

SCHEDULE 1

MODIFICATION OF PUBLIC GENERAL ACTS

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)(1), 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)(2), 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)(3)–

(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”;

(b) in subsection (7), for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”; and

(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)(4), 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)(5)–

(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

(1) 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.

(2) 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.

(3) 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.

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

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

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(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)(6), 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)(7)—

(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”.

(6) 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.

(7) 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.