

Executive Note

The Mental Health (Class of Nurse) (Scotland) Revocation Order 2005 SSI/2005/447

The above order was made in exercise of the powers conferred by section 25(2) and (6) of the Mental Health (Scotland) Act 1984 (“the 1984 Act”). The instrument is not subject to any parliamentary procedure.

Policy Objectives

Section 25 of the 1984 Act makes provision for a prescribed class of nurse to detain a patient who is already in hospital receiving treatment for a mental disorder. The order currently in force is the Mental Health (Class of Nurse)(Scotland) Order 1994 (the 1994 Order). .

Section 299(9) of the Mental Health (Care and Treatment)(Scotland) Act 2003 (the 2003 Act), due to come fully into force on 5 October 2005, makes provision for any subordinate legislation under section 25 of the 1984 Act to continue to have effect. However we intend to replace the 1994 Order by laying new regulations to prescribe the class of nurse under section 299(2) of the 2003 Act. . The purpose of this Order is to revoke the 1994 Order to ensure that only one instrument prescribing the class of nurse who may detain patients is in force at the commencement of the 2003 Act, to allay any possible confusion.

Consultation

Policy on the proposed prescribed class of nurse was consulted on formally in a “regulations policy proposals consultation document” published in summer 2004.

Financial Effects

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

Scottish Executive Health Department
September 2005