

*This Scottish Statutory Instrument has been made in consequence of a defect in S.S.I. 2008/49 and is being issued free of charge to all known recipients of that instrument*

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2008 No. 116 (C. 11)**

**MENTAL HEALTH  
ADULT SUPPORT**

The Adult Support and Protection (Scotland)  
Act 2007 (Commencement No. 2 and  
Transitional Provisions) Amendment Order 2008

Made - - - - 13th March 2008

The Scottish Ministers make the following Order in exercise of the powers conferred by section 79(3) and (4) of the Adult Support and Protection (Scotland) Act 2007(1).

**Citation**

1. This Order may be cited as the Adult Support and Protection (Scotland) Act 2007 (Commencement No. 2 and Transitional Provisions) Amendment Order 2008.

**Amendment of the Adult Support and Protection (Scotland) Act 2007 (Commencement No. 2 and Transitional Provisions) Order 2008**

2. For article 2(2) of the Adult Support and Protection (Scotland) Act 2007 (Commencement No. 2 and Transitional Provisions) Order 2008(2) substitute the following—

“(2) The following provisions shall come into force on 1st October 2008—

- (a) section 74;
- (b) section 77(2) and Schedule 2 insofar as they relate to section 146 of the Mental Health Act 1983(3).”.

---

(1) 2007 asp 10.  
(2) S.S.I. 2008/49.  
(3) 1983 c. 20.

---

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

---

St Andrew's House,  
Edinburgh  
13th March 2008

*FERGUS EWING*  
Authorised to sign by the Scottish Ministers

---

## EXPLANATORY NOTE

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

This Order amends the Adult Support and Protection (Scotland) Act 2007 (Commencement No. 2 and Transitional Provisions) Order 2008 to clarify a potential ambiguity in the drafting of article 2(2) of that Order.

This Order provides that section 74 of the Adult Support and Protection (Scotland) Act 2007 (“the 2007 Act”), which repeals section 88 and 128 of the Mental Health Act 1983 (c. 20) (“the 1983 Act”) is to come into force on 1st October 2008. It also provides that section 77(2) and Schedule 2 of the 2007 Act, so far as they relate to section 146 of the 1983 Act are to come into force on 1st October 2008. The effect of this provision is the repeal of section 88 and 128 and the partial repeal of section 146 of the 1983 Act.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

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

The Adult Support and Protection (Scotland) Act 2007 (Commencement No. 1, Transitional Provision and Savings) Order 2007 (S.S.I. 2007/334 (c.28)) provides for commencement of provisions of the 2007 Act as follows:–

<i>Provision</i>	<i>Date of Commencement</i>
Section 48	5th October 2007
Section 52	5th October 2007
Section 53	5th October 2007
Section 54	5th October 2007
Section 55	5th October 2007
Section 56	5th October 2007
Section 57, with the exception of sub-paragraphs (1)(b)(ii) and (iii), 2(b)(ii) and (iii) and subsections (3) and (7)	5th October 2007
Section 59(2) and (3)	5th October 2007
Section 60(7), (8), (10), (15) and (17)	5th October 2007
Section 61	5th October 2007
Section 62	5th October 2007
Section 63	5th October 2007
Section 65	5th October 2007
Section 67	5th October 2007
Section 68	5th October 2007

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Provision</i>	<i>Date of Commencement</i>
Section 71	30th June 2007
Section 72	30th June 2007
Section 73	30th June 2007
Section 75	30th June 2007
Section 77(1) in so far as it relates to the commencement of paragraphs 2 and 6 of Schedule 1	30th June 2007
Section 77(1) and (2) in so far as they relate to the provisions of Schedules 1 and 2 mentioned below	5th October 2007
Schedule 1, paragraphs 1, 3(b), 4 and 5	5th October 2007
Schedule 2 in so far as it relates to the National Assistance Act 1948(4) (with the exception of section 47 of that Act), the Solicitors (Scotland) Act 1980(5), section 142 of the Mental Health Act 1983, the Law Reform (Parent and Child) (Scotland) Act 1986(6), the Adults with Incapacity (Scotland) Act 2000(7) and the Courts Act 2003(8)	5th October 2007

The Adult Support and Protection (Scotland) Act 2007 (Commencement No. 2 and Transitional Provisions) Order 2008 (S.S.I. 2008/49 (c.6)) provides for commencement of provisions of the 2007 Act as follows:–

<i>Provision</i>	<i>Date of Commencement</i>
Section 58, together with sections 57, 59 and 60 so far as not already in force	1st April 2008
Section 74	1st October 2008
Section 77(2) insofar as it relates to the provision of Schedule 2 mentioned below	1st October 2008
Schedule 2 insofar as it relates to section 146 of the Mental Health Act 1983	1st October 2008

(4) 1948 c. 29.  
(5) 1980 c. 46.  
(6) 1986 c. 9.  
(7) 2000 asp 4.  
(8) 2003 c. 39.