



# 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—
  - (a) 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
  - (b) harbours a patient who has, with that result, done or failed to do anything, 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—
  - (a) did not obstruct the discharge by any person of a function conferred or imposed on that person by virtue of this Act; and
  - (b) was intended to protect the interests of the patient.
- (3) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or both;
  - (b) 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 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.