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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 174**

**The Mental Health (Conflict of Interest) (Scotland) Regulations 2017**

**Conflict of interest - review of certain orders**

5.—(1) The circumstances in which there is to be taken to be a conflict of interest in relation to a medical examination for the purpose of sections 77(2) (first mandatory review), 78(2) (further mandatory reviews), 139(2) (first review of compulsion order), 140(2) (further review of compulsion order) and 182(2) (review of compulsion order and restriction order) are where the responsible medical officer or as the case may be the approved medical practitioner is—

- (a) related to the patient in any degree specified in the schedule; or
- (b) other than in the circumstances described in paragraph (2), employed by or contracted to provide services in or to an independent health care service in which the patient will be detained if detention is authorised under—
  - (i) section 64 (compulsory treatment order); or
  - (ii) sections 57A (compulsion order) or 59 (hospital orders: restrictions on discharge) of the 1995 Act<sup>M1</sup>.

(2) The circumstances are—

- (a) where the responsible medical officer or as the case may be the approved medical practitioner is employed by or contracted to provide services in or to an independent health care service in which the patient is or will be detained as set out in paragraph (1)(b)(i) and (ii); and
- (b) the patient has in addition to the examination carried out for the purposes described in paragraph (1) been examined in the period during which a review must be carried out in terms of sections 77(2), 78(2), 139(2), 140(2) and 182(2) by an approved medical practitioner who is not so employed or contracted.

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**Marginal Citations**

**M1** “the 1995 Act” means the [Criminal Procedure \(Scotland\) Act 1995 \(c.46\)](#). See section 329(1) of the 2003 Act.

**Changes to legislation:**

The Mental Health (Conflict of Interest) (Scotland) Regulations 2017, Section 5 is up to date with all changes known to be in force on or before 05 December 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 :**

- reg. 5(1)(b) omitted (temp.) by [2020 c. 7 Sch. 9 para. 16](#)
- reg. 5(2) omitted (temp.) by [2020 c. 7 Sch. 9 para. 16](#)