

Draft Regulations laid before the Scottish Parliament under section 326(4)(c) of the Mental Health (Care and Treatment) (Scotland) Act 2003 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2017 No.

MENTAL HEALTH

**The Mental Health (Absconding) (Miscellaneous
Amendments) (Scotland) Regulations 2017**

Made - - - - 2017
Coming into force - - 30th June 2017

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 309, 310 and 326(2) of the Mental Health (Care and Treatment) (Scotland) Act 2003⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 326(4)(c)⁽²⁾ of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Mental Health (Absconding) (Miscellaneous Amendments) (Scotland) Regulations 2017 and come into force on 30th June 2017.

(2) In these Regulations—

“the 2005 Regulations” means the Mental Health (Absconding by mentally disordered offenders) (Scotland) Regulations 2005⁽³⁾;

“the 2008 Regulations” means the Mental Health (Absconding Patients from Other Jurisdictions) (Scotland) Regulations 2008⁽⁴⁾.

Amendment of the 2005 Regulations

2.—(1) The 2005 Regulations are amended as follows.

(2) In regulation 3 (taking into custody by specified persons), after paragraph (c) insert—

“(ca) a person authorised by the patient’s responsible medical officer;”.

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- (1) [2003 asp 13](#). Section 309 was amended by section 71(2) of the Adult Support and Protection (Scotland) Act [2007 \(asp 10\)](#). Sections 309 and 310 were amended by section 33(3) and (4) of the Mental Health (Scotland) Act [2015 \(asp 9\)](#).
(2) Section 326(4)(c) has been modified by paragraph 5 of Schedule 3 of the Interpretation and Legislative Reform (Scotland) Act [2010 \(asp 10\)](#) and was amended by section 16(7) of the Mental Health (Scotland) Act [2015 \(asp 9\)](#).
(3) [S.S.I. 2005/463](#).
(4) [S.S.I. 2008/333](#).

Amendment of the 2008 Regulations

3.—(1) The 2008 Regulations are amended as follows.

(2) In the definition of “relevant territory” in regulation 1(2) (citation, commencement and interpretation)—

(a) in paragraph (c) omit “or”; and

(b) after paragraph (d) insert—

“; or

(e) any member State of the European Union (other than the United Kingdom)”.

(3) In regulation 7(e)—

(a) after “compulsory treatment order” where it first appears, insert “or an interim compulsory treatment order”; and

(b) after “compulsory treatment order” where it second appears, insert “, an interim compulsory treatment order”.

(4) After regulation 7, insert—

“Medical Treatment

8.—(1) Subject to regulations 9 to 14 and where paragraph (2) applies, sections 233, 238, 240, 241, 242 and 243 of the 2003 Act apply to a person in Scotland who is subject to corresponding measures or corresponding requirements in a relevant territory.

(2) This paragraph applies where—

(a) the corresponding measures or corresponding requirements to which the person is subject correspond to any of—

(i) an assessment order;

(ii) a compulsion order that authorises the detention of a patient in hospital;

(iii) a compulsion order and a restriction order;

(iv) a compulsory treatment order that authorises the detention of a patient in hospital;

(v) a hospital direction;

(vi) an interim compulsion order;

(vii) an interim compulsory treatment order that authorises the detention of a patient in hospital;

(viii) a short-term detention certificate;

(ix) a temporary compulsion order made under section 54(1)(c) of the 1995 Act;

(x) a transfer for treatment direction;

(xi) a treatment order; and

(b) following a medical examination of the person by an approved medical practitioner, that approved medical practitioner considers that—

(i) the person has a mental disorder;

(ii) because of the mental disorder, the person’s ability to make decisions about the provision of medical treatment is significantly impaired;

(iii) if the person was not liable to be taken into custody in accordance with these Regulations, it would be necessary to detain the person for the purposes of giving medical treatment to the person; and