

## SCHEDULE 1

Article 15

### MODIFICATION OF PUBLIC GENERAL ACTS

#### *Representation of the People Act 1983 (c. 2)*

- 1.—(1) The Representation of the People Act 1983 is amended as follows.
- (2) In section 3A(3) (disfranchisement of offenders detained in mental hospitals)(1)—
- (a) in paragraph (a), after “57(2)(a) or (b)” insert “, 57A(2)”; and
  - (b) in paragraph (b), for “section 69 of the Mental Health (Scotland) Act 1984 or section 71 of that Act (being a person to whom that section applies by virtue of subsection (2)(a) of that section)” substitute “section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.
- (3) In section 7 (residence: patients in mental hospitals who are not detained offenders or on remand)(2), in subsection (6)(b), for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”.
- (4) In section 7A(6) (residence: persons remanded in custody etc.)(3)—
- (a) in paragraph (d), for “a committal to a hospital under section 52” substitute “an assessment order under section 52D or a treatment order under section 52M”; and
  - (b) for paragraph (e), substitute “a transfer for treatment direction under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 made in respect of a person to whom that section applies by virtue of article 13 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005”.

#### *Mental Health Act 1983 (c. 20)*

- 2.—(1) The Mental Health Act 1983 is amended as follows.
- (2) In section 69 (applications to tribunals concerning patients subject to hospital and guardianship orders)(4), in subsection (2)(a), for “section 77(2) of the Mental Health (Scotland) Act 1984” substitute “article 2(2) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005”.
- (3) In section 79 (interpretation of Part 5)(5), in subsection (1)(c), for “section 77(2) of the Mental Health (Scotland) Act 1984” substitute “article 2(2) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005”.
- (4) In section 80 (removal of patients to Scotland)(6)—
- (a) in subsection (1) after “there,” insert “or, where he is not to be admitted to a hospital, for his detention in hospital to be authorised by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995”; and
  - (b) in subsection (7), for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”;

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(1) Section 3A was inserted by the Representation of the People Act 2000 (c. 2), section 2.

(2) Section 7 was substituted by the Representation of the People Act 2000 (c. 2), section 4 and amended by S.I. 2001/1184.

(3) Section 7A was inserted by the Representation of the People Act 2000 (c. 2), section 5 and amended by S.I. 2001/1184.

(4) Section 69 was amended by the Mental Health (Scotland) Act 1984 (c. 36) (“the 1984 Act”), section 127(1) and Schedule 3, paragraph 49. There have been other amendments not relevant to this Order.

(5) Section 79 was amended by the 1984 Act, section 127(1) and Schedule 3, paragraph 50. There have been other amendments not relevant to this Order.

(6) Section 80 was amended by the Mental Health (Amendment) (Scotland) Act 1983 (c. 39), section 41(2), Schedule 1, paragraph 2, Schedule 2, paragraph 1(a) and the 1984 Act, sections 79(1), 126(2)(d), 127 and Schedule 3, paragraph 51.

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- (c) after subsection (7) add–
- “(8) Reference in this section to a patient’s detention in hospital being authorised by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995 shall be read as including references to a patient in respect of whom a certificate under one of the provisions listed in section 290(7)(a) of the Act of 2003 is in operation.”.
- (5) In section 88 (patients absent from hospitals in England and Wales)(7), in subsection (3)(a) for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”.
- (6) In section 90 (regulations for purposes of Part 6)(8)–
- (a) for “Part 7 of the Mental Health (Scotland) Act 1984” substitute “regulations made under section 290 of the Mental Health (Care and Treatment) (Scotland) Act 2003 and articles 2, 3 and 10 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005”; and
- (b) for “those Parts” substitute “that Part or those regulations or articles”.
- (7) In section 91 (general provisions as to patients removed from England and Wales)–
- (a) in subsection (1), after “guardianship” where secondly appearing, insert “or, where he is not received into a hospital but his detention in hospital is authorised by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995”; and
- (b) after subsection (2) add–
- “(3) Reference in this section to a patient’s detention in hospital being authorised by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995 shall be read as including references to a patient in respect of whom a certificate under one of the provisions listed in section 290(7)(a) of the Act of 2003 is in operation.”.
- (8) In section 92 (interpretation of Part 6)(9), in subsection (3), for “Part 7 of the Mental Health (Scotland) Act 1984” substitute “the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 and regulations made under section 290 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.
- (9) In section 135 (warrant to search for and remove patients)(10)–
- (a) in subsection (2)–
- (i) for “section 83 of the Mental Health (Scotland) Act 1984” substitute “article 8 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005”; and
- (ii) for “section 83” where secondly occurring, substitute “article 8”; and
- (b) in subsection (4)(b), for “section 83 of the Mental Health (Scotland) Act 1984” substitute “article 8 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005”.

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(7) Section 88 was amended by the 1984 Act, sections 127 and Schedule 3, paragraph 52 and by [S.I. 1986/596](#).

(8) Section 90 was amended by the 1984 Act, section 127 and Schedule 3, paragraph 53.

(9) Section 92 was amended by the 1984 Act, section 127 and Schedule 3, paragraph 54. There have been other amendments not relevant to this Order.

(10) Section 135 was amended by the 1984 Act, section 127 and Schedule 3, paragraph 56. There have been other amendments not relevant to this Order.

*Insolvency Act 1986 (c. 45)*

3.—(1) The Insolvency Act 1986 is amended as follows.

(2) In section 389A (authorisation of nominees and supervisors)(**11**), in subsection (3)(c), for “section 125(1) of the Mental Health (Scotland) Act 1984” substitute “section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

(3) In section 390 (persons not qualified to act as insolvency practitioners)(**12**), in subsection (4)(c), for “section 125(1) of the Mental Health (Scotland) Act 1984” substitute “section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Social Security Contributions and Benefits Act 1992 (c. 4)*

4.—(1) The Social Security Contributions and Benefits Act 1992 is amended as follows.

(2) In section 67 (exclusions by regulation), in subsection (2)(a)(iv), for “section 7 of the Mental Health (Scotland) Act 1984” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

(3) In section 72 (the care component), in subsection (8)(a)(ii), for “section 7 of the Mental Health (Scotland) Act 1984” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Immigration and Asylum Act 1999 (c. 33)*

5. In section 156(7) of the Immigration and Asylum Act 1999 (arrangements for the provision of escorts and custody)—

- (a) the words “a transfer direction given under” become paragraph (a) of that subsection;
- (b) the existing paragraphs (a) and (b) become, respectively, sub-paragraphs (i) and (ii) of that new paragraph;
- (c) in the new sub-paragraph (i), omit the words “or section 71 of the Mental Health (Scotland) Act 1984”; and
- (d) after the new sub-paragraph (ii), add—

“or

- (b) a transfer for treatment direction given under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 as applied by article 13 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005.”.

*Nationality, Immigration and Asylum Act 2002 (c. 41)*

6. In section 46 of the Nationality, Immigration and Asylum Act 2002 (section 44: supplemental: Scotland and Northern Ireland), for subsections (4) and (5) substitute—

“(4) The following shall be substituted for article 14(2) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 (mental health services provided by local authorities)—

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(11) Section 389A was inserted by the Insolvency Act 2000 (c. 39), section 4. There have been other amendments not relevant to this Order.

(12) Section 390 was amended by the Enterprise Act 2002 (c. 40), Schedule 21, paragraph 4. There have been other amendments not relevant to this Order.

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“(2) Section 95(2) to (7) of the Immigration and Asylum Act 1999 shall apply for the purposes of paragraph (1); and for that purpose a reference to the Secretary of State in section 95(4) or (5) shall be treated as a reference to a local authority.”.

*Sexual Offences Act 2003 (c. 42)*

7. In section 133(1) of the Sexual Offences Act 2003 (Part 2: general interpretation)(13)–
- (a) in paragraph (a) of the definition of “admitted to a hospital”, for “58” substitute “57A(2)”; and
  - (b) in paragraph (a) of the definition of “detained in a hospital”, for “section 71 of the Mental Health (Scotland) Act 1984 (c. 36)” substitute “section 136 of the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#)”.

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(13) Section 133 has been prospectively amended by the Domestic Violence, Crime and Victims Act 2004 (c. 28), Schedule 10, paragraph 57. There have been other amendments to section 133 not relevant to this Order.