



# Mental Health (Scotland) Act 1984

## 1984 CHAPTER 36

### <sup>F1F2</sup>PART I **S**

#### APPLICATION OF ACT

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#### Textual Amendments

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\), s. 333\(2\), sch. 5 Pt. 1](#) (as amended by [S.S.I. 2005/465](#), art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in [S.S.I. 2005/452](#)); [S.S.I. 2005/161, art. 3](#) (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see [S.S.I. 2005/161, art. 3](#)); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by [2004 c. 33, s. 263\(10\)\(c\), Sch. 28 paras. 50, 51](#); [S.S.I. 2005/604, art. 2\(e\), 4](#); and s. 66A expressed to be amended (1.10.2009) in so far as still in force by [2005 c. 4, s. 148\(1\), Sch. 9 para. 40](#); [S.I. 2009/1604, art. 2\(d\)](#)

### <sup>F1F2</sup>PART II **S**

#### MENTAL WELFARE COMMISSION

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### PART III **E+W+S**

#### LOCAL AUTHORITY SERVICES

### <sup>F1F2</sup>7 **Functions of local authorities. **S****

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**F1F28 Provision of after-care services. S**

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**F1F29 Appointment of mental health officers. S**

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**[<sup>F1</sup>10 Welfare of certain hospital patients. E+W+S**

- (1) The provisions of this section shall apply to any patient suffering from mental disorder who is—
- <sup>F3</sup>(a) .....
  - <sup>F3</sup>(aa) .....
  - (b) a person who is under the guardianship of a local authority under <sup>F4</sup>... the provisions of the <sup>M1</sup>Mental Health Act 1983; or
  - (c) a person the functions of whose nearest relative <sup>F5</sup>... under the Mental Health Act 1983 are for the time being transferred to a local authority.
- (2) Where [<sup>F6</sup>, in Scotland, a patient to whom this section applies is (whether for treatment for mental disorder or for any other reason) admitted to any hospital or to accommodation provided by a care home service] then, without prejudice to their duties in relation to the patient apart from the provisions of this section, the authority having rights or functions in relation to him as aforesaid shall arrange for visits to be made to him on their behalf, and shall take such other steps in relation to the patient while in the hospital or [<sup>F7</sup>accommodation] as would be expected of a parent.]

**Textual Amendments**

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#) (as amended by S.S.I. 2005/465, art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in S.S.I. 2005/452); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F3** S. 10(1)(a)(aa) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see S.S.I. 2005/161, art. 3)
- F4** Words in s. 10(1)(b) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see S.S.I. 2005/161, art. 3)
- F5** Words in s. 10(1)(c) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see S.S.I. 2005/161, art. 3)
- F6** Words in s. 10(2) substituted (S.) (1.4.2002) by [2001 asp 8](#), ss. 79, 81(2), [Sch. 3 para. 11\(3\)\(a\)](#); S.S.I. 2002/162, [art. 2\(f\)\(h\)](#) (subject to [arts. 3-13](#))
- F7** Words in s. 10(2) substituted (S.) (1.4.2002) by [2001 asp 8](#), ss. 79, 81(2), [Sch. 3 para. 11\(3\)\(b\)](#); S.S.I. 2002/162, [art. 2\(f\)\(h\)](#) (subject to [arts. 3-13](#))

**Marginal Citations**

- M1** 1983 c. 20.

**[<sup>F1F2</sup>11 The training and occupation of the mentally handicapped. S**

.....

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## <sup>F1F2</sup> PART IV **S**

### PRIVATE HOSPITALS

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## <sup>F1F2</sup> PART V **U.K.**

### ADMISSION TO AND DETENTION IN HOSPITAL AND GUARDIANSHIP

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## <sup>F1F2</sup> PART VI **E+W+S**

### DETENTION OF PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS ETC. AND TRANSFER OF PATIENTS UNDER SENTENCE

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## <sup>F1F2</sup> PART VII **U.K.**

### REMOVAL AND RETURN OF PATIENTS WITHIN UNITED KINGDOM ETC.

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## <sup>F1F2</sup> PART VIII **S**

### STATE HOSPITALS

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## PART IX **S+N.I.**

### PROTECTION OF PROPERTY OF PATIENTS

## <sup>F1F2</sup>92 **Duties of local authority in relation to property. **S****

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**F1F2**<sup>93</sup> ..... **S**

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**F1F2**<sup>94</sup> **Powers of managers in relation to property of patients.** **S**

### Textual Amendments

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## 95 Reciprocal arrangements in relation to Northern Ireland as to exercise of powers. **S+N.I.**

- (1) Where a curator bonis, tutor <sup>[F8]</sup>, guardian] or judicial factor has been appointed under the law in force in Scotland for any person suffering from mental disorder, the provisions of that law shall apply in relation to the property and affairs of that person in Northern Ireland unless <sup>[F9]</sup>he is a patient in relation to whom powers have been exercised under Part VIII of the Mental Health (Northern Ireland) Order 1986, or a person as to whom powers are exercisable and have been exercised under Article 97(2) of that Order].
- (2) <sup>[F10]</sup>Part VIII of the Mental Health (Northern Ireland) Order 1986 shall apply in relation to the property and affairs in Scotland of a patient in relation to whom powers have been exercised under that Part, or a person as to whom powers are exercisable and have been exercised under Article 97(2) of that Order, as it applies in relation to his property and affairs in Northern Ireland] unless a curator bonis, tutor <sup>[F11]</sup>, guardian] or judicial factor has been appointed for him in Scotland.
- (3) In this section references to property do not include references to land or interests in land:

Provided that this subsection shall not prevent the receipt of rent or other income arising from land or interests in land.

### Textual Amendments

- F8** Word in s. 95(1) inserted (1.10.2003) by [Adults with Incapacity \(Scotland\) Act 2000 \(asp 4\)](#), s. 89(2), [sch. 5 para. 17\(23\)\(a\)](#); S.S.I. 2003/267, art. 2(2)(d)
- F9** Words substituted by [S.I. 1986/596](#), [art. 3\(16\)](#)
- F10** Words substituted by [S.I. 1986/596](#), [art. 3\(17\)](#)
- F11** Word in s. 95(2) inserted (1.10.2003) by [Adults with Incapacity \(Scotland\) Act 2000 \(asp 4\)](#), s. 89(2), [sch. 5 para. 17\(23\)\(b\)](#); S.S.I. 2003/267, art. 2(2)(d)

## <sup>F1F2</sup>PART X **S**

### CONSENT TO TREATMENT

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## PART XI **S**

### MISCELLANEOUS AND GENERAL

#### <sup>F1F2</sup> *Offences*

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#### <sup>F1F2</sup> *Miscellaneous provisions*

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## Supplementary

### <sup>F1F2</sup>120 Provisions as to custody, conveyance and detention. **U.K.**

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### <sup>F1F2</sup>121 Retaking of patients escaping from custody. **U.K.**

#### Textual Amendments

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### <sup>F1F2</sup>121A Warrants for arrest of escaped mental patients. **U.K.**

#### Textual Amendments

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**F1F2 122 Protection for acts done in pursuance of this Act. U.K.**

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**F1F2 123 Inquiries. S**

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**Textual Amendments**

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**F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by **The Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/2078), art. 1(2), Sch. 3** (with art. 16(2)) (see S.S.I. 2005/161, **art. 3**); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by 2004 c. 33, s. 263(10)(c), **Sch. 28 paras. 50, 51**; S.S.I. 2005/604, **art. 2(c), 4**; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by 2005 c. 4, s. 148(1), **Sch. 9 para. 40**; S.I. 2009/1604, **art. 2(d)**

**F1F2 124 General provisions as to regulations and orders. S**

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**Textual Amendments**

**F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by **Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), s. 333(2), sch. 5 Pt. 1** (as amended by S.S.I. 2005/465, art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in S.S.I. 2005/452); S.S.I. 2005/161, **art. 3** (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

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as still in force by 2004 c. 33, s. 263(10)(c), Sch. 28 paras. 50, 51; S.S.I. 2005/604, art. 2(c), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by 2005 c. 4, s. 148(1), Sch. 9 para. 40; S.I. 2009/1604, art. 2(d)

**F1F2 125 Interpretation. U.K.**

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**Textual Amendments**

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#) (as amended by S.S.I. 2005/465, art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in S.S.I. 2005/452); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
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**F1F2 126 Preservation of amendments. S**

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**Textual Amendments**

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#) (as amended by S.S.I. 2005/465, art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in S.S.I. 2005/452); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see S.S.I. 2005/161, [art. 3](#)); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by 2004 c. 33, s. 263(10)(c), Sch. 28 paras. 50, 51; S.S.I. 2005/604, art. 2(c), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by 2005 c. 4, s. 148(1), [Sch. 9 para. 40](#); S.I. 2009/1604, [art. 2\(d\)](#)

**F1F2 127 Consequential and transitional provisions and repeals. U.K.**

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**Textual Amendments**

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#) (as amended by S.S.I. 2005/465, art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in S.S.I. 2005/452); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with

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art. 16(2)) (see S.S.I. 2005/161, **art. 3**); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by 2004 c. 33, s. 263(10)(c), **Sch. 28 paras. 50, 51**; S.S.I. 2005/604, **art. 2(c)**, 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by 2005 c. 4, s. 148(1), **Sch. 9 para. 40**; S.I. 2009/1604, **art. 2(d)**

## <sup>F1F2</sup>128 Application to England and Wales. **S**

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### Textual Amendments

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by **Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)**, s. 333(2), **sch. 5 Pt. 1** (as amended by S.S.I. 2005/465, art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in S.S.I. 2005/452); S.S.I. 2005/161, **art. 3** (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by **The Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 (S.I. 2005/2078)**, art. 1(2), **Sch. 3** (with art. 16(2)) (see S.S.I. 2005/161, **art. 3**); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by 2004 c. 33, s. 263(10)(c), **Sch. 28 paras. 50, 51**; S.S.I. 2005/604, **art. 2(c)**, 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by 2005 c. 4, s. 148(1), **Sch. 9 para. 40**; S.I. 2009/1604, **art. 2(d)**

## <sup>F1F2</sup>129 Application to Northern Ireland. **S**

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### Textual Amendments

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by **Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)**, s. 333(2), **sch. 5 Pt. 1** (as amended by S.S.I. 2005/465, art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in S.S.I. 2005/452); S.S.I. 2005/161, **art. 3** (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
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## <sup>F1</sup>130 Short title and commencement. **U.K.**

This Act may be cited as the Mental Health (Scotland) Act 1984 and shall come into force on 30th September 1984.]

### Textual Amendments

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by **Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)**, s. 333(2), **sch. 5 Pt. 1** (as amended by S.S.I. 2005/465, art. 1, sch. 1

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**Changes to legislation:**

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[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- s. 7(4) substituted by [2002 c. 41 s. 46\(4\)](#) (S. 46 is repealed (prosp.) by 2016 c. 19, Sch. 11 para. 41)
- s. 8(5) substituted by [2002 c. 41 s. 46\(5\)](#) (S. 46 is repealed (prosp.) by 2016 c. 19, Sch. 11 para. 41)
- s. 55(3) words substituted by [2000 asp 4 Sch. 5 para. 17\(22\)](#) (This amendment not applied to legislation.gov.uk. Sch. 5 para. 17(22) repealed (5.10.2005) without ever being in force by 2003 asp 13, ss. 331(2), 333(3), Sch. 5 Pt. 1; S.I. 2005/161, art. 3)
- s. 125(1) words inserted by [2000 asp 4 Sch. 5 para. 17\(24\)\(b\)](#)
- s. 125(1) words substituted by [2000 asp 4 Sch. 5 para. 17\(24\)\(a\)](#)

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

- Act applied by [1996 c. 46 Sch. 2 para. 9](#)(replacing 1968 c 20 s. 23) (This amendment not applied to legislation.gov.uk. Sch. 2 repealed (31.3.2005) without ever being in force by 2004 c. 28, Sch. 11; S.I. 2005/579, art. 3(i))
- Act applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing 1957 c 53 s. 63) (This amendment not applied to legislation.gov.uk. Sch. 2 repealed (31.3.2005) without ever being in force by 2004 c. 28, Sch. 11; S.I. 2005/579, art. 3(i))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing 1955 c 19 s. 116) (This amendment not applied to legislation.gov.uk. Sch. 2 repealed (31.3.2005) without ever being in force by 2004 c. 28, Sch. 11; S.I. 2005/579, art. 3(i))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing 1955 c 18 s 116) (This amendment not applied to legislation.gov.uk. Sch. 2 repealed (31.3.2005) without ever being in force by 2004 c. 28, Sch. 11; S.I. 2005/579, art. 3(i))
- Act power to applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing 1957 c 53 s. 63) (This amendment not applied to legislation.gov.uk. Sch. 2 repealed (31.3.2005) without ever being in force by 2004 c. 28, Sch. 11; S.I. 2005/579, art. 3(i))
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**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 13(1)(aa) inserted by [2000 asp 4 s. 38\(4\)](#)

**Commencement Orders yet to be applied to the Mental Health (Scotland) Act 1984**

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2009/1604 art. 2](#) commences (2005 c. 4)