



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

2003 asp 13

PART 21

OFFENCES

316 Inducing and assisting absconding etc.

- (1) A person who knowingly—
- induces or assists a patient to do or fail to do anything which results in the patient's being liable under section 301 or 302 of this Act to be taken into custody and dealt with under section 303 of this Act; or
 - harbours a patient who has, with that result, done or failed to do anything [^{F1}; or
 - “induces or assists a patient to abscond or to attempt to abscond or harbours a patient who absconds while that patient is being removed or transferred under regulations made under section [^{F2}289 or] 290 of this Act.]
- shall be guilty of an offence.
- (2) Where a person is charged with an offence under subsection (1)(b) above, it shall be a defence for such person to prove that the doing of that with which the person is charged—
- did not obstruct the discharge by any person of a function conferred or imposed on that person by virtue of this Act; and
 - was intended to protect the interests of the patient.
- (3) A person guilty of an offence under this section shall be liable—
- on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or both;
 - on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or both.
- (4) The reference in subsection (1) above to sections 301 to 303 of this Act includes a reference to those sections as applied or as applied and modified under section 309

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Section 316 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

of this Act and to any regulations made under section 310 of this Act which make provision corresponding to sections 301 to 303 of this Act.

Textual Amendments

- F1** S. 316(1)(c) and word inserted (27.9.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, **sch. 1 para. 32(22)**
- F2** Words in s. 316(1)(c) inserted (30.6.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), **ss. 71(3)**, 79(3); [S.S.I. 2007/334](#), art. 2(a), sch. 1

Commencement Information

- II** S. 316 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:

Mental Health (Care and Treatment) (Scotland) Act 2003, Section 316 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.

[View outstanding changes](#)

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\(3\)](#)