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SCOTTISH STATUTORY INSTRUMENTS

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**2017 No. 197**

**The Mental Health (Scotland) Act 2015 (Commencement No. 4 and Transitional and Savings Provisions) Order 2017**

*NAMED PERSONS*

**Named persons: declaration in relation to a named person acting under article 13**

**15.**—(1) This article applies where a person continues to act as a patient’s named person by virtue of article 13(1) after the appointed day.

(2) A person who has attained the age of 16 years (“the patient”) may make a declaration in accordance with paragraph (3) stating that a person specified in the declaration is not to be the patient’s named person.

(3) The declaration must be—

- (a) in writing;
- (b) signed by the patient; and
- (c) witnessed by a person mentioned in paragraph (4) (“the witness”) who certifies that, in the opinion of the witness, the patient—
  - (i) understands the effect of making the declaration; and
  - (ii) has not been subjected to any undue influence in making the declaration.

(4) The persons who may witness the declaration are—

- (a) persons providing independent advocacy services;
- (b) medical practitioners;
- (c) arts therapists, dieticians, occupational therapists, physiotherapists, practitioner psychologists and speech and language therapists registered with the Health and Care Professions Council;
- (d) persons employed in the provision of, or managing the provision of, a care service;
- (e) registered nurses;
- (f) social workers; and
- (g) solicitors.

(5) In this article—

“care service” has the meaning given by subsection (1)(a), (b), (d), (f), (g) and (j) of section 47 of the Public Services Reform (Scotland) Act 2010(1);

“Health and Care Professions Council” means the Council established by article 3 of the Health and Social Work Professions Order 2002(2);

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(1) 2010 asp 8.

(2) S.I. 2002/254. Article 3 was relevantly amended by section 214 of the Health and Social Care Act 2012 (2012 c.7). That section provided that the body then known as the Health Professions Council was to continue in existence and be renamed as the Health and Care Professions Council; subsection (2) substituted a new article 3(1) to refer to the Council by its new name.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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“independent advocacy service” has the same meaning as in section 259(1) of the 2003 Act<sup>(3)</sup>; and

“social worker” has the meaning given by section 77 of the Regulation of Care (Scotland) Act 2001<sup>(4)</sup>.

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- (3) For the purposes of section 259(1), “advocacy services” has the meaning given by subsection (4) of section 259, and “independent” has the meaning given by subsection (5) of that section.
- (4) [2001 asp 8](#). Section 77 was substituted by paragraph 9 of schedule 1 of the Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 ([S.S.I. 2011/211](#)). There are amendments to section 77 which are not relevant to this Order.