
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 442

The Mental Welfare Commission for Scotland (Procedure and Delegation of Functions) (No. 2) Regulations 2005

Delegation of functions

5.—(1) Subject to the provisions of this regulation, the Commission may delegate any of its functions (other than excepted functions) to—

- (a) a committee of the Commission;
- (b) a sub committee of such a committee; or
- (c) an individual member of the Commission, committee or sub committee or a member of staff of the Commission.

(2) Where, under paragraph (1), the Commission has delegated a function to a committee, the committee may with the approval of the Commission, arrange for the function to be discharged on behalf of the Commission, by a sub committee of the committee or by an individual member of the Commission, committee or sub committee or a member of staff of the Commission.

(3) Where under paragraphs (1) or (2), the Commission or a committee have arranged for the discharge of a function of the Commission to be discharged by a sub-committee, the sub committee may with the approval of the Commission or committee, arrange for the function to be discharged by an individual member of the Commission, committee or sub committee or a member of staff of the Commission.

(4) The Commission shall approve the nature and extent of any powers to be exercised by a committee, sub committee or an individual member of the Commission, committee or sub committee or a member of staff of the Commission.

(5) The Commission shall not delegate any function unless it is satisfied that adequate arrangements have been made for reporting to it by the committee, sub committee or the individual to whom the function is to be delegated.

(6) Any delegation by the Commission of a function under this regulation—

- (a) shall not affect the responsibility of the Commission in the exercise of the function or any liability arising from the exercise of that function;
- (b) shall not prevent the Commission from exercising a function; and
- (c) may be revoked at any time by the Commission, or the committee or sub committee making the arrangement.

(7) In this regulation “excepted functions” means—

- (a) functions relating to the discharge of patients under the Act;
- (b) the making of standing orders under regulation 4;
- (c) the constitution, terms of reference and reporting arrangements of any committees and sub committees of the Commission;
- (d) the appointment of a person to chair or conduct an inquiry under section 12 of the Act;

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- (e) the acquisition and disposal of land and other property with a value in excess of £50,000 or such other amount as may be agreed by the Commission; and
- (f) the keeping of annual accounts, the auditing of those accounts and the transmission of such accounts to the Scottish Ministers.