

These notes relate to the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) which received Royal Assent on 25 April 2003

MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE 2003 ACT – AN OVERVIEW

7. The 2003 Act replaces the 1984 Act. It establishes new arrangements for the detention, care and treatment of persons who have a mental disorder. It also refines the role and functions of the Commission and establishes the Tribunal as the principal forum for approving and reviewing compulsory measures for the detention, care and treatment of mentally disordered persons.
8. The 2003 Act is divided into 23 parts:
 - Part 1 sets out a range of the factors and principles to be considered when certain parties are discharging functions under the 2003 Act.
 - Part 2 specifies the duties and powers of the Commission.
 - Part 3 establishes the Tribunal.
 - Part 4 places certain duties, mainly concerning the provision of services for persons with mental disorder, on Health Boards and local authorities.
 - Part 5 deals with the emergency detention in hospital of persons with mental disorder.
 - Part 6 deals with the short-term detention in hospital of persons with mental disorder.
 - Part 7 makes provision about compulsory treatment orders in respect of mentally disordered persons.
 - Part 8 makes provision about the disposals that may be made in respect of mentally disordered persons in criminal proceedings and where such persons are serving sentences of imprisonment.
 - Part 9 provides for the consequences of a compulsion order (one of the main orders established in Part 8).
 - Part 10 deals with the situation where a compulsion order is combined with a restriction order.
 - Part 11 provides for the consequences of a hospital direction and a transfer for treatment direction.
 - Part 12 provides for the transfer between hospitals of mentally disordered persons subject to compulsion orders combined with restriction orders, hospital directions or transfer for treatment directions.
 - Part 13 provides for the temporary release from detention of persons subject to assessment orders, treatment orders, interim compulsion orders, compulsion orders

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combined with restriction orders, hospital directions and transfer for treatment directions.

- Part 14 provides for an assessment of a person's needs to be carried by a local authority or Health Board under certain circumstances.
- Part 15 provides for the designation of mental health officers and the appointment of responsible medical officers as well as the preparation of certain reports following the making of orders under the 2003 Act.
- Part 16 specifies the safeguards for patients where certain medical treatments are being considered or given.
- Part 17 makes provision about patient representation and patients detained in conditions of excessive security.
- Part 18 makes miscellaneous provisions including the drawing up of a code of practice, the making of statements indicating a patient's wishes about treatment, the withholding of correspondence and communications from certain detained patients and the cross-border transfer of patients.
- Part 19 sets out entry, removal and detention powers.
- Part 20 deals with patients who abscond while subject to compulsory measures.
- Part 21 creates offences in respect of the sexual abuse, ill-treatment and neglect of persons with mental disorder, as well as offences relating to the obstruction of the proper administration of the 2003 Act.
- Part 22 sets out provision for appeals against decisions of the Tribunal.
- Part 23 contains general provisions on matters such as interpretation and commencement.