

**2005 No. 443**

**MENTAL HEALTH**

**The Mental Health (Certificates for Medical Treatment)  
(Scotland) Regulations 2005**

*Made* - - - - - *12th September 2005*

*Laid before the Scottish Parliament* *13th September 2005*

*Coming into force* - - - *5th October 2005*

The Scottish Ministers, in exercise of the powers conferred on them by sections 245(2), 246 and 325 of the Mental Health (Care and Treatment) (Scotland) Act 2003(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Mental Health (Certificates for Medical Treatment) (Scotland) Regulations 2005 and shall come into force on 5th October 2005.

(2) In these Regulations –

“the Act” means the Mental Health (Care and Treatment) (Scotland) Act 2003; and

“Form” means a Form set out in Schedule 2.

and any reference to a Form having a letter and a number is a reference to the Form having that letter and number in Schedule 2.

**Forms**

2. Any certificate given under a section of the Act which is specified in an entry in column 1 of Schedule 1 shall contain the particulars set out in the part of the Form which is specified in the corresponding entry in column 2 of that Schedule.

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(a) 2003 asp 13; see section 329 for the definition of “regulations”.

**Form of certificates**

3. Any certificate given under a section of the Act which is specified in an entry in column 1 of Schedule 2 shall be in the Form which is specified in column 2 of that Schedule and set out in that Schedule.

St Andrew's House,  
Edinburgh  
12th September 2005

LEWIS MACDONALD  
Authorised to sign by the Scottish Ministers

# SCHEDULE 1

Regulation 2

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<i>Column 1</i>	<i>Column 2</i>
Section 235	Form T1 part 1
Section 236	Form T1 part 2
Section 238	Form T2 page 3
Section 239	Form T3 parts 1 and 3
Section 241	Form T3 parts 2 and 3

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## SCHEDULE 2

Regulation 3

<i>Column 1</i>	<i>Column 2</i>
Section 235	Form T1 part 1
Section 236	Form T1 part 2
Section 238	Form T2 page 3
Section 239	Form T3 parts 1 and 3
Section 241	Form T3 parts 2 and 3

**PART 1: PATIENTS CAPABLE OF CONSENTING**

To be completed by the DMP

(To be completed by the DMP who is not the patient’s RMO. See Note A)

I, the above named DMP, confirm that:

*(Shade as appropriate)*

- (a) the above named patient is capable of consenting to the treatment
- (b) the patient has consented to the treatment in writing
- (c) having regard to the likelihood of its alleviating, or preventing a deterioration in, the patient’s condition, it is in the patient’s best interests that the treatment should be given to the patient

**Note A: If**

- (a) the patient is a child (under the age of 18); and
- (b) the patient’s RMO is not a child specialist,

Part 1 should be certified in writing by a DMP who is a child specialist.

**PART 2: PATIENTS INCAPABLE OF CONSENTING**

(To be completed by the DMP who is not the patient’s RMO. See Note B)

I, the above named DMP confirm that:

*(Shade as appropriate)*

- (a) the above patient is incapable of consenting to the treatment;
- (b) the patient is not objecting to the treatment; and
- (c) having regard to the likelihood of its alleviating, or preventing a deterioration in, the patient’s condition, it is in the patient’s best interest that the treatment should be given to the patient

**Note B: If**

the patient is under the age of 18, certification of Part 2 MUST be as follows–

where the patient’s RMO is a child specialist, by a medical practitioner approved by the Mental Welfare Commission to discharge functions under section 236(2) of the Act;

where the patient’s RMO is not a child specialist, by a DMP who is a child specialist

where a child specialist is a medical practitioner who has such qualifications or experience in relation to children as the Mental Welfare Commission may determine from time to time

To be completed by the DMP or RMO

Patients Capable of Consenting to Treatment and Not Refusing Consent

I, the above named RMO or DMP confirm that:

*(Shade A to D to confirm (plus E if appropriate))*

- (a) the patient is capable of consenting to the treatment below;
- (b) the patient has consented to the treatment in writing to the treatment below;
- (c) the giving of medical treatment to the patient is authorised by virtue of the Act, or the Criminal Procedures (Scotland) Act 1995;
- (d) having regard to the likelihood of its alleviating, or preventing a deterioration in, the patient's condition, it is in the patient's best interest that the treatment should be given to the patient; and
- (e) a copy of the patient's consent in writing is attached.

**NOTE:**  
If consent to treatment has been withdrawn (in writing or otherwise), then the certificate cannot be given

Details of Treatment

- ECT under section 237(3)(a);
- such other types of medical treatment as may be specified in the regulations under section 237(3)(b); or other medical treatment provided under section 240 of the Act. The section 240 treatment consisted of:
  - (a) any medicine (other than the surgical implantation of hormones) given for the purpose of reducing sex drive;
  - (b) any other medicine given over a period of 2 months; and
  - (c) such other types of treatment as may be specified in regulations for the purposes of section 240(3)(d).

**Note:**

For treatments given for (a) and (c) above, a certificate of consent for treatment will be required when the treatment is initially given

The medication treatment(s) is (are) as follows:

*(Provide a description of the treatments, the frequency and duration of treatment)*

(Please complete in black or blue ink. Lower case is permitted)

T2\_1

Date treatment was first given to the patient      dd mm yyyy  
□□ / □□ / □□□□

**PART 1: PATIENTS INCAPABLE OF CONSENTING TO ECT AND SUCH OTHER TYPES OF MEDICAL TREATMENT UNDER SECTION 237(3) OF THE ACT**

To be completed by the DMP, who is not the Patient's RMO

I confirm that:

- the patient is incapable of understanding the nature, purpose and likely effects of the treatment;

**AND**

- the giving of medical treatment to the patient is authorised by virtue of the Act, or the Criminal Procedures (Scotland) Act 1995;

**AND**

*(Complete A or B as appropriate)*

- A.  the patient is NOT resisting or objecting to treatment, and having regard to the likelihood of its alleviating, or preventing a deterioration in, the patient's condition, it is in the patient's best interests that the treatment should be given.

**OR**

- B.  the patient is resisting or objecting to treatment, and it is necessary to give treatment to the patient for the purpose of:
  - (a) saving the patient's life;
  - (b) preventing serious deterioration in the patient's condition;
  - (c) alleviating serious suffering on the part of the patient.

**Note: where the patient is not in hospital the above certificate does not authorise the giving of medical treatment by force to the patient**

The treatment consists of—

- ECT under section 237(3)(a);
- such other types of medical treatment as may be specified in the regulations under section 237(3)(b).

**Please provide further details of treatment given in space allocated in Part 3**

<b>PART 2: PATIENTS REFUSING CONSENT OR INCAPABLE OF CONSENTING TO SECTION 240(3) TREATMENTS</b>	To be completed by the DMP, who is not the Patient's RMO
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I, the above named DMP, not being the patient's RMO certify that:

*(Shade as appropriate)*

- (1)(a)  the patient is capable of consenting, but does not consent

**OR**

- the patient is incapable of consenting to the treatment below;

**AND**

- (b)  the giving of medical treatment to the patient is authorised by virtue of the Act, or the Criminal Procedure (Scotland) Act 1995;

**AND**

- (c)  having regard to the likelihood of its alleviating, or preventing a deterioration in, the patient's condition, it is in the patient's best interests that the treatments below should be given.

*(If the patient is capable of consenting, but is refusing consent, complete reasons why the treatment should be given.)*

(Please complete in black or blue ink. Lower case is permitted)

T3\_1

(2) The section 240(3) treatments consisted of:

- (a) any medicine (other than the surgical implantation of hormones) given for the purpose of reducing sex drive;
- (b) any other medicine given over a period of 2 months;
- (c) provision, without consent to the patient and by artificial means, of nutrition to the patient; and
- (d) such other types of treatment as may be specified in regulations for the purposes of this section.

**Note:**

For treatments given for (a), (c) and (d) above, a certificate of second opinion will be required when the treatment is initially given

**Please provide further details of treatment given in space allocated in Part 3**

PART 3: TREATMENTS	To be completed by the DMP, who is not the Patient's RMO
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**To be completed in every instance**

The Treatments are as follows:

*(Provide a description of the treatment, the frequency and duration of treatment)*

T3\_2

Date treatment was first given to the patient  
 (Only required for initial certification)

dd
mm
yyyy

/ 
  /

- A copy of the whole of form T3 will be sent to the Mental Welfare Commission within seven days of issuing the certificate

Signature

Date

dd
mm
yyyy

/ 
  /

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

These Regulations prescribe the contents of the forms to be used for giving certificates under sections 235, 236, 238, 239 and 241 in respect of the patient's consent to medical treatment and the patient's best interests with regard to giving that treatment.

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