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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 126 (C. 10)**

**MENTAL HEALTH**

The Mental Health (Scotland) Act 2015  
(Commencement No. 3) Order 2017

<i>Made</i>	- - - -	<i>20th April 2017</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>21st April 2017</i>
<i>Coming into force</i>	- -	<i>5th May 2017</i>

The Scottish Ministers make the following Order in exercise of the powers conferred by section 61(2) of the Mental Health (Scotland) Act 2015(1).

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Mental Health (Scotland) Act 2015 (Commencement No. 3) Order 2017 and comes into force on 5th May 2017.

(2) In this Order “the 2015 Act” means the Mental Health (Scotland) Act 2015.

**Appointed day**

2.—(1) Subject to paragraph (2), 5th May 2017 is the day appointed for the coming into force of the provisions of the 2015 Act specified in column 1 of the table in the schedule (the subject matter of which is specified in column 2 of that table).

(2) Where a purpose is specified in column 3 of that table in relation to a provision in column 1, that provision comes into force on 5th May 2017 only for that purpose.

St Andrew’s House,  
Edinburgh  
20th April 2017

*MAUREEN WATT*  
Authorised to sign by the Scottish Ministers

**Status:** This is the original version (as it was originally made).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

## SCHEDULE

Article 2

<i>Column 1 Provisions of the Mental Health (Scotland) Act 2015</i>	<i>Column 2 Subject matter</i>	<i>Column 3 Purpose</i>
Section 23(1) and (2)	Consent to being named person	So far as is necessary to enable the Scottish Ministers to make regulations under section 250(2A) (nomination of named person) of the Mental Health (Care and Treatment) (Scotland) Act 2003 <sup>(2)</sup> .
Section 29	Conflicts of interest to be avoided	So far as is necessary to enable the Scottish Ministers to make regulations under section 291A <sup>(3)</sup> (conflicts of interest to be avoided) of the Mental Health (Care and Treatment) (Scotland) Act 2003.
Section 32	Cross-border transfer of patients	So far as is necessary to enable the Scottish Ministers to make regulations under sections 289(1) <sup>(4)</sup> (cross-border transfer: patients subject to requirement other than detention), 290(1) <sup>(5)</sup> (cross-border transfer: patients subject to detention requirement or otherwise in hospital) and 309A(1) <sup>(6)</sup> (cross-border visits: leave of absence) of the Mental Health (Care and Treatment) (Scotland) Act 2003, all as amended by the 2015 Act.
Section 33	Dealing with absconding patients	So far as is necessary to enable the Scottish Ministers to make regulations under sections 309(1) <sup>(7)</sup> , as amended by the 2015 Act, and (2ZA) <sup>(8)</sup> (patients from other jurisdictions) and 310(1) as

<sup>(2)</sup> 2003 asp 13. Subsection (2A) is inserted by section 23(2) of the 2015 Act.

<sup>(3)</sup> Section 291A is inserted by section 29 of the 2015 Act.

<sup>(4)</sup> Section 289(1) is amended by section 32(2) of the 2015 Act.

<sup>(5)</sup> Section 290(1) is amended by section 32(3)(a) of the 2015 Act.

<sup>(6)</sup> Section 309A was inserted by the Adult Support and Protection (Scotland) Act 2007, (asp 10), section 72(1).

<sup>(7)</sup> Section 309 is amended by section 33(3) of the 2015 Act.

<sup>(8)</sup> Subsection (2ZA) is inserted by section 33(3)(c) of the 2015 Act.

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<i>Column 1 Provisions of the Mental Health (Scotland) Act 2015</i>	<i>Column 2 Subject matter</i>	<i>Column 3 Purpose</i>
		read with section 310(3A) <b>(9)</b> (regulations as to absconding by other patients) of the Mental Health (Care and Treatment) (Scotland) Act 2003.
Section 54	Right to information: offender imprisoned	So far as is necessary to enable the Scottish Ministers to make regulations under section 16(4)(b) and (c) of the Criminal Justice (Scotland) Act 2003 <b>(10)</b> (victim's right to receive information concerning release etc. of offender).
Section 58	Associated definitions	So far as is necessary to enable the Scottish Ministers to make regulations under section 16(4)(b) and (c) of the Criminal Justice (Scotland) Act 2003.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force provisions in the Mental Health (Scotland) Act 2015 (“the 2015 Act”) which make amendments to or introduce powers to make regulations under the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”) and the Criminal Justice (Scotland) Act 2003.

Sections 32 and 33 of the 2015 Act make amendments to powers to make regulations under the 2003 Act. Sections 23 and 29 introduce new powers to make regulations under that Act. Section 54 makes amendments to section 16 of the Criminal Justice (Scotland) Act 2003, also to enabling powers. Section 58 introduces section 18A to that Act which provides definitions for the purposes of those powers. These provisions come into force on 5th May 2017 to allow regulations to be made.

By virtue of section 61(1) of the 2015 Act, section 17 and Part 4 (sections 61 and 62) of the 2015 Act came into force on 5th August 2015. Sections 14, 15, 16 and 18 of the 2015 Act, which make amendments to chapter 3 of Part 17 of the 2003 Act in respect of detention in conditions of excessive security came into force on 16th November 2015. Section 37 of the 2015 Act creates a duty on the Scottish Ministers to carry out a review of the arrangements for investigating the deaths of patients with mental disorder; section 37 came into force on 24th December 2015. The 2015 Act received Royal Assent on 4th August 2015.

**(9)** Subsection (3A) is inserted by section 33(4) of the 2015 Act.

**(10)** 2003 asp 7. Section 16 is amended by section 54 of the Act.

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## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the Mental Health (Scotland) Act 2015 have been brought into force by commencement order made before the date of this Order:—

<i>Provision</i>	<i>Date of Commencement</i>	<i>Instrument No.</i>
Sections 14, 15, 16 and 18	16th November 2015	<a href="#">2015/361</a>
Section 37	24th December 2015	<a href="#">2015/417</a>