



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

2003 asp 13

PART 21

OFFENCES

317 Obstruction

- (1) A person who—
- (a) refuses to allow a person authorised by virtue of this Act access to any premises;
 - (b) refuses to allow access to a mentally disordered person by a person authorised by virtue of this Act to have such access;
 - (c) refuses to allow the interview or examination of a mentally disordered person by a person authorised by virtue of this Act to interview or examine such person;
 - (d) persists in being present when requested to withdraw by a person authorised by virtue of this Act to interview or examine, in private, a mentally disordered person;
 - (e) refuses to produce any document or record to a person authorised by virtue of this Act to require the production of such document or record; or
 - (f) otherwise obstructs a person in the exercise of any functions conferred on such person by virtue of this Act,
- shall be guilty of an offence.
- (2) A mentally disordered person shall not be guilty of an offence under subsection (1) above if the person mentioned in that subsection—
- (a) who is authorised by virtue of this Act, is so authorised; or
 - (b) who is exercising functions conferred on that person by virtue of this Act, is exercising those functions,
- in relation to that mentally disordered person.

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 317 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*

- (3) In any proceedings against a person for an offence under subsection (1) above it shall be a defence for the accused to show that the accused had a reasonable excuse for doing that with which the accused is charged.
- (4) A person guilty of an offence under subsection (1) above shall be liable on summary conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding level 3 on the standard scale or to both.

Commencement Information

- II** [S. 317](#) 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)

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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\(3\)](#)