



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

2003 asp 13

PART 23

GENERAL

326 Orders, regulations and rules

- (1) Any power conferred by this Act on the Scottish Ministers to make orders, regulations or rules shall be exercisable by statutory instrument.
- (2) Any power conferred by this Act on the Scottish Ministers to make orders, regulations or rules—
 - (a) may be exercised so as to make different provision for different cases or descriptions of case or for different purposes; and
 - (b) includes power to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Scottish Ministers consider appropriate.
- (3) A statutory instrument containing an order, regulations or rules made under this Act (other than an order under section 333(2) or (3) of this Act) shall, subject to subsection (4) below, be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (4) A statutory instrument containing—
 - (a) an order under [^{F1}section 240(5) or] paragraph [^{F2}2A(2) or 7A(4)] of schedule 1 to this Act;
 - (b) an order under section 330(1) of this Act containing provisions adding to, replacing or omitting any part of the text of an Act; or
 - (c) regulations under section [^{F3}19(1),] 21(3), 66(2), 234(2)(b), 237(3)(b), 240(3)(d), ^{F4}... 244, [^{F5}271A], 281(9), 284, 286, [^{F6}289,] 290, 309, [^{F7}309A,] [^{F8}or 310] of this Act,

shall not be made unless a draft of the instrument has been laid before, and approved by resolution of, the Scottish Parliament.

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 326 is up to date with all changes known to be in force on or before 17 August 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*

Textual Amendments

- F1** Words in s. 326(4)(a) 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(23)(a)**
- F2** Words in s. 326(4)(a) substituted (1.8.2010 for specified purposes, 1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), s. 134(7), **sch. 18 para. 1**; S.S.I. 2010/221, art. 3(2)(3), sch.; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F3** Word in s. 326(4)(c) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 36(3)**, 61(2); S.S.I. 2017/197, art. 2, sch.
- F4** Words in s. 326(4)(c) omitted (27.9.2005) by virtue of [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, **sch. 1 para. 32(23)(b)**
- F5** Word in s. 326(4)(c) substituted (16.11.2015) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 16(7)**, 61(2); S.S.I. 2015/361, art. 2
- F6** Words in s. 326(4)(c) inserted (30.6.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), **ss. 71(4)**, 79(3); S.S.I. 2007/334, art. 2(a), sch. 1
- F7** Words in s. 326(4)(c) inserted (30.6.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), **ss. 72(2)**, 79(3); S.S.I. 2007/334, art. 2(a), sch. 1
- F8** Words in s. 326(4)(c) substituted (1.12.2010) by [Sexual Offences \(Scotland\) Act 2009 \(asp 9\)](#), s. 62(2), **sch. 5 para. 6**; S.S.I. 2010/357, art. 2(a)

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\(3\)](#)