

## **Executive Note**

### **The Mental Health (Removal Order) (Scotland) Regulations 2005 SSI 2005/381**

The above instrument was made in exercise of the powers conferred by section 293(6)(b) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the Act”). The instrument is subject to negative resolution procedure.

#### **Policy Objectives**

Section 293 of the Act provides for a mental health officer to make an application to a sheriff for a removal order where a person may have been subject or exposed to ill-treatment, neglect or some other deficiency in care or treatment, to remove that person to a specified place of safety. Regulations may prescribe persons, other than the person who is the subject of the application, who are to be afforded an opportunity by the sheriff to make representations and to lead or produce evidence before an application for a removal order is determined by the sheriff.

The purpose of the instrument is to prescribe that the following class of persons may make representations or submit evidence to the sheriff: any nearest relative; any primary carer; and any guardian or welfare attorney of the person.

The sheriff may dispense with the requirements to allow such persons to make representations or to lead or produce evidence, where the delay resulting from complying with these provisions might be prejudicial to the person who is the subject of the application.

#### **Consultation**

Policy on this instrument was consulted on formally in a “regulations policy proposals consultation document” published in summer 2004. Further consultation has also taken place by way of discussion with the Sheriff Court Rules Council and the Mental Welfare Commission.

#### **Financial Effects**

The instrument has no financial effects on the Scottish Executive or any other organisation.

Scottish Executive Health Department  
July 2005