

Draft Regulations laid before the Scottish Parliament under section 326(4) of the Mental Health (Care and Treatment) (Scotland) Act 2003, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2023 No.

MENTAL HEALTH

The Mental Health (National Secure Adolescent Inpatient Service: Miscellaneous Amendments) (Scotland) Regulations 2023

Made - - - - 2023

Coming into force - - 28th November 2023

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 271A(1) and 286(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003(1) and all other powers enabling them to do so.

In accordance with section 286(6) of that Act, the Scottish Ministers have consulted with such persons as they consider appropriate.

In accordance with section 326(4)(2) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Mental Health (National Secure Adolescent Inpatient Service: Miscellaneous Amendments) (Scotland) Regulations 2023 and come into force on 28 November 2023.

Amendment of the Mental Health (Safety and Security) (Scotland) Regulations 2005

2. In regulation 2(2)(a) (specified persons) of the Mental Health (Safety and Security) (Scotland) Regulations 2005(3)—

- (a) at the end of head (iii), omit “or”,
- (b) after head (iv) insert—

(1) [2003 asp 13](#) (“the 2003 Act”). Section 271A of the 2003 Act was inserted by section 16(5) of the Mental Health (Scotland) Act 2015 ([asp 9](#)) (“the 2015 Act”). Section 329(1) of the 2003 Act defines “regulations” for the purposes of the 2003 Act.

(2) Section 326(4) of the 2003 Act has been modified by paragraph 5 of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act 2010 ([asp 10](#)) and was relevantly amended by section 16(7) of the 2015 Act.

(3) [S.S.I. 2005/464](#), as relevantly amended by [S.S.I. 2012/211](#).

“(v) the National Secure Adolescent Inpatient Service, Foxgrove, Ayrshire Central Hospital Campus, Kilwinning Road, Irvine; or”.

Amendment of the Mental Health (Detention in Conditions of Excessive Security) (Scotland) Regulations 2015

3. In regulation 4 (meaning of qualifying hospital) of the Mental Health (Detention in Conditions of Excessive Security) (Scotland) Regulations 2015⁽⁴⁾—

(a) at the end of paragraph (b), omit “and”,

(b) after paragraph (c), insert—

“; and

(d) the National Secure Adolescent Inpatient Service, Foxgrove, Ayrshire Central Hospital Campus, Kilwinning Road, Irvine.”.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

(4) S.S.I. 2015/364.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Mental Health (Safety and Security) (Scotland) Regulations 2005 (“the 2005 Regulations”) and the Mental Health (Detention in Conditions of Excessive Security) (Scotland) Regulations (“the 2015 Regulations”) in connection with the National Secure Adolescent Inpatient Service, Foxgrove, Ayrshire Central Hospital Campus, Kilwinning Road, Irvine (“the NSAIS”).

The 2005 Regulations authorise measures, subject to conditions, to protect the safety and security of patients and others in hospital. The measures can be taken in respect of a patient detained in hospital who is a “specified person”. Regulation 2 of the 2005 Regulations provides that a person is a “specified person” for the purpose of those Regulations if certain conditions are met. One way in which a person can be a specified person is if they are detained in a particular hospital listed in regulation 2(2)(a).

Regulation 2 of these Regulations amends the 2005 Regulations to add the NSAIS to the list of hospitals in regulation 2(2)(a) of the 2005 Regulations.

The 2015 Regulations make provision in connection with applications to the Mental Health Tribunal for Scotland (“the Tribunal”) under sections 264 and 268 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”). An application to the Tribunal under one of those sections is an application seeking an order declaring that the patient is being detained in conditions of excessive security.

An application can be made by, or on behalf of, a patient under section 268 of the 2003 Act if the patient is being detained in a “qualifying hospital”. Regulation 4 of the 2015 Regulations specifies particular hospitals or hospital units as being “qualifying hospitals” for the purposes of sections 268 to 271 of the 2003 Act.

Regulation 3 of these Regulations amends the 2015 Regulations to add the NSAIS to the list of qualifying hospitals for the purposes of section 268 to 271 of the 2003 Act.