



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

2003 asp 13

PART 23

GENERAL

329 Interpretation

(1) In this Act, unless the context otherwise requires—

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995 (c. 46);

“advance statement” has the meaning given by section 275 of this Act;

“approved medical practitioner” has the meaning given by section 22(4) of this Act;

“assessment order” means an order made under section 52D(2) of the 1995 Act;

[^{F1}“care home service” has the meaning given by [^{F2}paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010] asp 8;]

“care plan”, in relation to a patient, means a plan prepared under subsection (1) (a) of section 76 of this Act; and includes a reference to a care plan amended by virtue of subsection (3) or (4)(a) of that section;

“carer”, in relation to a person, means an individual who, otherwise than—

(a) by virtue of a contract of employment or other contract with any person;
or

(b) as a volunteer for a voluntary organisation,

provides, on a regular basis, a substantial amount of care for, and support to, the person; and includes, in the case where the person is in hospital, an individual who, before the person was admitted to hospital, provided, on a regular basis, a substantial amount of care for, and support to, the person;

“the Commission” means the Mental Welfare Commission for Scotland;

“community care services” has the meaning given by section [^{F3}12A(8)] of the Social Work (Scotland) Act 1968 (c. 49);

[^{F4}“compulsion order” means an order under section 57(2)(a) or 57A(2) of the 1995 Act;]

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“compulsory treatment order” means an order made under section 64(4)(a) of this Act;

“designated medical practitioner” has the meaning given by section 233(2) of this Act;

“emergency detention certificate” means a certificate granted under section 36(1) of this Act;

“extension certificate” means a certificate granted under section 47(1) of this Act;

“guardian” means a person appointed as a guardian under the Adults with Incapacity (Scotland) Act 2000 (asp 4) who has power by virtue of section 64(1) (a) or (b) of that Act in relation to the personal welfare of a person;

“Health Board” means a board constituted by order under section 2(1)(a) of the National Health Service (Scotland) Act 1978 (c. 29);

“hospital” means—

- (a) any health service hospital (as defined in section 108(1) of the National Health Service (Scotland) Act 1978 (c. 29));
- (b) any independent health care service; or
- (c) any state hospital;

“hospital direction” means a direction made under section 59A of the 1995 Act;

[^{F5}“independent health care service” means any of the following—

- (a) an independent hospital;
- (b) a private psychiatric hospital;
- (c) an independent clinic; or
- (d) an independent medical agency,

as each of those terms is defined in section 10F(2) of the [National Health Service \(Scotland\) Act 1978 \(c.29\)](#)];

“interim compulsory treatment order” means an order made under section 65(2) of this Act;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);

“managers”, in relation to a hospital, means—

- (a) in the case of a hospital vested in the Scottish Ministers for the purposes of their functions under the National Health Service (Scotland) Act 1978 (c. 29), the Health Board or Special Health Board responsible for the administration of the hospital;
- (b) in the case of a hospital vested in a National Health Service trust, the directors of the trust;
- (c) in the case of an independent health care service which is registered under [^{F6}section 10Q(1) of the National Health Service (Scotland) Act 1978 (c.29), the person identified under section 10P(2)(b) of that Act in the application for registration]; and
- (d) in the case of a state hospital—
 - (i) where the Scottish Ministers have delegated the management of the hospital to a Health Board, Special Health Board, National Health Service trust or the Common Services Agency for the Scottish Health Service, that Board, trust or Agency;
 - (ii) where the management of the hospital has not been so delegated, the Scottish Ministers;

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- “medical practitioner” means registered medical practitioner;
- “medical records” has the meaning given by section 77(1) of the Regulation of Care (Scotland) Act 2001 (asp 8);
- “medical treatment” means treatment for mental disorder; and for this purpose “treatment” includes—
- (a) nursing;
 - (b) care;
 - (c) psychological intervention;
 - (d) habilitation (including education, and training in work, social and independent living skills); and
 - (e) rehabilitation (read in accordance with paragraph (d) above);
- “mental health officer” means a person appointed (or deemed to be appointed) under section 32(1) of this Act, and “the mental health officer”, in relation to a patient, means a mental health officer having responsibility for the patient’s case;
- “mental health report” has the meaning given by section 57(4) of this Act;
- “named person” means the person [^{F7}(if any)] who is, in relation to another person, that other person’s named person by virtue of any of sections 250 to 254 and 257 of this Act;
- “National Health Service trust” means a body established by order under section 12A(1) of the National Health Service (Scotland) Act 1978 (c. 29);
- “notice” means notice in writing;
- “patient” means a person who has, or appears to have, a mental disorder;
- “primary”, in relation to a carer, means the individual who provides all, or most, of the care for, and support for, the person;
- “prison” includes any prison other than a naval, military or air force prison;
- “recorded matter” has the meaning given by section 64(4)(a)(ii) of this Act;
- “regulations” means regulations made by the Scottish Ministers;
- “relevant services” has the meaning given by section [^{F8}20(2)] of the Children (Scotland) Act 1995 (c. 36);
- “restriction order” means an order made under section 59 of the 1995 Act;
- “short-term detention certificate” means a certificate granted under section 44(1) of this Act;
- “Special Health Board” means a board constituted by order under section 2(1) (b) of the National Health Service (Scotland) Act 1978 (c. 29);
- “state hospital” means a hospital provided under section 102(1) of the National Health Service (Scotland) Act 1978 (c. 29);
- [^{F9}“temporary compulsion order” means an order made under section 54(1)(c) of the 1995 Act;]
- “transfer for treatment direction” has the meaning given by section 136 of this Act;
- “treatment order” means an order made under section 52M of the 1995 Act;
- “the Tribunal” means the Mental Health Tribunal for Scotland;
- [^{F10}“victim’s representations” means representations made under section 17B of the Criminal Justice (Scotland) Act 2003 in relation to the matter being considered;]
- “voluntary organisation” means a body, other than a public or local authority, the activities of which are not carried on for profit;

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“welfare attorney” means an individual authorised, by a welfare power of attorney granted under section 16 of the Adults with Incapacity (Scotland) Act 2000 (asp 4) and registered under section 19 of that Act, to act as such; and
 “young offenders institution” has the same meaning as in the Prisons (Scotland) Act 1989 (c. 45).

- (2) In this Act, unless the context otherwise requires, a reference to the Tribunal is, where the power conferred by paragraph 7(1) of schedule 2 is exercised, to be construed as a reference to the tribunal concerned.
- (3) References in this Act to the giving of medical treatment to a person include references to medical treatment being performed on a person.
- [^{F11}(4) References in this Act to a patient’s responsible medical officer are references to the approved medical practitioner who is for the time being–
- (a) appointed under section 230(1) or (3)(a) of this Act; or
 - (b) authorised under section 230(3)(b) of this Act,
- in respect of the patient.]

Textual Amendments

- F1** Words in s. 329(1) 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(24)(a)**
- F2** Words in s. 329(1) substituted (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **sch. 1 para. 13(6)**
- F3** Word in s. 329(1) substituted (1.4.2015) by The Public Bodies (Joint Working) (Scotland) Act 2014 (Consequential Modifications and Saving) Order 2015 (S.S.I. 2015/157), art. 1(1), **sch. para. 7(3)**
- F4** Words in s. 329(1) substituted (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), **ss. 53(5), 61(2)**; S.S.I. 2017/197, art. 2, sch.
- F5** Words in s. 329(1) substituted (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **sch. 2 para. 8(5)(a)**
- F6** Words in s. 329(1) substituted (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **sch. 2 para. 8(5)(b)**
- F7** Words in s. 329(1) inserted (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), **ss. 22(4), 61(2)**; S.S.I. 2017/197, art. 2, sch. (with arts. 13-15)
- F8** Word in s. 329(1) substituted (1.4.2017) by Children and Young People (Scotland) Act 2014 (asp 8), s. 102(3), **sch. 5 para. 9**; S.S.I. 2016/254, art. 3(3)(c)
- F9** Words in s. 329(1) inserted (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), **ss. 6(3), 61(2)**; S.S.I. 2017/197, art. 2, sch.
- F10** Words in s. 329(1) inserted (30.9.2017) by Mental Health (Scotland) Act 2015 (asp 9), **ss. 60(5), 61(2)**; S.S.I. 2017/234, art. 2(2)(c)
- F11** S. 329(4) substituted (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(24)(b)**

Commencement Information

- I1** S. 329 in force at 26.3.2004 by S.S.I. 2004/153, art. 2, **Sch. 1**

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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\(3\)](#)