



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

2003 asp 13

PART 18

MISCELLANEOUS

Advance statements

275 Advance statements: making and withdrawal

- (1) An “advance statement” is a statement complying with subsection (2) below and specifying—
 - (a) the ways the person making it wishes to be treated for mental disorder;
 - (b) the ways the person wishes not to be so treated,in the event of the person’s becoming mentally disordered and the person’s ability to make decisions about the matters referred to in paragraphs (a) and (b) above being, because of that, significantly impaired.
- (2) An advance statement complies with this subsection if—
 - (a) at the time of making it, the person has the capacity of properly intending the wishes specified in it;
 - (b) it is in writing;
 - (c) it is subscribed by the person making it;
 - (d) that person’s subscription of it is witnessed by a person (the “witness”) who is within the class of persons prescribed by regulations for the purposes of this paragraph and who signs the statement as a witness to that subscription; and
 - (e) the witness certifies in writing on the document which comprises the statement that, in the witness’s opinion, the person making the statement has the capacity referred to in paragraph (a) above.
- (3) An advance statement may be withdrawn by the person who made it by a withdrawal complying with this subsection; and a withdrawal so complies if—
 - (a) at the time of making it the person has the capacity properly to intend to withdraw the statement; and

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 275 is up to date with all changes known to be in force on or before 25 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (b) it is made by means of a document which, were it an advance statement, would comply with paragraphs (b) to (e) of subsection (2) above.

Commencement Information

- I1** S. 275 in force at 1.9.2004 for specified purposes by [S.S.I. 2004/367, art. 2, Sch. 1](#)
- I2** S. 275 in force at 4.10.2004 in so far as not already in force by [S.S.I. 2004/367, art. 3, Sch. 2](#)

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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\(3\)](#)