

EXPLANATORY NOTES

MENTAL HEALTH (SCOTLAND) ACT 2015

INTRODUCTION

THE ACT

THE STRUCTURE & A SUMMARY OF THE ACT

Glossary of terms used

PART ONE – THE 2003 ACT

Section 1: Measures until application determined

Amendment of sections 64 and 65

Section 2: Information where order extended

New section 87A

Section 3: Transfer to another hospital

Amendment of section 124

Section 4: Emergency detention in hospital

Amendment of sections 36, 38, 40 and 42

Section 5: Short term detention in hospital

Amendment of sections 44 and 46

Section 6: Meaning of temporary compulsion

Amendment of section 329

Section 7: Suspension of orders on emergency detention

Amendment of section 43

Section 8: Suspension of orders on short term detention

Amendment of section 56

Section 9: Suspension of detention for certain purposes

Section 10: Maximum suspension of detention measures

Amendment of section 127

Amendment of section 128

Amendment of section 224

Section 11: Specification for detention measures

Amendment of section 36 and 44 and new section 71A

Section 12: Transfer of prisoner to hospital unit

Amendment of section 136

Section 13: Transfer from specified unit

New section 124A

Section 14: Requirement for medical report

Amendment to section 264 and 268

Section 15: Process for enforcement of orders

Amendment of sections 266, 267, 270, 271 and 272

Section 16: Orders relating to non-state hospitals

Amendment of section 268

New section 271A

Section 17: Section 16: exercise of powers before commencement

Section 18: Meaning of hospital in sections 264 to 273 of the 2003 Act

Amendment to section 273

Section 19: Notifying decisions on removal orders

New section 295A

Section 20: Detention pending medical treatment

Amendment of Section 299

Section 21: periodical referral of cases

Amendment of section 101, 189 and 213

Section 22: Named person not to be automatic

Amendment to section 251, 253 and 318

Section 23: Consent to being named person

Amendment to sections 250 and 257

Section 24: Appointment of named person

Amendment of sections 255, 256, 257 and 320.

New section 257(3A)

Section 25: Ability to act if no named person

New section 257A

Section 26: Advance statements to be registered

New sections 276A, 276B and 276C

Section 27: information about advocacy services

New section 259A

Section 28: Communication at medical examination etc.

New section 261A

Section 29: Conflicts of interest to be avoided

New section 291A

Amendments to sections 36, 44, 47 and 58

Section 30: Safeguarding the patient's interest

Amendment of section 245

Section 31: Services and accommodation for mothers

Amendment of section 24

Section 32: Cross-border transfer of patients

Amendment of sections 289, 290 and 309A

Section 33: Dealing with absconding patients

Amendment of section 303

Amendment of section 309 and 310

Section 34: Agreement to transfer of prisoners

Section 35: Compulsory treatment of prisoners

Amendment of schedule 2, part 2

New paragraph 1A, schedule 3

Section 36: Provision of information by the Commission

Section 37 – Review of deaths of patients in hospital for treatment

PART TWO – CRIMINAL CASES

Section 38: Making certain orders in remand cases

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Amendments to sections 52B, 52C, 52D, 52F, 52K, 52L, 52M and 52P

Section 39: Detention under compulsion orders

Amendment of section 57

Section 40: Periods for assessment orders

Amendment to sections 52D, 52F, 52G and 52H

Section 41: Periods for treatment orders

Amendment of sections 52M, 52P, 52R

Section 42: Periods for short term compulsion

Amendment of sections 53, 53A, 53B and 54

Section 43: Periods for compulsion orders

Amendment of sections 57A, 57B and 57D

Section 44: Periods for hospital directions

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Section 45: Variation of interim compulsion orders

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Section 46: Transfer of patient to suitable hospital

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Section 47: Specification of Unit

New section 61B

Section 48: Transfer from specified unit

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Section 49: Consequential repeals

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Section 51: Notification of changes to compulsion orders

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Section 52: Effect of revocation of restriction order

Amendment of section 198

Section 53: Clarification of meaning of compulsion order

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PART THREE – VICTIMS’ RIGHTS

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Amendment of section 16 of the Criminal Justice (Scotland) Act 2003

Section 55: Right to information: compulsion order

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New section 16B

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Section 56: right to make representations

New section 17B

New section 17C

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Section 57: information sharing.

New section 17E

Section 58: associated definitions

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Section 59: Power to make modifications

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Section 60: Amendments to the 2003 Act

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PARLIAMENTARY HISTORY OF MENTAL HEALTH (SCOTLAND) ACT 2015