

EXECUTIVE NOTE

The Mental Health (Certificates for Medical Treatment) (Scotland) Regulations 2005 S.S.I. 2005/443

The above instrument was made in exercise of the powers conferred by section 245(2), 246 and 325 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”). The instrument is subject to negative resolution procedure.

Policy Objectives

The Mental Health (Care and Treatment) (Scotland) Act 2003 (“the Act”) makes provision at section 325 to prescribe statutory forms. The Mental Health (Scotland) Act 1984 directed a person discharging certain functions under the Act, to complete the prescribed form. The 2003 Act leaves determinations about the statutory forms and the circumstances in which such a form is to be used, to regulations. The 2003 Act, however, requires a certificate to be given under certain circumstances. These relate to sections 235, 236, 238, 239 and 241 which govern authorisation of treatments under Part 16 of the Act. Under sections 245 and 246, a certificate shall contain such particulars as is prescribed in regulations. These Regulations prescribe the contents of the form to be used for giving certificates under these sections in respect of the patient’s consent to medical treatment and the patient’s best interests with regard to giving that treatment.

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 Monitoring, Assessment and Research sub-group of the Scottish Executive’s Mental Health Legislation Reference Group.

Financial Effects

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

Scottish Executive Health Department
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