SCOTTISH STATUTORY INSTRUMENTS

2017 No. 176

MENTAL HEALTH

The Mental Health (Certificates for Medical Treatment) (Scotland) Regulations 2017

Made - - - -	*30th May 2017*
Laid before the Scottish Parliament - - - -	*1st June 2017*
Coming into force - -	*30th June 2017*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 245(2), 246(1) and 325 of the Mental Health (Care and Treatment) (Scotland) Act 2003(**1**) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Mental Health (Certificates for Medical Treatment) (Scotland) Regulations 2017 and come into force on 30th June 2017.

(2) In these Regulations—

(a) "Form" means a Form set out in schedule 2; and

(b) any reference to a Form having a letter and a number is a reference to the Form having that letter and number in schedule 2.

Form of certificate

2. Any certificate given under a section of the Mental Health (Care and Treatment) (Scotland) Act 2003 which is specified in an entry in column 1 of schedule 1 is to—

(a) contain the particulars set out in the Form which is specified in the corresponding entry in column 2 of that schedule; and

(b) be in the Form which is specified in column 2 of that schedule and set out in schedule 2.

(**1**) 2003 asp 13. Section 246 was amended by S.S.I. 2004/533.

Revocations

3. The Mental Health (Certificates for Medical Treatment) (Scotland) Regulations 2005(**2**) and the Mental Health (Certificates for Medical Treatment) (Scotland) Amendment Regulations 2008(**3**) are revoked.

St Andrew's House,
Edinburgh
30th May 2017

MAUREEN WATT
Authorised to sign by the Scottish Ministers

(**2**) S.S.I. 2005/443.
(**3**) S.S.I. 2008/316.

SCHEDULE 1 Regulation 2

Column 1	*Column 2*
Section 235	Form T1
Section 236	Form T1
Section 238, where the treatment is that mentioned in section 237(3)	Form T2A
Section 238, where the treatment is that mentioned in section 240(3)	Form T2B
Section 239	Form T3A
Section 241	Form T3B

SCHEDULE 2 Regulation 2(b)

Form T1

The Mental Health (Care and Treatment) (Scotland) Act 2003

Safeguards for treatment by certain surgical operations

T1

Instructions **v7.0**

The following form is to be used:

where a certificate of consent is required for the following types of medical treatment:

(a) any surgical operation for destroying-

(i) brain tissue or

(ii) the functioning of brain tissue; and

(b) the treatment known as deep brain stimulation.

This form is prescribed by regulations made under the Mental Health (Care and Treatment) (Scotland) Act 2003.
The use of any other form for the purpose for which this form has been prescribed is invalid.

Where not completing this form electronically, to ensure accuracy of information, please observe the following conventions:

Write clearly within the boxes in BLOCK CAPITALS and in BLACK or BLUE ink

For example 25 MARKET ST

Shade circles like this ->

Not like this ->

Where a text box has a reference number to the left, you can extend your response on plain paper where there is insufficient space in the box. Extension sheet(s) should be clearly labelled with Patient's name and CHI number, and each extended response should be labelled with the appropriate text box reference number.

Patient Details

CHI Number

Surname

First Name(s)

Other / Known As

'Other / Known As' could include any name / alias that the patient would prefer to be known as.

Title

Gender ○ Male ○ Female

DoB dd / mm / yyyy

Patient's home address

Postcode

The patient will be treated in:

Hospital

Ward / Clinic

Patient's Name | CHI Number

Patient's RMO (see note 1 below)

Surname

First Name

Title | GMC Number

Hospital

Ward / Clinic (If appropriate)

I, the above named RMO am approved under section 22 of the Act by:

Health Board **NHS**

Where the patient is under the age of 18 -

○ The above named RMO is a child specialist ○ The above named RMO is NOT a child specialist

T1 / PART 1 **To be completed by the DMP**

DMP Details (see note 2 below)

Full name and professional address of DMP who is providing the certificate

Surname

First Name

GMC Number

Address

Postcode

Where the patient is under the age of 18 -

○ I am a child specialist ○ I am NOT a child specialist

Certification

Complete the appropriate option

A - complete where - Patient is Capable of Consent to Treatment

I, the above named DMP, confirm that:

○ (a) the above named patient is capable of consenting to the treatment

○ (b) the patient has consented to the treatment in writing; and

○ (c) having regard to the likelihood of its alleviating, or preventing a deterioration in, the patient's condition, it is in the patient's best interests that the treatment should be given to the patient.

Details of the patient's consent in writing to the treatment

○ A copy of the patient's consent in writing is attached.

The patient signed this consent on (date) / /

B - complete where - Patient is Incapable of Consent to Treatment

I, the above named DMP confirm that:

○ (a) the above named patient is incapable of consenting to the treatment

○ (b) the patient is not objecting to the treatment; and

○ (c) having regard to the likelihood of its alleviating, or preventing a deterioration in, the patient's condition, it is in the patient's best interests that the treatment should be given to the patient

Notes

1. Where the patient does not have an RMO, all references in this form to the patient's RMO will be taken to be the medical practitioner primarily concerned with treating the patient.

2. Where the patient is a child (under the age of 18) and the patient's RMO is NOT a child specialist, then the DMP must be a child specialist (where a child specialist is a medical practitioner who has such qualifications or experience in relation to children as the Mental Welfare Commission may determine from time to time)

Patient's Name | CHI Number

T1 / PART 2 — **To be completed by the DMP**

Treatment Details

The treatment under section 234(2) is to consist of ***(shade as appropriate) :***

○ (a) any surgical operation for destroying-
(i) brain tissue; or
(ii) the functioning of brain tissue

○ (b) the treatment known as deep brain stimulation.

Description of the treatment.

1	

Signature / Date

Signed by the DMP

Date ☐☐ / ☐☐ / ☐☐☐☐

Form T2A

The Mental Health (Care and Treatment) (Scotland) Act 2003 (the Act)

Certificate Of Consent To Treatment

T2A (S237)

Instructions **v7.0**

The following form is to be used:

where the patient's RMO, or a DMP, certifies that the patient is capable of consenting to treatment and is not refusing consent for treatment under section 237(3) of the Act:

(a) electro-convulsive therapy (ECT);
(b) vagus nerve stimulation (VNS); and,
(c) transcranial magnetic stimulation (TMS).

Note: ECT, VNS and TMS cannot be given where the patient is capable of consenting to the treatment and refuses consent.

This form is prescribed by regulations made under the Mental Health (Care and Treatment) (Scotland) Act 2003. The use of any other form for the purpose for which this form has been prescribed is invalid.

Where not completing this form electronically, to ensure accuracy of information, please observe the following conventions:

Write clearly within the boxes in BLOCK CAPITALS and in BLACK or BLUE ink

For example

Shade circles like this ->
Not like this ->

Where a text box has a reference number to the left, you can extend your response on plain paper where there is insufficient space in the box. Extension sheet(s) should be clearly labelled with Patient's name and CHI number, and each extended response should be labelled with the appropriate text box reference number.

Patient Details

CHI Number

Surname

First Name(s)

Other / Known As

'Other / Known As' could include any name / alias that the patient would prefer to be known as.

Title

Gender ○ Male ○ Female

DoB
dd / mm / yyyy

Patient's home address

Postcode

The patient is detained in, or under the management / care of:

Hospital

Ward / Clinic

Patient's Name | CHI Number

To be completed by the DMP or RMO

RMO Details (where certificate granted by the patient's RMO)

Surname

First Name

Title | GMC Number

Hospital

Ward / Clinic (If appropriate)

Telephone No.

e-mail address

Approved under section 22 of the Act by:

Health Board **NHS**

Where the patient is under the age of 18 -

○ I am a child specialist; or ○ I am NOT a child specialist (see notes)

DMP Details (where certificate granted by DMP)

Surname

First Name

Address

Postcode | GMC Number

Where the patient is under the age of 18 -

○ I, the above DMP am a child specialist; or ○ I, the above DMP am NOT a child specialist (see notes)

Certification

Patient's consent to treatment

I, the above named RMO or DMP confirm that:

○ (a) the patient is capable of consenting to the treatment;

○ (b) the patient has consented in writing to the treatment (see notes);

○ (c) the giving of medical treatment to the patient is authorised by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003, or the Criminal Procedure (Scotland) Act 1995; and

○ (d) having regard to the likelihood of its alleviating, or preventing a deterioration in, the patient's condition, it is in the patient's best interests that the treatment should be given to the patient.

Details of the patient's consent in writing to the treatment

○ A copy of the patient's consent in writing is attached.

The patient signed this consent on (date) ☐☐ / ☐☐ / ☐☐☐☐

NB the patient cannot consent after the T2A is signed as the signed consent must exist at the time the T2A is completed.

The Commission advises that the T2A should not be issued more than 7 days after the patient signs the consent form.

Notes

Where the patient is under the age of 18, certification MUST be by either an RMO or a DMP who is a child specialist.
If consent to treatment has been withdrawn (in writing or otherwise) then the treatment can not be given

Patient's Name | CHI Number

To be completed by the DMP or RMO

Details Of Treatment

The treatment covered by this certificate is:

- ○ **ECT** under section 237(3)(a)
- ○ **VNS or TMS** (being treatments specified in regulations under section 237(3)(b))

Description of the treatment(s) including frequency. The maximum duration of the course of treatment authorised must be stated.

1	

Certification by RMO or DMP

Certified by ○ the RMO ○ the DMP

Signature

Date ☐☐ / ☐☐ / ☐☐☐☐

A copy of this form must be sent to the Mental Welfare Commission within seven days of issuing the certificate

Form T2B

The Mental Health (Care and Treatment) (Scotland) Act 2003 (the Act)

Certificate Of Consent To Treatment

T2B (S240)

Instructions **v7.0**

The following form is to be used:

where the patient's RMO, or a DMP, certifies that the patient is capable of consenting to treatment and is not refusing consent for treatment under section 240(3) of the Act:

(a) any medicine (other than the surgical implantation of hormones) given for the purpose of reducing sex drive; and

(b) any other medicine given beyond a period of 2 months since the start of compulsory treatment.

This form is prescribed by regulations made under the Mental Health (Care and Treatment) (Scotland) Act 2003. The use of any other form for the purpose for which this form has been prescribed is invalid.

Where not completing this form electronically, to ensure accuracy of information, please observe the following conventions:

Write clearly within the boxes in BLOCK CAPITALS and in BLACK or BLUE ink

For example

Shade circles like this ->

Not like this ->

Where a text box has a reference number to the left, you can extend your response on plain paper where there is insufficient space in the box. Extension sheet(s) should be clearly labelled with Patient's name and CHI number, and each extended response should be labelled with the appropriate text box reference number.

Patient Details

CHI Number

Surname

First Name(s)

Other / Known As

'Other / Known As' could include any name / alias that the patient would prefer to be known as.

Title

DoB
dd / mm / yyyy

Gender ○ Male ○ Female

Patient's home address

Postcode

The patient is detained in, or under the management / care of:

Hospital

Ward / Clinic

Patient's Name | CHI Number

To be completed by the DMP or RMO

RMO Details (where certificate granted by the patient's RMO)

Surname

First Name

Title | GMC Number

Hospital

Ward / Clinic (If appropriate)

Telephone No.

e-mail address

Approved under section 22 of the Act by:

Health Board **NHS**

Where the patient is under the age of 18 -

○ I am a child specialist; or ○ I am NOT a child specialist (see notes)

DMP Details (where certificate granted by DMP)

Surname

First Name

Address

Postcode | GMC Number

Where the patient is under the age of 18 -

○ I, the above DMP am a child specialist; or ○ I, the above DMP am NOT a child specialist (see notes)

Notes

Where the patient is under the age of 18, certification MUST be by either an RMO or a DMP who is a child specialist.
If consent to treatment has been withdrawn (in writing or otherwise) then the treatment can not be given

Patient's Name | CHI Number

To be completed by the DMP or RMO

Certification

Patient's consent to treatment

I, the above named RMO or DMP confirm that:

○ (a) the patient is capable of consenting to the treatment;

○ (b) the patient has consented in writing to the treatment (see notes);

○ (c) the giving of medical treatment to the patient is authorised by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003, or the Criminal Procedure (Scotland) Act 1995; and

○ (d) having regard to the likelihood of its alleviating, or preventing a deterioration in, the patient's condition, it is in the patient's best interests that the treatment should be given to the patient.

Details of the patient's consent in writing to the treatment

○ A copy of the patient's consent in writing is attached.

The patient signed this consent on (date) ☐☐ / ☐☐ / ☐☐☐☐

NB the patient cannot consent after the T2B is signed as the signed consent must exist at the time the T2B is completed.

The Commission advises that the T2B should not be issued more than 7 days after the patient signs the consent form.

Details Of Treatment

The treatment covered by this certificate is:

○ **Medication to reduce sex drive** - any medicine (other than the surgical implantation of hormones) given for the purpose of reducing sex drive

○ **Other medication beyond 2 months** - any other medicine given beyond 2 months since the start of compulsory treatment (e.g. antidepressants, anxiolytics, antipsychotics etc.)

If the treatment specified is other medication beyond 2 months, record the date any medication for mental disorder was first given in this period of detention. Note that this is required only for the first T2B or T3B form for medication issued, not for subsequent forms.

☐☐ / ☐☐ / ☐☐☐☐

Note: The period here includes any prior EDC, STDC, ICTO, CTO, TTD or orders under the Criminal Procedure (Scotland) Act 1995 which relate only to a single period of detention.

Patient's Name | CHI Number

To be completed by the DMP or RMO

Details Of Treatment (cont)

Description of the treatment(s) including frequency and duration of treatment

1	

Treatment can be authorised by this certificate until (date) ☐☐ / ☐☐ / ☐☐☐☐

Note: - *the potential period of treatment authorised should be no longer than three years in line with Mental Welfare Commission for Scotland recommendations*

Certification by RMO or DMP

Certified by ○ the RMO ○ the DMP

Signature

Date ☐☐ / ☐☐ / ☐☐☐☐

A copy of this form must be sent to the Mental Welfare Commission within seven days of issuing the certificate

Form T3A

The Mental Health (Care and Treatment) (Scotland) Act 2003 (the Act)

Certificate of the Designated Medical Practitioner

T3A (S237)

Instructions **v 7.0**

The following form is to be used:

where a designated medical practitioner is required to provide a certificate for medical treatment where a patient is incapable of consenting to treatment under section 237(3) of the Act:

(a) electro-convulsive therapy (ECT);
(b) vagus nerve stimulation (VNS); and
(c) transcranial magnetic stimulation (TMS).

Note: ECT, VNS and TMS cannot be given where the patient is capable of consenting to the treatment and refuses consent.

This form is prescribed by regulations made under the Mental Health (Care and Treatment) (Scotland) Act 2003. The use of any other form for the purpose for which this form has been prescribed is invalid.

Where not completing this form electronically, to ensure accuracy of information, please observe the following conventions:

Write clearly within the boxes in BLOCK CAPITALS and in BLACK or BLUE ink

For example

Shade circles like this ->
Not like this ->

Where a text box has a reference number to the left, you can extend your response on plain paper where there is insufficient space in the box. Extension sheet(s) should be clearly labelled with Patient's name and CHI number, and each extended response should be labelled with the appropriate text box reference number.

Patient Details

CHI Number

Surname

First Name(s)

Other / Known As

'Other / Known As' could include any name / alias that the patient would prefer to be known as.

Title

Gender ○ Male ○ Female

DoB
dd / mm / yyyy

Patient's home address

Postcode

The patient is detained in, or under the management / care of:

Hospital

Ward / Clinic
if appropriate

Patient's RMO

Where the patient is under the age of 18 -

○ The RMO is a child specialist ○ The RMO is NOT a child specialist (see notes - page 2)

Patient's Name | CHI Number

To be completed by the DMP

DMP Details

Surname

First Name

Address

Postcode

GMC Number

Where the patient is under the age of 18 -

○ I, the above DMP am a child specialist; or ○ I, the above DMP am NOT a child specialist (see notes below)

CERTIFICATION

The treatment covered by this certificate is:

- ○ **ECT** under section 237(3)(a)
- ○ **VNS or TMS** (being treatments specified in regulations under section 237(3)(b))

I, the above named DMP, not being the patient's RMO certify that:

the patient is incapable of understanding the nature, purpose and likely effects of the treatment;

the giving of medical treatment to the patient is authorised by virtue of the Act, or the Criminal Procedure (Scotland) Act 1995; and

Complete A or B as appropriate for treatments under section 237(3)

A ○ the patient is NOT resisting or objecting to treatment, and having regard to the likelihood of its alleviating, or preventing a deterioration in, the patient's condition, it is in the patient's best interests that the treatment should be given.

OR

B ○ the patient resists or objects to treatment, and it is necessary to give treatment to the patient for the purpose of:

- ○ (a) saving the patient's life;
- ○ (b) preventing serious deterioration in the patient's condition;
- ○ (c) alleviating serious suffering on the part of the patient.

Notes

Where the patient is under the age of 18, certification MUST be as follows -

where the patient's RMO is a child specialist, by a designated medical practitioner approved by the Mental Welfare Commission

where the patient's RMO is not a child specialist, by a designated medical practitioner approved by the Commission who is a child specialist

Where the patient is not in hospital the above certificate does not authorise the giving of treatment by force to the patient

Patient's Name | CHI Number

Details of Treatment

Description of the treatment(s) including frequency. The maximum duration of the course of treatment authorised must be stated

1	

Signature

Signed
by the DMP

Date
dd / mm / yyyy

A copy of this form must be sent to the Mental Welfare Commission within seven days of issuing the certificate

Form T3B

The Mental Health (Care and Treatment) (Scotland) Act 2003 (the Act)

Certificate of the Designated Medical Practitioner

T3B (S240)

Instructions **v 7.0**

The following form is to be used:

where a designated medical practitioner is required to provide a certificate for medical treatment(s) where a patient is refusing consent or incapable of consenting under section 240(3) of the Act in relation to the following treatment(s):

(a) any medicine (other than the surgical implantation of hormones) given for the purpose of reducing sex drive;
(b) any other medicine given beyond a period of 2 months since the start of compulsory treatment; and
(c) provision, without consent of the patient and by artificial means, of nutrition to the patient.

This form is prescribed by regulations made under the Mental Health (Care and Treatment) (Scotland) Act 2003. The use of any other form for the purpose for which this form has been prescribed is invalid.

Where not completing this form electronically, to ensure accuracy of information, please observe the following conventions:

Write clearly within the boxes in BLOCK CAPITALS and in BLACK or BLUE ink

For example

Shade circles like this ->
Not like this ->

Where a text box has a reference number to the left, you can extend your response on plain paper where there is insufficient space in the box. Extension sheet(s) should be clearly labelled with Patient's name and CHI number, and each extended response should be labelled with the appropriate text box reference number.

Patient Details

CHI Number

Surname

First Name(s)

Other / Known As

'Other / Known As' could include any name / alias that the patient would prefer to be known as.

Title

Gender ○ Male ○ Female

DoB
dd / mm / yyyy

Patient's home address

Postcode

The patient is detained in, or under the management / care of:

Hospital

Ward / Clinic
if appropriate

Patient's RMO

Where the patient is under the age of 18 -

○ The RMO is a child specialist ○ The RMO is NOT a child specialist (see notes - page 2)

Patient's Name | CHI Number

To be completed by the DMP

DMP Details

Surname

First Name

Address

Postcode | GMC Number

Where the patient is under the age of 18 -

○ I, the above DMP am a child specialist; or ○ I, the above DMP am NOT a child specialist (see notes below)

CERTIFICATION

The treatment covered by this certificate is:

- ○ **Medication to reduce sex drive** - any medicine (other than the surgical implantation of hormones) given for the purpose of reducing sex drive
- ○ **Other medication beyond 2 months** - any other medicine given beyond 2 months since the start of compulsory treatment (e.g. antidepressants, anxiolytics, antipsychotics etc.)
- ○ **Artificial nutrition** - provision, without consent of the patient and by artificial means, of nutrition to the patient

I, the above named DMP, not being the patient's RMO certify that:

the giving of medical treatment to the patient is authorised by virtue of the Act, or the Criminal Procedure (Scotland) Act 1995; and

having regard to the likelihood of its alleviating, or preventing a deterioration in, the patient's condition, it is in the patient's best interests that the treatments should be given; and

○ the patient is capable of consenting to the treatment, but does not consent, or

○ the patient is incapable of consenting to the treatment;

If the patient is capable of consenting, but is refusing consent, complete reasons why the treatment should be given.

1	

Notes

Where the patient is under the age of 18, certification MUST be as follows -

where the patient's RMO is a child specialist, by a designated medical practitioner approved by the Mental Welfare Commission
where the patient's RMO is not a child specialist, by a designated medical practitioner approved by the Commission who is a child specialist

Where the patient is not in hospital the above certificate does not authorise the giving of treatment by force to the patient

Patient's Name | CHI Number

To be completed by the DMP

Details of Treatment

If the treatment specified is ***other medication*** beyond 2 months, record the date any medication for mental disorder was first given in this period of detention. Note that this is required only for the first T2B or T3B form for medication issued, not for subsequent forms.

__ / __ / ____

Note: The period here includes any prior EDC, STDC, ICTO, CTO, TTD or orders under the Criminal Procedure (Scotland) Act 1995 which relate only to a single period of detention

Description of the treatment(s) including frequency and duration of treatment

2	

Treatment can be authorised by this certificate until (date) __ / __ / ____

Note: - *for certificates authorising nutrition by artificial means, duration of treatment should also be recorded in the description of treatment above,*
- *for certificates authorising medication, the potential period of treatment authorised should be no longer than three years in line with Mental Welfare Commission for Scotland recommendations*

Signature

Signed by the DMP

Date dd / mm / yyyy __ / __ / ____

A copy of this form must be sent to the Mental Welfare Commission within seven days of issuing the certificate

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the Mental Health (Certificates for Medical Treatment) (Scotland) Regulations 2005 and the Mental Health (Certificates for Medical Treatment) (Scotland) Amendment Regulations 2008.

These Regulations prescribe the forms to be used, and the particulars of those forms, in giving certificates required under sections 235, 236, 238, 239 and 241 of the Mental Health (Care and Treatment) (Scotland) Act 2003.