

POLICY NOTE

THE MENTAL HEALTH (CERTIFICATES FOR MEDICAL TREATMENT) (SCOTLAND) REGULATIONS 2017

SSI 2017/176

The above instrument was made in exercise of the powers conferred by sections 245(2), 246(1) and 325 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”). The instrument is subject to negative procedure.

Policy Objectives

The 2003 Act makes provision at section 325 to prescribe statutory forms. The 2003 Act requires a certificate to be given by the responsible medical officer or other medical practitioner under certain circumstances. Under section 245(2) and 246(1) a certificate shall contain such particulars as prescribed in regulations .

Revision to these prescribed forms is required as part of a package of changes to forms used to administer certain processes under the 2003 Act. In light of practice and experience in using these certificates, certain amendments were needed to the prescribed forms, including :

- More details are provided on each certificate in relation to the Responsible Medical Officer
- What was previously one form has been split into two forms in order to specify the certification of treatment under section 237(3) of the 2003 Act as separate from certification of treatment under section 240(3) of that Act. This has been done in relation to situations where the patient consents to treatment (forms T2A and T2B) and where the patient is incapable of consenting (forms T3A and T3B).

The aim of these changes is to make the forms clearer and easier to complete.

Consultation

There are a range of forms recommended for use under the 2003 Act in addition to these prescribed forms. The Mental Welfare Commission worked with the Mental Health Tribunal for Scotland, NHS boards and Local Authorities to consider feedback from practitioners and administrators on the use of the existing prescribed forms and other forms.

Impact Assessment

This SSI affects only persons with a mental disorder. Mental disorder is included in the definition of the protected characteristic of disability under the Equality Act 2010. Therefore it is likely that any effects that the SSI provisions have on service users would particularly impact the protected characteristic of disability. However, the changes are to update forms use by professionals treating persons with a mental disorder. There is no effect on protected characteristics.

Financial Effects

The forms are produced by the Mental Welfare Commission for Scotland as part of a wider revision and update to forms associated with the 2003 Act. There is no additional financial effect from this instrument.

Scottish Government
Population Health Directorate

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