
SCOTTISH STATUTORY INSTRUMENTS

2005 No. 452

MENTAL HEALTH

**The Mental Health (Care and Treatment) (Scotland) Act
2003 (Transitional and Savings Provisions) Order 2005**

Made - - - - - *13th 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 section 332 of the Mental Health (Care and Treatment) (Scotland) Act 2003(1), and of all other powers enabling them in that behalf, hereby make the following Order:

PART 1

INTRODUCTION

Citation and commencement

1. This Order may be cited as the Mental Health (Care and Treatment) (Scotland) Act 2003 (Transitional and Savings Provisions) Order 2005 and shall come into force on 5th October 2005.

Interpretation

2.—(1) In this Order—

“the 1984 Act” means the Mental Health (Scotland) Act 1984;

“1984 Act patient” means a person liable to be detained in a hospital immediately before 5th October 2005 in pursuance of an application for admission made under Part 5 of the Mental Health (Scotland) Act 1984(2) or treated as so liable;

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995;

“1995 Act patient” means a person liable or treated as liable to be detained in a hospital immediately before 5th October 2005 under a hospital order or an order having the effect of a hospital order made under the 1995 Act;

(1) 2003 asp 13.
(2) 1984 c. 36.

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

“deemed community compulsion order” means the compulsion order mentioned in article 16(1);

“deemed community compulsory treatment order” means the compulsory treatment order mentioned in article 14(1);

“deemed compulsion order” means the compulsion order mentioned in article 9(1);

“deemed compulsory treatment order” means the compulsory treatment order mentioned in article 3(1);

“existing community patient” means a patient who was subject to a community care order under the 1984 Act immediately before 5th October 2005;

“existing patient” means a patient liable to be detained in hospital immediately before 5th October 2005 under the 1984 Act or the 1995 Act;

“hospital direction patient” means a patient who immediately before 5th October 2005 was subject to a hospital direction made under section 59A of the 1995 Act;

“restricted patient” means a 1995 Act patient who immediately before 5th October 2005, was subject to the special restrictions set out in section 62(1) of the 1984 Act;

“transfer direction patient” means a patient who immediately before 5th October 2005 was subject to a transfer direction made under section 71 of the 1984 Act or treated as so subject.

(2) Any reference to an order or direction having been made includes a reference to its being treated as having been made.

PART 2

PATIENTS DETAINED UNDER PART 5 OF THE 1984 ACT

Deemed compulsory treatment order

3.—(1) A 1984 Act patient shall be treated as if that patient was subject to a compulsory treatment order made under section 64(4)(a) of the 2003 Act and as if liable to be detained by virtue of the 2003 Act.

(2) The deemed compulsory treatment order—

- (a) authorises the measures mentioned in section 66(1)(a) and (b) of the 2003 Act for the remaining period of time for which there was authority for the detention of the patient under Part 5 of the 1984 Act;
- (b) is deemed to record as the type (or types) of mental disorder that the patient has the type (or types) of mental disorder common to the 2 medical recommendations mentioned in section 18(2) of the 1984 Act, or, where applicable, any forms of mental disorder mentioned in the reports mentioned in section 74(9) of the 1984 Act except that the form of mental disorder specified by the deemed compulsory treatment order is—
 - (i) learning disability where the form of mental disorder common to the recommendations or mentioned in the reports is mental handicap; and
 - (ii) personality disorder where the form of mental disorder common to the recommendations or mentioned in the reports is mental illness consisting of personality disorder; and
- (c) is deemed to specify the hospital in which the person is detained immediately before 5th October 2005 or, if the patient has not yet been admitted to hospital, is deemed to specify the hospital named in the application for admission under Part 5 of the 1984 Act.

Review, revocation and variation of deemed compulsory treatment order

4.—(1) A 1984 Act patient shall be treated, for the purposes of section 100 of the 2003 Act as if the deemed compulsory treatment order to which that patient is subject had been made on the day when the patient was admitted to hospital in pursuance of an application for admission under Part 5 the 1984 Act.

(2) Where authority for the detention of a 1984 patient has, prior to 5th October 2005, been renewed under section 30 of the 1984 Act, that patient shall be treated—

- (a) where the authority for the detention has been renewed once, as if a determination under section 86 of the 2003 Act had been made in respect of the first review.
- (b) where the authority for the detention has been renewed more than once, as if such a determination had been made in respect of a subsequent further review.

(3) Where a 1984 Act patient has within a period of detention immediately preceding 5th October 2005 made an unsuccessful appeal to the sheriff to order discharge, that patient shall be treated as if an application under section 99 of the 2003 Act for revocation of a determination had been refused in respect of the deemed compulsory treatment order in that period.

(4) When a determination is made for the first time in respect of any 1984 Act patient under section 86 of the 2003 Act to extend a deemed compulsory treatment order, the responsible medical officer shall send a copy of the patient's care plan and the mental health officer's report mentioned in paragraph (7) to the Tribunal.

(5) At the same time as the patient's care plan and mental health officer's report are sent to the Tribunal, the responsible medical officer shall send a copy of them—

- (a) subject to paragraph (6), to the patient;
- (b) to the patient's named person;
- (c) to the mental health officer;
- (d) to the Commission.

(6) If the responsible medical officer considers that there would be a risk of significant harm to the patient, or to others, if a copy of either the care plan or mental health officer's report were sent to the patient, that officer need not send that copy to the patient.

(7) When the determination mentioned in paragraph 4 is made, the patient's mental health officer shall prepare a report setting out—

- (a) the views of the mental health officer on the determination and the reasons for those views;
- (b) if known to the mental health officer, the views of the patient and the patient's named person on the determination and the reasons for those views;
- (c) in so far as the mental health officer considers relevant for the purposes of the review, details of the personal circumstances of the patient;
- (d) if known to the mental health officer, details of any advance statement that the patient has made (and not withdrawn);
- (e) any other information which the mental health officer considers may assist the Tribunal in considering the determination; and
- (f) the social circumstances report, if available.

Transfer provisions

5.—(1) Where a 1984 Act patient has been transferred in accordance with the provisions of section 29 of the 1984 Act, and no intimation of the transfer has yet been made in accordance with

section 29(2) of that Act immediately before 5th October 2005, such intimation shall be made within 7 days of the transfer.

(2) Where a 1984 Act patient is transferred to a state hospital on or after 8th September 2005 and no appeal is lodged under section 29(4) of the 1984 Act immediately before 5th October 2005, the patient shall be treated as if section 126 of the 2003 Act applied to that patient.

(3) Where a 1984 Act patient is transferred to a state hospital on or after 8th September 2005 and an appeal is lodged under section 29(4) of the 1984 Act but not determined immediately before 5th October 2005, section 29(4) of the 1984 Act shall continue to have effect in respect of that appeal.

Leave of absence

6.—(1) Notwithstanding section 127(2) of the 2003 Act, where for the period immediately before 5th October 2005 a 1984 Act patient has been granted leave of absence under section 27 of the 1984 Act, whether or not that leave has been extended, that patient shall be treated as if a certificate had been granted under section 127(1) of the 2003 Act for the period of absence granted under section 27 except that the total period of absence shall be no more than 12 months from the first day of absence or 9 months from 5th October 2005, whichever expires earlier.

(2) Any direction made or condition imposed under section 27(3) of the 1984 Act in connection with a 1984 Act patient shall be deemed to be a condition included in a certificate granted under section 127(1) of the 2003 Act.

(3) Where immediately before 5th October 2005 the Commission has not been notified of a grant of leave of absence or an extension of leave of absence under section 27(4) of the 1984 Act, the responsible medical officer shall, before the expiry of the period of 14 days beginning with the day of the granting of leave or extension, give notice of it to the Commission.

Absconding

7. Where immediately before 5th October 2005 a 1984 Act patient is a patient such as is referred to in section 28(1)(a), (b) or (c) of the 1984 Act—

- (a) that patient shall be treated as liable to be taken into custody, under section 301 of the 2003 Act and dealt with in accordance with section 303 of that Act; and
- (b) the period referred to in section 304(3) of the 2003 Act shall be calculated from the first day of the patient's absence, notwithstanding the date when the deemed compulsory treatment order takes effect.

Applications for admission under the 1984 Act

8.—(1) Where a local authority has been required by the nearest relative, guardian or welfare attorney under section 19(3) of the 1984 Act to direct a mental health officer to take a patient's case into consideration with a view to making an application for admission, but before 5th October 2005 no application has been made, the mental health officer shall be obliged to inform the nearest relative, guardian or welfare attorney, as the case may be, of the reasons in writing, if it has been decided not to make an application.

(2) Where before 5th October 2005 an application for admission has been submitted to the sheriff under section 21 of the 1984 Act and not yet been determined, sections 18(3), 21, 22(1), 23 and 113 of the 1984 Act shall have effect in respect of that application.

(3) Where the sheriff approves an application referred to in paragraph (2), the person who is the subject of the application shall on admission to hospital be subject to a deemed compulsory treatment order, but the deemed compulsory treatment order shall have no effect if—

- (a) the application or any medical recommendation given for the purposes of the application is found to be incorrect or defective and is not amended as provided for in section 23(1) of the 1984 Act; or
- (b) notice is given under section 23(2) of the 1984 Act and the conditions referred to in paragraphs (a) and (b) of that subsection are not satisfied.

PART 3

PATIENTS DETAINED UNDER A HOSPITAL ORDER

Deemed compulsion order

9.—(1) A 1995 Act patient shall be treated as if that patient was subject to a compulsion order made under section 57A(2) of the 1995 Act.

(2) The deemed compulsion order—

- (a) authorises the measures mentioned in section 57A(8)(a) and (b) of the 1995 Act for the remaining period of time for which there was authority for the detention of the patient under the hospital order;
- (b) is deemed to specify the form of mental disorder specified in the hospital order under which the patient was detained, except that the form of mental disorder specified by the deemed compulsion order is—
 - (i) learning disability where the form of mental disorder specified in the hospital order is mental handicap; and
 - (ii) personality disorder where the form of mental disorder specified in the hospital order is mental illness consisting of personality disorder; and
- (c) is deemed to specify the hospital in which the patient is detained immediately before 5th October 2005 or, if the patient has not yet been admitted to hospital, is deemed to specify the hospital specified in the hospital order.

(3) The authority conferred by section 60(1)(a) of the 1984 Act shall continue to have effect in respect of any 1995 Act patient until that patient has been conveyed to hospital.

(4) Any directions given before 5th October 2005 under section 58(9) of the 1995 Act shall continue to have effect until the patient has been admitted to hospital.

(5) For the purposes of section 57D(1) of the 1995 Act a compulsion order shall be deemed to have been made when the hospital order under which the patient was detained was made.

Review, revocation and variation of deemed compulsion order

10.—(1) A 1995 Act patient shall be treated, for the purposes of section 164 of the 2003 Act as if the deemed compulsion order to which that patient is subject had been made on the same day as the hospital order under which the patient was detained.

(2) Where authority for the detention of a 1995 patient has, prior to 5th October 2005, been renewed under section 30 of the 1984 Act, that patient shall be treated—

- (a) where the authority for the detention has been renewed once, as if an order had been made under section 167(1)(a) of the 2003 Act;
- (b) where the authority for the detention has been renewed more than once, as if a determination had been made under section 152(2) of the 2003 Act.

(3) Where a 1995 Act patient has within a period of detention immediately preceding 5th October 2005 made an unsuccessful appeal to the sheriff to order discharge, that patient shall be treated as if an application under section 163 of the 2003 Act for revocation of a determination extending the deemed compulsion order had been refused within that period.

(4) When a determination has been made for the first time on or after 5th October 2005 under section 152 of the 2003 Act to extend a compulsion order, section 165(2)(b) of the 2003 Act shall in respect of 1995 Act patients be modified so that for the words from “ending” to “it” there shall be substituted “starting with the first day of the period for which detention was last renewed under the 1984 Act”.

(5) When on or after 5th October 2005 an application is first made under section 149 of the 2003 Act for an order extending the compulsion order, or a determination is made for the first time under section 152 of the 2003 Act, the responsible medical officer shall send to the Tribunal a copy of the patient’s Part 9 care plan and the mental health officer’s report mentioned in paragraph (8).

(6) At the same time as a copy of the patient’s Part 9 care plan and mental health officer’s report are sent to the Tribunal, the responsible medical officer shall send a copy of them—

- (a) subject to paragraph (7), to the patient;
- (b) to the patient’s named person;
- (c) to the mental health officer;
- (d) to the Commission.

(7) If the responsible medical officer considers that there would be a risk of significant harm to the patient, or to others, if a copy of either the Part 9 care plan or mental health officer’s report were sent to the patient, that officer need not send that copy to the patient.

(8) When a determination or an application mentioned in paragraph 5 is to be made, the patient’s mental health officer shall prepare a report setting out—

- (a) the views of the mental health officer on the determination or application and the reasons for those views;
- (b) if known to the mental health officer, the views of the patient and the patient’s named person on the determination or application and the reasons for those views;
- (c) in so far as the mental health officer considers relevant for the purposes of the review, details of the personal circumstances of the patient;
- (d) if known to the mental health officer, details of any advance statement that the patient has made (and not withdrawn);
- (e) any other information which the mental health officer considers may assist the Tribunal in considering the determination or application; and
- (f) the social circumstances report, if available.

Transfer provisions

11.—(1) Where a 1995 Act patient has been transferred in accordance with the provisions of section 29 of the 1984 Act, and no intimation of the transfer has yet been made in accordance with section 29(2) of the 1984 Act immediately before 5th October 2005, such intimation shall be made within 7 days of the transfer.

(2) Where a 1995 Act patient is transferred to a state hospital on or after 8th September 2005 and no appeal is lodged under section 29(4) of the 1984 Act immediately before 5th October 2005, the patient shall be treated as if section 126 of the 2003 Act applied to that patient.

(3) Where a 1995 Act patient is transferred to a state hospital on or after 8th September 2005 and an appeal is lodged under section 29(4) of the 1984 Act but not determined immediately before 5th October 2005, section 29(4) of the 1984 Act shall continue to have effect in respect of that appeal.

Leave of absence

12.—(1) Notwithstanding section 127(2) of the 2003 Act, where for the period immediately before 5th October 2005 a 1995 Act patient has been granted leave of absence under section 27 of the 1984 Act, whether or not that leave has been extended, that patient shall be treated as if a certificate had been granted under section 127(1) of the 2003 Act for the period of absence granted under section 27 except that the total period of absence shall be no more than 12 months from the first day of absence or 9 months from 5th October 2005, whichever expires earlier.

(2) Any direction made or condition imposed under section 27(3) of the 1984 Act in connection with a 1995 Act patient shall be deemed to be a condition included in a certificate granted under section 127(1) of the 2003 Act.

(3) Where immediately before 5th October 2005 the Commission has not been notified of a grant of leave of absence or an extension of leave of absence under section 27(4) of the 1984 Act, the responsible medical officer shall, before the expiry of the period of 14 days beginning with the day of the granting of leave or extension, give notice of it to the Commission.

Absconding

13. Where immediately before 5th October 2005 a 1995 Act patient is a patient such as is referred to in section 28(1)(a), (b) or (c) of the 1984 Act—

- (a) that patient shall be treated as liable to be taken into custody under the regulations made under section 310 of the 2003 Act and dealt with in accordance with those regulations; and
- (b) the period of the patient's absence shall be calculated from the first day of the patient's absence notwithstanding the date when the deemed compulsion order takes effect.

PART 4

PATIENTS SUBJECT TO COMMUNITY CARE ORDERS

Deemed community compulsory treatment order

14.—(1) An existing community patient who prior to the community care order being made was liable to be detained in pursuance of an application for admission under the 1984 Act shall be treated as if that patient was subject to a compulsory treatment order made under section 64(4) (a) of the 2003 Act.

(2) The deemed community compulsory treatment order—

- (a) authorises the imposition on the patient of the conditions specified under section 35A(4) (a) of the 1984 Act in the community care order to which the patient was subject for the remaining period of time for which the community care order to which the patient was subject would have had effect;
- (b) is deemed to record as the type or types of mental disorder that the patient has the type or types of mental disorder common to the 2 medical recommendations mentioned in section 35B(7)(a) of the 1984 Act except that the form of mental disorder specified by the deemed community compulsory treatment order is—
 - (i) learning disability where the form of mental disorder common to the recommendations is mental handicap; and

- (ii) personality disorder where the form of mental disorder common to the recommendations is mental illness consisting of personality disorder; and
- (c) is deemed to specify as the hospital the managers of which are to have responsibility for appointing the patient's responsible medical officer, the hospital of which the patient's special medical officer, as defined in section 35A of the 1984 Act, is a member of staff.

Review, revocation and variation of deemed community compulsory treatment order

15.—(1) This Article applies to existing community patients who prior to the community care order being made were liable to be detained under Part 5 of the 1984 Act.

(2) An existing community patient shall be treated for the purposes of section 100 of the 2003 Act as if the deemed community compulsory treatment order to which that patient is subject had been made on the day when the community care order came into effect.

(3) Where a community care order has prior to 5th October 2005 been renewed under section 35C of the 1984 Act, the patient who is the subject of that order shall be treated—

- (a) where the community care order has been renewed once, as if a determination under section 86 of the 2003 Act had been made in respect of the first review;
- (b) where the community care order has been renewed more than once, as if such a determination had been made in respect of a subsequent further review.

(4) Where an existing community patient has within the period of renewal for which a community care order is in force immediately preceding 5th October 2005 made an unsuccessful appeal to the sheriff under section 35F of the 1984 Act for revocation of the order, that patient shall be treated as if an application under section 99 of the 2003 Act for revocation of a determination had been refused in respect of the deemed community compulsory treatment order in that period.

(5) When a determination is made for the first time in respect of an existing community patient under section 86 of the 2003 Act to extend a deemed community compulsory treatment order, the responsible medical officer shall send a copy of the patient's care plan and the mental health officer's report mentioned in paragraph (8) to the Tribunal.

(6) At the same time as the patient's care plan and mental health officer's report are sent to the Tribunal, the responsible medical officer shall send a copy of them—

- (a) subject to paragraph (7), to the patient;
- (b) to the patient's named person;
- (c) to the mental health officer;
- (d) to the Commission.

(7) If the responsible medical officer considers that there would be a risk of significant harm to the patient, or to others, if a copy of either the care plan or mental health officer's report were sent to the patient, that officer need not send that copy to the patient.

(8) When the determination mentioned in paragraph (5) is made, the patient's mental health officer shall prepare a report setting out—

- (a) the views of the mental health officer on the determination and the reasons for those views;
- (b) if known to the mental health officer, the views of the patient and the patient's named person on the determination and the reasons for those views;
- (c) in so far as the mental health officer considers relevant for the purposes of the review, details of the personal circumstances of the patient;
- (d) if known to the mental health officer, details of any advance statement that the patient has made (and not withdrawn);

- (e) any other information which the mental health officer considers may assist the Tribunal in considering the determination; and
- (f) the social circumstances report, if available.

Deemed community compulsion order

16.—(1) An existing community patient who prior to the community care order being made was detained in pursuance of an order or direction by virtue of which that patient was liable to be detained under Part 6 of the 1984 Act shall be treated as if that patient was subject to a compulsion order made under section 57A(2) of the 1995 Act.

(2) The deemed community compulsion order—

- (a) authorises the imposition on the patient of the conditions specified under section 35A(4) (a) of the 1984 Act in the community care order to which the patient was subject for the remaining period of time for which the community care order to which the patient was subject would have had effect;
- (b) is deemed to record as the type or types of mental disorder that the patient has the type or types of mental disorder common to the 2 medical recommendations mentioned in section 35B(7)(a) of the 1984 Act except that the form of mental disorder specified by the deemed community compulsion order is—
 - (i) learning disability where the form of mental disorder common to the recommendations is mental handicap; and
 - (ii) personality disorder where the form of mental disorder common to the recommendations is mental illness consisting of personality disorder; and
- (c) is deemed to specify as the hospital the managers of which are to have responsibility for appointing the patient's responsible medical officer, the hospital of which the patient's special medical officer, as defined in section 35A of the 1984 Act, is a member of staff.

Review, revocation and variation of deemed community compulsion order

17.—(1) This Article applies to existing community patients who prior to the community care order being made were liable to be detained under Part 6 of the 1984 Act.

(2) An existing community patient shall be treated for the purposes of section 164 of the 2003 Act as if the deemed community compulsion order to which that patient is subject had been made on the day when the community care order came into effect.

(3) Where a community care order has prior to 5th October 2005 been renewed under section 35C of the 1984 Act, the patient who is the subject of that order shall be treated—

- (a) where the community care order has been renewed once, as if the Tribunal had made an order under section 167(1)(a) of the 2003 Act;
- (b) where the community care order has been renewed more than once, as if a determination had been made under section 152(2) of the 2003 Act.

(4) Where a community care order patient has within the period of renewal for which a community care order is in force immediately preceding 5th October 2005 made an unsuccessful appeal to the sheriff under section 35F of the 1984 Act for revocation of the order, that patient shall be treated as if an application under section 163 of the 2003 Act for revocation of a determination had been refused in respect of the deemed community compulsion order in that period.

(5) When a determination has been made for the first time on or after 5th October 2005 under section 152 of the 2003 Act to extend a deemed community compulsion order, section 165(2)(b) of the 2003 Act shall in respect of 1995 Act patients be modified so that for the words from “ending”

to “it” there shall be substituted “starting with the first day of the period for which detention was last renewed under the 1984 Act”.

(6) When on or after 5th October 2005 an application is first made under section 149 of the 2003 Act for an order extending the compulsion order, or a determination is made for the first time under section 152 of the 2003 Act, the responsible medical officer shall send to the Tribunal a copy of the patient’s Part 9 care plan and the mental health officer’s report mentioned in paragraph (9).

(7) At the same time as a copy of the patient’s care plan and mental health officer’s report are sent to the Tribunal, the responsible medical officer shall send a copy of them—

- (a) subject to paragraph (8), to the patient;
- (b) to the patient’s named person;
- (c) to the mental health officer;
- (d) to the Commission.

(8) If the responsible medical officer considers that there would be a risk of significant harm to the patient, or to others, if a copy of either the Part 9 care plan or mental health officer’s report were sent to the patient, that officer need not send that copy to the patient.

(9) When a determination or an application mentioned in paragraph 6 is to be made, the patient’s mental health officer shall prepare a report setting out—

- (a) the views of the mental health officer on the determination or application and the reasons for those views;
- (b) if known to the mental health officer, the views of the patient and the patient’s named person on the determination or application and the reasons for those views;
- (c) in so far as the mental health officer considers relevant for the purposes of the review, details of the personal circumstances of the patient;
- (d) if known to the mental health officer, details of any advance statement that the patient has made (and not withdrawn);
- (e) any other information which the mental health officer considers may assist the Tribunal in considering the determination or application; and
- (f) the social circumstances report, if available.

Applications for a community care order under the 1984 Act

18.—(1) Where on 5th October 2005 an application under section 35A of the 1984 Act has been made but not yet determined, sections 21(1), (2)(a) and (b), (3), (4) and (5), 35A(2), (3), (4), (5), (6), and (7) and 113 of the 1984 Act and the Mental Health (Patients in the Community) (Transfer from England and Wales to Scotland) Regulations 1996⁽³⁾ shall have effect until a community care order in respect of that application has been made or that application has been refused.

(2) Where the sheriff makes a community care order on or after 5th October 2005—

- (a) if the person who is the subject of the application was immediately prior to the community care order being made a 1984 Act patient or subject to after-care supervision after having been detained under section 3 of the Mental Health Act 1983⁽⁴⁾, that person shall immediately be subject to a deemed community compulsory treatment order.
- (b) if the person who is the subject of the application was immediately prior to the community care order being made detained in pursuance of an order or direction by virtue of which that patient was liable to be detained under Part 6 of the 1984 Act or subject to after care under supervision after having been detained under sections 37, 45A, 47 or 48 of the

⁽³⁾ S.I.1996/742.

⁽⁴⁾ 1983 c. 20.

Mental Health Act 1983 that person shall immediately be subject to a deemed community compulsion order.

(3) If by 5th October 2005 a note of a proposed variation of the conditions specified in a community care order has been sent to the sheriff clerk as mentioned in section 35D of the 1984 Act, section 35D(4), (5) and (6) shall continue to have effect until the sheriff has approved or declined to approve the proposed variation.

(4) Where such a variation of conditions is approved, the conditions as varied shall be deemed to be authorised by the deemed community compulsory treatment order or deemed community compulsion order.

Patients admitted to hospital

19.—(1) Sections 35G and 35H of the 1984 Act shall continue to have effect in respect of a patient who is detained under section 35G until authority for the detention has expired.

(2) References in sections 35G and 35H to a community care order shall be treated as references to the deemed community compulsory treatment order or the deemed community compulsion order as the case may be.

PART 5

RESTRICTION ORDERS

Restriction orders

20.—(1) A restricted patient shall be treated as if a compulsion order under section 57A(2) of the 1995 Act and a restriction order under section 59 of the 1995 Act had been made in respect of that patient.

(2) For the purposes of sections 182(5) and 192(4) the compulsion order shall be deemed to have been made when the hospital order to which the patient was subject immediately before 5th October 2005 was made or is treated as having been made.

(3) Notwithstanding section 189(6), the relevant day in respect of a restricted patient is the day which falls 2 years after the day when the hospital order was made or the anniversary of that day, whichever falls in the period of 12 months prior to 5th October 2005.

(4) Where a restricted patient has made an appeal under section 63 of the 1984 Act that patient shall be treated—

(a) where the appeal was made in any period of 12 months beginning with the date of the hospital order under which that patient was detained, as if an application had been made to the Tribunal under section 192 of the 2003 Act in the period mentioned in section 192(5)(a); or

(b) where the appeal was made in any subsequent period of 12 months, as if an application had been made to the Tribunal under section 192 of the 2003 Act in the period mentioned in section 192(5)(b).

(5) Where a restricted patient has made an appeal under section 66 of the 1984 Act in the 12 months ending with 4th October 2005, that patient shall be treated as if that appeal had been an application under section 192 of the 2003 Act.

(6) When for the first time in respect of any restricted patient on or after 5th October 2005 the Scottish Ministers make a reference to the Tribunal under section sections 185(1) or 187(2) or an application under section 191 of the 2003 Act, they shall send to the Tribunal a report from the

patient's mental health officer such as is mentioned in article 10(8) and a copy of the most recent care plan for the patient.

Leave of absence

21.—(1) Notwithstanding section 224(4) of the 2003 Act, where for the period immediately before 5th October 2005 a restricted patient has been granted leave of absence under section 27 of the 1984 Act as applied by Part 2 of schedule 2 of that Act, that patient shall be treated as if a certificate had been granted under section 224(2) of the 2003 Act for the specified occasions for which the leave of absence was granted under section 27.

(2) Any direction made or condition imposed under section 27(3) of the 1984 Act as applied by Part 2 of schedule 2 of that Act shall be deemed to be a condition included in a certificate granted under section 224(2) of the 2003 Act.

(3) Where by 5th October 2005 the Commission has not been notified of a grant of leave of absence under section 27(4) of the 1984 Act, the responsible medical officer shall, before the expiry of the period of 14 days beginning with the day of the granting of leave, give notice of it to the Commission.

Transfer provisions

22.—(1) Where a restricted patient has been transferred in accordance with the provisions of section 29 of the 1984 Act as applied by schedule 2 of that Act, and no intimation of the transfer has yet been made in accordance with section 29(2) of the 1984 Act at 5th October 2005, such intimation shall be made within 7 days of the transfer.

(2) Where a restricted patient is transferred to a state hospital on or after 8th September 2005 and no appeal is lodged under section 29(4) of the 1984 Act by 5th October 2005, the patient shall be treated as if section 220 of the 2003 Act applied to that patient.

(3) Where a restricted patient is transferred to a state hospital on or after 8th September 2005 and an appeal is lodged under section 29(4) of the 1984 Act but not determined by 5th October 2005, section 29(4) shall continue to have effect in respect of that appeal.

Absconding

23. Where immediately before 5th October 2005 a restricted patient is a patient such as is referred to in section 28(1)(a), (b) or (c) of the 1984 Act—

- (a) that patient shall be treated as liable to be taken into custody, under regulations made under section 310 of the 2003 Act and dealt with in accordance with those regulations; and
- (b) the period of the patient's absence shall be calculated from and including the first day of the patient's absence notwithstanding the date when the patient became subject to the 2003 Act.

Conditional Discharge

24.—(1) Where before 5th October 2005 a restricted patient has been conditionally discharged under sections 64(2) or 68(2) of the 1984 Act, that patient shall be treated as if—

- (a) the Tribunal had made an order that the patient be conditionally discharged under section 193(7) of the 2003 Act; and
- (b) the conditions imposed under sections 64(2) or 68(2) of the 1984 Act had been imposed by the Tribunal.

(2) Where before 5th October 2005 the sheriff has deferred a direction for conditional discharge under section 64(7) of the 1984 Act,

- (a) that section shall continue to have effect in respect of the patient in question until a direction for conditional discharge has been made; and
- (b) once the direction for conditional discharge has been made the patient shall be treated as mentioned in paragraph (1).

(3) Where in the 28 day period ending with 5th October 2005 a 1995 Act patient has been conditionally discharged and subsequently recalled under section 68(3) of the 1984 Act and has not appealed against such recall, that patient shall be treated as if recalled under section 202 of the 2003 Act.

PART 6

HOSPITAL DIRECTIONS

Hospital directions

25.—(1) Notwithstanding section 213(6) of the 2003 Act, the relevant day in respect of a hospital direction patient is the day which falls 2 years after the day when the hospital direction was made or the anniversary of that day, whichever falls in the period of 12 months prior to 5th October 2005.

(2) Where a hospital direction patient has made an appeal under section 63 of the 1984 Act that patient shall be treated—

- (a) where the appeal was made in any period of 12 months beginning with the date of the hospital direction under which that patient was detained, as if an application had been made to the Tribunal under section 214 of the 2003 Act in the period mentioned in section 214(6)(a); or
- (b) where the appeal was made in any subsequent period of 12 months, as if an application had been made to the Tribunal under section 214 of the 2003 Act in the period mentioned in section 214(6)(b).

(3) The authority conferred by section 62A(1) of the 1984 Act shall continue to have effect in respect of any hospital direction patient until that patient has been conveyed to hospital.

(4) Any directions given before 5th October 2005 under section 62A(3) of the 1984 Act shall be deemed to have been made under section 59C of the 1995 Act.

Leave of absence

26.—(1) Notwithstanding section 224(4) of the 2003 Act, where for the period immediately before 5th October 2005 a hospital direction patient has been granted leave of absence under section 27 of the 1984 Act as applied by Part 2 of schedule 2 of that Act, that patient shall be treated as if a certificate had been granted under section 224(2) of the 2003 Act for the specified occasions for which the leave of absence was granted under section 27.

(2) Any direction made or condition imposed under section 27(3) of the 1984 Act as applied by Part 2 of schedule 2 of that Act shall be deemed to be a condition included in a certificate granted under section 224(2) of the 2003 Act.

(3) Where by 5th October 2005 the Commission has not been notified of a grant of leave of absence or an extension of leave of absence under section 27(4) of the 1984 Act, the responsible medical officer shall, before the expiry of the period of 14 days beginning with the day of the granting of leave, give notice of it to the Commission.

Transfer provisions

27.—(1) Where a hospital direction patient has been transferred in accordance with the provisions of section 29 of the 1984 Act as applied by schedule 2 of that Act, and no intimation of the transfer has yet been made in accordance with section 29(2) of the 1984 Act at 5th October 2005, such intimation shall be made within 7 days of the transfer.

(2) Where a hospital direction patient is transferred to a state hospital on or after 8th September 2005 and no appeal is lodged under section 29(4) of the 1984 Act by 5th October 2005, the patient shall be treated as if section 220 of the 2003 Act applied to that patient.

(3) Where a hospital direction patient is transferred to a state hospital on or after 8th September 2005 and an appeal is lodged under section 29(4) of the 1984 Act but not determined by 5th October 2005, section 29(4) shall continue to have effect in respect of that appeal.

Absconding

28. Where immediately before 5th October 2005 a hospital direction patient is a patient such as is referred to in section 28(1)(a), (b) or (c) of the 1984 Act—

- (a) that patient shall be treated as liable to be taken into custody, under regulations made under section 310 of the 2003 Act and dealt with in accordance with those regulations; and
- (b) the period of the patient's absence shall be calculated from and including the first day of the patient's absence notwithstanding the date when the patient became subject to the 2003 Act.

PART 7

TRANSFER DIRECTIONS

Transfer directions

29.—(1) A transfer direction patient shall be treated as if that patient was subject to a transfer for treatment direction made under section 136 of the 2003 Act on the day the transfer direction was made and as if liable to be detained by virtue of the 2003 Act.

(2) The transfer for treatment direction is deemed to specify the hospital specified in the transfer direction.

(3) Notwithstanding section 213(6) of the 2005 Act, the relevant day in respect of a transfer direction patient is the day which falls 2 years after the day when the transfer direction under the 1984 Act was made or the anniversary of that day, whichever falls in the period of 12 months prior to 5th October 2005.

(4) Where a transfer direction patient has made an appeal under section 30, 63 or 71(5) of the 1984 Act that patient shall be treated—

- (a) where the appeal was made in any period of 12 months beginning with the date of the transfer direction under which that patient was detained, as if an application had been made to the Tribunal under section 214 of the 2003 Act in the period mentioned in section 214(6)(a); or
- (b) where the appeal was made in any subsequent period of 12 months, as if an application had been made to the Tribunal under section 214 of the 2003 Act in the period mentioned in section 214(6)(b).

(5) The effect of section 70(2) of the 1984 Act as applied by section 71(3) of that Act shall continue in respect of any transfer direction patient until that patient has been conveyed to hospital or the direction has expired.

Leave of absence

30.—(1) Notwithstanding section 224(4) of the 2003 Act, where for the period immediately before 5th October 2005 a transfer direction patient has been granted leave of absence under section 27 of the 1984 Act, whether as applied by Part 2 of schedule 2 of that Act or not, that patient shall be treated as if a certificate had been granted under section 224(2) of the 2003 Act for the period of absence or the specified occasions for which the leave of absence was granted under section 27 except that the total period of absence shall be no more than 12 months from the first day of absence or 9 months from 5th October 2005, whichever expires earlier.

(2) Any direction made or condition imposed under section 27(3) of the 1984 Act whether as applied by Part 2 of schedule 2 of that Act or not, shall be deemed to be a condition included in a certificate granted under section 224(2) of the 2003 Act.

(3) Where by 5th October 2005 the Commission has not been notified of a grant of leave of absence or an extension of leave of absence under section 27(4) of the 1984 Act, the responsible medical officer shall, before the expiry of the period of 14 days beginning with the day of the granting of leave or extension, give notice of it to the Commission.

Transfer provisions

31.—(1) Where a transfer direction patient has been transferred in accordance with the provisions of section 29 of the 1984 Act whether as applied by schedule 2 of that Act or not, and no intimation of the transfer has yet been made in accordance with section 29(2) of the 1984 Act at 5th October 2005, such intimation shall be made within 7 days of the transfer.

(2) Where a transfer direction patient is transferred to a state hospital on or after 8th September 2005 and no appeal is lodged under section 29(4) of the 1984 Act by 5th October 2005, the patient shall be treated as if section 220 of the 2003 Act applied to that patient.

(3) Where a transfer direction patient is transferred to a state hospital on or after 8th September 2005 and an appeal is lodged under section 29(4) of the 1984 Act but not determined by 5th October 2005, section 29(4) shall continue to have effect in respect of that appeal.

Absconding

32. Where immediately before 5th October 2005 a transfer direction patient is a patient such as is referred to in section 28(1)(a), (b) or (c) of the 1984 Act—

- (a) that patient shall be treated as liable to be taken into custody, under regulations made under section 310 of the 2003 Act and dealt with in accordance with those regulations; and
- (b) the period of the patient's absence shall be calculated from and including the first day of the patient's absence notwithstanding the date when the patient became subject to the 2003 Act.

PART 8

SHORT TERM DETENTION

Short-term detention

33.—(1) The provisions of the 1984 Act shall continue to have effect in respect of a patient who is the subject of an emergency recommendation under section 24 of the 1984 Act until authority for that patient's detention under the recommendation has expired.

(2) A patient who immediately before 5th October 2005 was detained under section 25(2) of the 1984 Act shall be deemed to be detained under section 299(2) of the 2003 Act for the remainder of the 2 hour period by a nurse prescribed for the purposes of that section and as if all the conditions mentioned in that section had been satisfied.

(3) A patient who has been detained under section 24 of the 1984 Act shall not be further detained under section 36 of the 2003 Act immediately after the expiry of that period of detention.

(4) A patient who has been detained under section 25(2) of the 1984 Act shall not be further detained under section 299(2) of the 2003 Act immediately after the expiry of that period of detention.

(5) A patient who immediately before 5th October 2005 was liable to be detained under section 26 of the 1984 Act shall be deemed to be detained under a short-term detention certificate granted under section 44 of the 2003 Act for the remaining period of time for which there was authority for the detention of the patient under the 1984 Act.

(6) Where a patient is deemed to be detained under section 44 of the 2003 Act and the managers of the hospital have complied with the requirements of section 26(4) of the 1984 Act, they shall not be obliged to comply with section 46 of the 2003 Act.

(7) A patient who immediately before 5th October 2005 was liable to be detained under section 26A of the 1984 Act shall be deemed to be detained under an extension certificate granted under section 47 of the 2003 Act.

(8) Where a patient is deemed to be detained under section 47 of the 2003 Act the medical practitioner who has examined the patient shall give notice that the patient is deemed to be detained under an extension certificate granted under section 47 of the 2003 Act, except where notice has already been given to any of those persons under section 26A of the 1984 Act.

(9) The 1984 Act shall continue to have effect in respect of any person who immediately before 5th October 2005 was liable to be detained under section 70 of that Act or was the subject of an application under that section.

(10) Section 117 of the 1984 Act shall continue to have effect in respect of any warrant issued under that section or any person detained under that section.

(11) Section 118 of the 1984 Act shall continue to have effect in respect of any person removed to a place of safety under that section.

(12) Section 52 of the 1995 Act as it was in force immediately before 5th October 2005 shall continue to have effect in respect of a patient committed to hospital under that section or in the process of being committed to hospital under that section.

(13) Where an order made under section 52(2) of the 1995 Act is terminated on or after 5th October 2005 but before 20th October 2005, the court may make an order under the 1995 Act as it was in force immediately before 5th October 2005 and that order shall have effect.

(14) Section 53 of the 1995 Act as it was in force immediately before 5th October 2005 shall continue to have effect in respect of a patient subject to an interim hospital order under that section but no interim hospital order may be renewed under that section after 19th October 2005.

(15) Where an interim hospital order made under section 53 of the 1995 Act is terminated on or after 5th October 2005 but before 20th October 2005, the court may make an order under section 58 of the 1995 Act as it was in force immediately before 5th October 2005.

(16) Where in court proceedings immediately before 5th October 2005 there has been an adjournment for enquiry under sections 54, 145, 200 or 201 of the 1995 Act, the court may at the next court appearance if it falls on or after 5th October 2005 but before 20th October 2005 make an order under the 1995 Act as it was in force immediately before 5th October 2005 and that order shall have effect.

(17) Where on or after 5th October and before 20th October 2005, the court makes a hospital order under sections 57(2) or 58 of the 1995 Act as it was in force immediately before 5th October 2005, on admission to hospital under that order the person subject to it shall be treated as if subject to a deemed compulsion order.

(18) Section 54 of the 1995 Act as it was in force immediately before 5th October 2005 shall continue to have effect in respect of a patient subject to a temporary hospital order under that section.

(19) Section 60 of the 1995 Act as it was in force immediately before 5th October 2005 shall continue to have effect in respect of any patient subject to an interim hospital order.

PART 9

APPEAL PROCEEDINGS

Appeal proceedings

34.—(1) Where before 5th October 2005 appeal proceedings under the 1984 Act or the 1995 Act have been commenced in any court, such proceedings shall notwithstanding the effect of this Order in treating patients as if they were subject to orders or directions under the 2003 Act continue until final disposal in accordance with the law in force immediately before 5th October 2005.

(2) Until such proceedings have been finally disposed of, no application may be made under sections 99, 100, 163, 164, 192 or 214 of the 2003 Act in respect of that patient.

(3) Where as a result of an appeal to the sheriff under section 30 of the 1984 Act, a 1984 Act patient is not discharged, that patient shall be treated as if an application under section 99 of the 2003 Act for revocation of a determination had been refused in respect of the deemed compulsory treatment order.

(4) Where as a result of an appeal to the sheriff under section 30 of the 1984 Act, a 1995 Act patient is not discharged, that patient shall be treated as if an application under section 163 of the 2003 Act for revocation of the deemed compulsion order had been refused.

(5) Where on or after 5th October 2005 the outcome of an appeal under section 30, 63, 66A or 71 of the 1984 Act is that a hospital direction patient or transfer direction patient is not discharged, that patient shall be treated as if an application under section 214 of the 2003 Act had been made and as if no direction had been made under section 215 of that Act.

(6) Where on or after 5th October 2005 the outcome of an appeal under section 63 or 66A of the 1984 Act is that a patient is not discharged, that patient shall be treated as if an application under section 192 of the 2003 Act had been made and as if no order had been made under section 193 of that Act.

(7) Where on or after 5th October 2005 the outcome of an appeal under section 66 of the 1984 Act is that a patient is conditionally discharged, that patient shall be treated as if an order had been made under section 193(7)(b) of the 2003 Act and any conditions to which the patient was subject at the disposal of the proceedings under section 66 of the 1984 Act shall be deemed to have been imposed under section 193(7) of the 2003 Act.

(8) Where on or after 5th October 2005 the outcome of an appeal to the sheriff under section 35F of the 1984 Act is that the community care order is not revoked, the patient shall be treated as if –

- (a) an application under section 99 of the 2003 Act for revocation of a determination had been refused in respect of the deemed community compulsory treatment order; or
- (b) an application under section 163 of the 2003 Act for revocation if a determination had been refused in respect of the deemed community compulsion order, as the case may be.

PART 10

CROSS BORDER TRANSFERS

Removal and reception of patients

35.—(1) Where before 5th October 2005 the Scottish Ministers have given authority under section 77 of the 1984 Act for the removal of a patient to England and Wales or under section 81 of that Act for the removal of a patient to Northern Ireland, such authority and any directions given for conveyance of the patient shall continue in force until the patient has been conveyed to the destination.

(2) Where before 5th October 2005 the Scottish Ministers have authorised the removal of a patient under any of the provisions of Part 7 of the 1984 Act but not yet sent notification of that authorisation to the nearest relative of the patient, section 87(2) shall continue in force in respect of that patient.

(3) Where before 5th October 2005 the Scottish Ministers have consented to a request for a patient to be received in Scotland, such consent shall be deemed to have been given under section 290 of the 2003 Act.

(4) Where before 5th October 2005 a patient is admitted to a hospital in Scotland in pursuance of arrangements under Part 7 of the 1984 Act or under Part 6 of the Mental Health Act 1983⁽⁵⁾ but the report of the responsible medical officer mentioned in section 88 of the 1984 Act has not yet been furnished to the managers of the hospital, that patient shall be treated as being subject to section 290 of the 2003 Act.

(5) Where before 5th October 2005 a warrant under section 83 of the 1984 Act has been issued authorising the removal of the patient, such warrant and any directions given for the conveyance of the patient shall continue to have effect until the patient has been conveyed to the destination.

PART 11

GENERAL

Treatments given over a period of time

36.—(1) In relation to an existing patient, the relevant period for the purposes of section 240 of the 2003 Act is any period during which the giving of medical treatment to the patient is authorised by the 1984 Act, the 1995 Act or the 2003 Act.

(2) Where immediately before 5th October 2005, in respect of an existing patient, 2 months or more have passed since that patient was first given any medicine in a relevant period, notwithstanding sub section (4) of section 240 of the 2003 Act, sub section (2) of that section does not apply to the giving of medicine to that patient until 12th October 2005.

(5) 1983 c. 20.

(3) Where immediately before 5th October 2005 the conditions have been fulfilled for the giving of medical treatment to an existing patient under section 97 or 98 of the 1984 Act and copies of certificates given under section 97(2) or 98(3) as appropriate have been sent to the Mental Welfare Commission, but such treatment has not been given or has not been completed, such treatment may be given or completed unless at any time before completion of the treatment the patient withdraws consent to the treatment or to a plan of treatment that includes the treatment.

(4) The provisions of section 248 of the 2003 Act shall apply to the medical treatment mentioned in paragraph (3) as if the reference in that section to sections 235, 236, 239 or 241 were a reference to sections 97 or 98 of the 1984 Act and as if the reference in that section to sections 235(2) or (3), 236(2) or (3), 238(1), 239 or 241(1) were a reference to sections 97(2) or 98(3)(b) of the 1984 Act.

Responsible medical officer

37.—(1) Any medical practitioner who immediately prior to 5th October 2005 was, in relation to an existing patient, the responsible medical officer by virtue of section 59 of the 1984 Act, shall be deemed to have been appointed that patient's responsible medical officer under section 230(1) of the 2003 Act.

(2) Any medical practitioner who immediately prior to 5th October 2005 was in relation to an existing community patient, the special medical officer by virtue of section 35A(3) of the 1984 Act shall be deemed to have been appointed that patient's responsible medical officer under section 230(1) of the 2003 Act.

Care plan

38.—(1) As soon as reasonably practicable after 5th October 2005, the responsible medical officer shall prepare—

- (a) a care plan in respect of each 1984 Act patient; and
- (b) a Part 9 care plan, such as is mentioned in section 137(1) of the 2003 Act, in respect of each 1995 Act patient,

and ensure that it is included in the patient's medical records.

(2) Until a care plan is prepared in accordance with paragraph (1), any plan of treatment in relation to an existing patient shall be deemed to be that patient's care plan.

Mental Health Officer

39.—(1) Relevant local authorities within the meaning of section 229 of the 2003 Act shall as soon as reasonably practicable after 5th October 2005 ensure that a mental health officer is designated as the mental health officer having responsibility for each existing patient's and each existing community patient's case.

(2) Where on 5th October 2005 any existing patient has not yet been interviewed by a mental health officer in accordance with section 22(3) of the 1984 Act, or if a social circumstances report has not yet been provided in respect of that patient, that patient's mental health officer shall interview the patient and prepare a social circumstances report as mentioned in section 231 of the 2003 Act as soon as reasonably practicable.

Provision of information to patient

40. For the purposes of section 260(3) of the 2003 Act, existing patients and existing community patients shall be treated as though they were first detained in hospital or otherwise subject to the 2003 Act on 5th October 2005.

Discharge

41.—(1) Where an order for discharge has been made by the managers of the hospital under section 33(5) of the 1984 Act, section 33(6) of the 1984 Act shall continue to have effect in respect of that order for 7 days from the date when the order for discharge was made.

(2) Section 33(7) of the 1984 Act shall continue to have effect until the sheriff has been notified in compliance with that sub section.

(3) Where 7 days' notice in writing has been given to the managers of a hospital under section 34(1) of the 1984 Act but the 7 days have not expired by 5th October 2005, sections 33 and 34 of the 1984 Act shall continue to have effect in respect of the orders for discharge in question.

Mental Welfare Commission

42.—(1) Commissioners appointed to the Commission under section 2(4) of the 1984 Act shall continue to hold and vacate office under the terms of the instrument under which they are appointed.

(2) Where before 5th October 2005 an enquiry has been caused to be made under section 3(2) (a) of the 1984 Act but has not been completed, such an enquiry shall be completed in accordance with the law in force immediately before that date.

Inquiries

43. Where before 5th October 2005 an inquiry has been caused to be held under section 123 of the 1984 Act but has not been completed, such an inquiry shall be completed in accordance with the law in force immediately before that date.

Protection for acts done in pursuance of the 1984 Act

44. Where as a consequence of this Order the effect of any provision of the 1984 Act continues, the protection afforded by section 122(1) of the 1984 Act shall continue in respect of any act purporting to be done in pursuance of that continuing effect.

General

45. This Order shall have effect notwithstanding the repeal or amendment of any part of the 1984 Act or the 1995 Act.

St Andrew's House, Edinburgh
13th September 2005

LEWIS MACDONALD
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes transitional and savings provisions in connection with the transition of patients to the regime created by the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”).

Part 1 deals with citation, commencement and interpretation.

Parts 2 to 8 of the Order provide transitional and savings arrangements for patients who immediately before 5th October 2005, when most of the 2003 Act comes into force, are subject to various orders and directions that provide for their detention in hospital or their care in the community under the Mental Health (Scotland) Act 1984 or the Criminal Procedure (Scotland) Act 1995.

Part 9 provides for appeal proceedings which have been commenced before 5th October 2005 where there has been no final disposal. Part 10 deals with patients in the process of being transferred to and from Scotland at 5th October 2005.

Part 11 deals with general issues affecting patients including treatment and care plans, the appointment of a responsible medical officer and mental health officer, the provision of information to patients and arrangements for discharge. This part also deals with appointments to the Mental Welfare Commission, the continuation of inquiries and protection for acts done in pursuance of the Mental Health (Scotland) Act 1984.