

**Changes to legislation:** *Mental Health (Care and Treatment) (Scotland) Act 2003, Part 2 is up to date with all changes known to be in force on or before 26 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

## SCHEDULE 1 THE MENTAL WELFARE COMMISSION FOR SCOTLAND

### PART 2

#### TRANSITIONAL PROVISION

- 10 (1) The Mental Health (Scotland) Act 1984 (c. 36) shall be amended as follows.
- (2) In section 2 (membership etc. of the Mental Welfare Commission)—
- (a) in subsection (2), after “commissioners”, where it first occurs, insert “appointed under subsection (4) of this section”;
  - (b) in subsection (4), at the beginning, insert “Subject to subsection (5A) of this section,”;
  - (c) after subsection (5), insert—
    - “(5A) The person who holds the post of chief officer of the Mental Welfare Commission shall—
      - (a) be a member *ex officio* of the Commission; and
      - (b) cease automatically to hold office as such member on ceasing to hold that post.”; and
  - (d) in subsection (7), for “the said commissioners”, in both places where it occurs, substitute “commissioners appointed under subsection (4) of this section”.
- (3) In section 6 (appointment and payment etc. of officers and staff)—
- (a) at the beginning, insert—
    - “(1) The Mental Welfare Commission shall appoint a chief officer on such terms and conditions as the Scottish Ministers may determine.
    - (2) Before appointing a chief officer under subsection (1) above, the Commission shall obtain the approval of the Scottish Ministers.
    - (3) ”; and
  - (b) in subsection (3) (being the existing wording of the section)—
    - (i) in paragraph (a), after “appoint”, insert “other”; and
    - (ii) in paragraph (b)(ii), after “of”, insert “its chief officer or in respect of”.

#### Commencement Information

**II** Sch. 1 para. 10 in force at 1.7.2003 by [S.S.I. 2003/316](#), [art. 2](#)

*f<sup>1</sup>Transitional provision: first chief executive*

#### Textual Amendments

**F1** Sch. 1 para. 10A 10B and crossheadings inserted (1.8.2010 for specified purposes, 1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act](#)

**Changes to legislation:** *Mental Health (Care and Treatment) (Scotland) Act 2003, Part 2 is up to date with all changes known to be in force on or before 26 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

2010 (asp 8), s. 134(7), **sch. 18 para. 9**; S.S.I. 2010/221, art. 3(2)(3), sch.; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.

- 10A (1) The person who, immediately before the coming into force of this paragraph, holds (by virtue of paragraph 7) the post of chief officer of the Commission becomes the first chief executive of the Commission.
- (2) But if—
- (a) there is no person holding that post immediately before the coming into force of this paragraph; or
  - (b) the person holding the post immediately before the coming into force of this paragraph is unwilling or unable to be the chief executive,
- the Scottish Ministers are to make the first appointment of the chief executive of the Commission on such terms and conditions as the Scottish Ministers may determine.
- (3) Each subsequent chief executive is appointed in accordance with paragraph 7.
- (4) Where sub-paragraph (1) applies, the person becoming the first chief executive of the Commission does so on the terms and conditions which applied to the post of chief officer held by that person.]

*[<sup>F1</sup>Transitional provision: Commissioners*

- 10B Any person who, immediately before the coming into force of this paragraph, is a member of the Commission (including any ex officio members) by virtue of paragraph 3 ceases automatically to hold office as such a member.]

**Changes to legislation:**

Mental Health (Care and Treatment) (Scotland) Act 2003, Part 2 is up to date with all changes known to be in force on or before 26 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 64(8A)(8B) inserted by [2015 asp 9 s. 1\(2\)](#)
- s. 65(7) inserted by [2015 asp 9 s. 1\(3\)](#)