
STATUTORY INSTRUMENTS

2005 No. 2078

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

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 and, subject to paragraph (2), shall come into force on 5th October 2005.

(2) The entry in Schedule 3 to this Order in respect of the Mental Health (Scotland) Act 1984⁽¹⁾ shall come into force immediately after the coming into force of the entry in Schedule 5 to the 2003 Act in respect of the Mental Health (Scotland) Act 1984.

(3) In this Order, unless the context otherwise requires—

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995⁽²⁾;

“the 2003 Act” means the Mental Health (Care and Treatment) (Scotland) Act 2003⁽³⁾;

“hospital”, except as provided in articles 2(7) and 4(8), has the meaning given in section 329(1) of the 2003 Act;

“hospital direction” means a direction made under section 59A⁽⁴⁾ of the 1995 Act;

“patient” has the meaning given in section 329(1) of the 2003 Act;

“restriction order” means an order made under section 59⁽⁵⁾ of the 1995 Act; and

“transfer for treatment direction” has the meaning given by section 136 of the 2003 Act.

(4) A reference in this Order to “a patient whose detention in hospital was authorised by virtue of the 2003 Act or the 1995 Act” shall be read as including references to a patient in respect of whom a certificate under one of the provisions listed in section 290(7)(a) of the 2003 Act is in operation.

(5) Articles 2 and 3 extend to England and Wales only⁽⁶⁾.

(6) Articles 4, 5, 6, 7 and 9 extend to Northern Ireland only⁽⁷⁾.

(7) Articles 8, 10, 11 and 12(2) extend to England and Wales and Northern Ireland only⁽⁸⁾.

(8) Articles 12(1), 13 and 14 extend to Scotland only⁽⁹⁾.

(1) 1984 c. 36.

(2) 1995 c. 46.

(3) 2003 asp 13.

(4) Section 59A was inserted by the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#) (“the 2003 Act”), section 331(1) and Schedule 4.

(5) Section 59 was amended by the 2003 Act, section 331 and Schedules 4 and 5. There has been another amendment not relevant to this Order.

(6) Articles 2 and 3 extend only to England and Wales to make provision in the receiving jurisdiction for patients removed to that jurisdiction in accordance with regulations made under section 290 of the 2003 Act.

(7) Articles 4, 5, 6, 7 and 9 extend only to Northern Ireland to make provision in that jurisdiction for the reception or removal of patients received or removed in accordance with regulations made under section 290 of the 2003 Act.

(8) Articles 8, 10, 11 and 12(2) extend only to England and Wales and Northern Ireland to make provision in those jurisdictions for patients absent from hospitals in Scotland, offences in relation to assisting patients absent without leave, provisions as to custody, removal and detention of patients and the protection for acts done under this Order.

(9) Articles 12(1), 13 and 14 extend only to Scotland as they relate to the exercise in Scotland of reserved powers concerning immigration law and the protection for acts done under this Order in Scotland.

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

(9) Subject to paragraph (10), the modifications in Schedules 1 and 2 and the repeals in Schedule 3 have the same extent as the provisions being modified or repealed.

(10) Those modifications and repeals do not extend to Scotland other than the modifications in paragraphs 1(4)(b), 5 and 6 of Schedule 1 and paragraph 20 of Schedule 2 and the repeal in Schedule 3 of the Mental Health (Scotland) Act 1984**(10)**.

(10) 1984 c. 36. In general the modifications and repeals made by this Order can be made in respect of Scotland using subordinate legislation under the 2003 Act. The modifications in paragraphs 1(4)(b), 5 and 6 of Schedule 1 and paragraph 20 of Schedule 2 and the repeal in Schedule 3 of the Mental Health (Scotland) Act 1984 cannot be made in respect of Scotland using subordinate legislation under the 2003 Act.