

**EXECUTIVE NOTE TO**  
**THE MENTAL HEALTH (CERTIFICATES FOR MEDICAL TREATMENT)**  
**(SCOTLAND) AMENDMENT REGULATIONS 2008 (SSI 2008/316)**

The above instrument was made in exercise of the powers conferred by section 245(2), 246(1) and 325 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the Act”) and amends the Mental Health (Certificates for Medical Treatment) (Scotland) Regulations 2005 (“2005 Regulations”). The instrument is subject to negative resolution procedure.

**Policy Objectives**

The Act makes provision at section 325 to prescribe statutory forms. The Act requires a certificate to be given by the treating medical practitioner 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 amending Regulations revise the wording and layout of the forms 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. The aim of these amendments is to make the forms clearer and easier to complete.

**Consultation**

A Forms Review Steering Group with representatives from the Mental Welfare Commission, Mental Health Tribunal, NHS Boards and local authorities was established to consider feedback from health professionals and administrators on content and layout, and agree changes to the forms prescribed in the 2005 Regulations.

Policy on the 2005 Regulations was consulted on prior to being laid before the Scottish Parliament.

**Financial Effects**

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

Scottish Government Health Directorate  
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