

Executive Note

The Mental Health (Class of Nurse)(Scotland) Regulations 2005 SSI/2005/446

The above order was made in exercise of the powers conferred by section 299(2) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the Act”). The instrument is subject to negative resolution procedure.

Policy Objectives

The Act makes provision for certain nurses to detain a patient who is not subject to the formal provisions of the Act who is already in hospital receiving treatment for a mental disorder. The prescribed class of nurse may detain a patient for a period of up to two hours for the purpose of enabling arrangements to be made for a medical examination of the patient. If the medical practitioner arrives to examine the patient at any point after a period of one hour has elapsed, the prescribed class of nurse may detain the patient for a further hour from the point of the medical practitioner arriving. The purpose of the regulations is to prescribe the class of nurse permitted to exercise the holding power under section 299. The class of nurse prescribed is a mental health or learning disabilities nurse registered in Sub-Part 1 of the Nurses’ Part of the register kept in accordance with the Nursing and Midwifery Order 2001 (S.I. 2002/253).

Consultation

Policy on these regulations 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 Scottish Executive’s Mental Health Legislation Reference Group.

Financial Effects

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

Scottish Executive Health Department
September 2005