by a nurse prescribed for the purposes of that section and as if all the conditions mentioned in that section had been satisfied.

(3) A patient who has been detained under section 24 of the 1984 Act shall not be further detained under section 36 of the 2003 Act immediately after the expiry of that period of detention.

(4) A patient who has been detained under section 25(2) of the 1984 Act shall not be further detained under section 299(2) of the 2003 Act immediately after the expiry of that period of detention.

(5) A patient who immediately before 5th October 2005 was liable to be detained under section 26 of the 1984 Act shall be deemed to be detained under a short-term detention certificate granted under section 44 of the 2003 Act for the remaining period of time for which there was authority for the detention of the patient under the 1984 Act.

(6) Where a patient is deemed to be detained under section 44 of the 2003 Act and the managers of the hospital have complied with the requirements of section 26(4) of the 1984 Act, they shall not be obliged to comply with section 46 of the 2003 Act.

(7) A patient who immediately before 5th October 2005 was liable to be detained under section 26A of the 1984 Act shall be deemed to be detained under an extension certificate granted under section 47 of the 2003 Act.

(8) Where a patient is deemed to be detained under section 47 of the 2003 Act the medical practitioner who has examined the patient shall give notice that the patient is deemed to be detained under an extension certificate granted under section 47 of the 2003 Act, except where notice has already been given to any of those persons under section 26A of the 1984 Act.

(9) The 1984 Act shall continue to have effect in respect of any person who immediately before 5th October 2005 was liable to be detained under section 70 of that Act or was the subject of an application under that section.

(10) Section 117 of the 1984 Act shall continue to have effect in respect of any warrant issued under that section or any person detained under that section.

(11) Section 118 of the 1984 Act shall continue to have effect in respect of any person removed to a place of safety under that section.

(12) Section 52 of the 1995 Act as it was in force immediately before 5th October 2005 shall continue to have effect in respect of a patient committed to hospital under that section or in the process of being committed to hospital under that section.

(13) Where an order made under section 52(2) of the 1995 Act is terminated on or after 5th October 2005 but before 20th October 2005, the court may make an order under the 1995 Act as it was in force immediately before 5th October 2005 and that order shall have effect.

(14) Section 53 of the 1995 Act as it was in force immediately before 5th October 2005 shall continue to have effect in respect of a patient subject to an interim hospital order under that section but no interim hospital order may be renewed under that section after 19th October 2005.

(15) Where an interim hospital order made under section 53 of the 1995 Act is terminated on or after 5th October 2005 but before 20th October 2005, the court may make an order under section 58 of the 1995 Act as it was in force immediately before 5th October 2005.

(16) Where in court proceedings immediately before 5th October 2005 there has been an adjournment for enquiry under sections 54, 145, 200 or 201 of the 1995 Act, the court may at the next court appearance if it falls on or after 5th October 2005 but before 20th October 2005 make an order under the 1995 Act as it was in force immediately before 5th October 2005 and that order shall have effect.

(17) Where on or after 5th October and before 20th October 2005, the court makes a hospital order under sections 57(2) or 58 of the 1995 Act as it was in force immediately before 5th October 2005, on admission to hospital under that order the person subject to it shall be treated as if subject to a deemed compulsion order.

(18) Section 54 of the 1995 Act as it was in force immediately before 5th October 2005 shall continue to have effect in respect of a patient subject to a temporary hospital order under that section.

(19) Section 60 of the 1995 Act as it was in force immediately before 5th October 2005 shall continue to have effect in respect of any patient subject to an interim hospital order.