



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

2003 asp 13

PART 4

HEALTH BOARD AND LOCAL AUTHORITY FUNCTIONS

CHAPTER 2

LOCAL AUTHORITY FUNCTIONS

Provision of services

25 Care and support services etc.

- (1) A local authority—
 - (a) shall—
 - (i) provide, for persons who are not in hospital and who have or have had a mental disorder, services which provide care and support; or
 - (ii) secure the provision of such services for such persons; and
 - (b) may—
 - (i) provide such services for persons who are in hospital and who have or have had a mental disorder; or
 - (ii) secure the provision of such services for such persons.
- (2) Services provided by virtue of subsection (1) above shall be designed to—
 - (a) minimise the effect of the mental disorder on such persons; and
 - (b) give such persons the opportunity to lead lives which are as normal as possible.
- (3) In subsection (1) above, “care and support”—
 - (a) includes, without prejudice to the generality of that expression—
 - (i) residential accommodation; and

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading:*
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- (ii) personal care and personal support (each of those expressions having the meaning given by [F1paragraph 20 of schedule 12 to the Public Services Reform (Scotland) Act 2010] (asp 8)); but
 - (b) does not include nursing care.
- (4) In section 59(1) of the Social Work (Scotland) Act 1968 (c. 49) (duty of local authorities as respects provision and maintenance of residential or other establishments), for the words “or under” there shall be substituted “sections 25 and 26 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) or”.

Textual Amendments

- F1** Words in s. 25(3)(a)(ii) substituted (1.4.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications\) Order 2011 \(S.S.I. 2011/211\)](#), art. 1, **sch. 1 para. 13(3)**

Modifications etc. (not altering text)

- C1** Ss. 25-27 restricted (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), arts. 1(1), **14(1)**
- C2** Ss. 25-27 excluded (1.4.2015) by [Care Act 2014 \(c. 23\)](#), s. 127(1), **Sch. 1 paras. 1(3), 4(3)(b)** (with [Sch. 1 paras. 8, 14](#)); [S.I. 2015/993](#), art. 2(x)(i) (with transitional provisions in [S.I. 2015/995](#))
- C3** S. 25 modified (24.6.2015) by [The Community Care \(Provision of Residential Accommodation Outwith Scotland\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/202\)](#), regs. 1(1), **2(2)**
- C4** Ss. 25-27 excluded (6.4.2016) by [Care Act 2014 \(c. 23\)](#), s. 127(1), **Sch. 1 para. 2(3)** (with [Sch. 1 paras. 8, 14](#)); [S.I. 2016/464](#), art. 2(c)

Commencement Information

- I1** S. 25 in force at 5.10.2005 by [S.S.I. 2005/161](#), **art. 3** (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)

26 Services designed to promote well-being and social development

- (1) A local authority—
- (a) shall—
 - (i) provide, for persons who are not in hospital and who have or have had a mental disorder, services which are designed to promote the well-being and social development of those persons; or
 - (ii) secure the provision of such services for such persons; and
 - (b) may—
 - (i) provide such services for persons who are in hospital and who have or have had a mental disorder; or
 - (ii) secure the provision of such services for such persons.
- (2) Services provided by virtue of subsection (1) above shall include, without prejudice to the generality of that subsection, services which provide—
- (a) social, cultural and recreational activities;
 - (b) training for such of those persons as are over school age; and
 - (c) assistance for such of those persons as are over school age in obtaining and in undertaking employment.
- (3) Subsection (1) above is without prejudice to the operation of—

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- (a) section 1 of the Education (Scotland) Act 1980 (c. 44) (duties and powers of education authorities in relation to the provision of social, cultural and recreative activities and vocational and industrial training); and
 - (b) section 1 of the Further and Higher Education (Scotland) Act 1992 (c. 37) (duty of Scottish Ministers in relation to the provision of further education).
- (4) In subsection (2)(b) and (c) above, “school age” has the same meaning as in section 31 of the Education (Scotland) Act 1980 (c. 44).

Modifications etc. (not altering text)

- C1** Ss. 25-27 restricted (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), arts. 1(1), **14(1)**
- C2** Ss. 25-27 excluded (1.4.2015) by [Care Act 2014 \(c. 23\)](#), s. 127(1), **Sch. 1 paras. 1(3), 4(3)(b)** (with [Sch. 1 paras. 8, 14](#)); [S.I. 2015/993](#), art. 2(x)(i) (with transitional provisions in [S.I. 2015/995](#))
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Commencement Information

- I2** S. 26 in force at 5.10.2005 by [S.S.I. 2005/161](#), **art. 3** (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)

27 Assistance with travel

A local authority—

- (a) shall—
 - (i) provide, for persons who are not in hospital and who have or have had a mental disorder, such facilities for, or assistance in, travelling as the authority may consider necessary to enable those persons to attend or participate in any of the services mentioned in sections 25 and 26 of this Act; or
 - (ii) secure the provision of such facilities or assistance for such persons; and
- (b) may—
 - (i) provide such facilities or assistance for persons who are in hospital and who have or have had a mental disorder; or
 - (ii) secure the provision of such facilities or assistance for such persons.

Modifications etc. (not altering text)

- C1** Ss. 25-27 restricted (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), arts. 1(1), **14(1)**
- C2** Ss. 25-27 excluded (1.4.2015) by [Care Act 2014 \(c. 23\)](#), s. 127(1), **Sch. 1 paras. 1(3), 4(3)(b)** (with [Sch. 1 paras. 8, 14](#)); [S.I. 2015/993](#), art. 2(x)(i) (with transitional provisions in [S.I. 2015/995](#))
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Commencement Information

- I3** S. 27 in force at 5.10.2005 by [S.S.I. 2005/161](#), **art. 3** (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 64(8A)(8B) inserted by [2015 asp 9 s. 1\(2\)](#)
- s. 65(7) inserted by [2015 asp 9 s. 1\(3\)](#)