

## SCHEDULE 1

Article 15

### MODIFICATION OF PUBLIC GENERAL ACTS

#### *Representation of the People Act 1983 (c. 2)*

- 1.—(1) The Representation of the People Act 1983 is amended as follows.
- (2) In section 3A(3) (disfranchisement of offenders detained in mental hospitals)(1)—
- (a) in paragraph (a), after “57(2)(a) or (b)” insert “, 57A(2)”; and
  - (b) in paragraph (b), for “section 69 of the Mental Health (Scotland) Act 1984 or section 71 of that Act (being a person to whom that section applies by virtue of subsection (2)(a) of that section)” substitute “section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.
- (3) In section 7 (residence: patients in mental hospitals who are not detained offenders or on remand)(2), in subsection (6)(b), for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”.
- (4) In section 7A(6) (residence: persons remanded in custody etc.)(3)—
- (a) in paragraph (d), for “a committal to a hospital under section 52” substitute “an assessment order under section 52D or a treatment order under section 52M”; and
  - (b) for paragraph (e), substitute “a transfer for treatment direction under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 made in respect of a person to whom that section applies by virtue of article 13 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005”.

#### *Mental Health Act 1983 (c. 20)*

- 2.—(1) The Mental Health Act 1983 is amended as follows.
- (2) In section 69 (applications to tribunals concerning patients subject to hospital and guardianship orders)(4), in subsection (2)(a), for “section 77(2) of the Mental Health (Scotland) Act 1984” substitute “article 2(2) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005”.
- (3) In section 79 (interpretation of Part 5)(5), in subsection (1)(c), for “section 77(2) of the Mental Health (Scotland) Act 1984” substitute “article 2(2) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005”.
- (4) In section 80 (removal of patients to Scotland)(6)—
- (a) in subsection (1) after “there,” insert “or, where he is not to be admitted to a hospital, for his detention in hospital to be authorised by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995”; and
  - (b) in subsection (7), for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”; and

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(1) Section 3A was inserted by the Representation of the People Act 2000 (c. 2), section 2.

(2) Section 7 was substituted by the Representation of the People Act 2000 (c. 2), section 4 and amended by S.I. 2001/1184.

(3) Section 7A was inserted by the Representation of the People Act 2000 (c. 2), section 5 and amended by S.I. 2001/1184.

(4) Section 69 was amended by the Mental Health (Scotland) Act 1984 (c. 36) (“the 1984 Act”), section 127(1) and Schedule 3, paragraph 49. There have been other amendments not relevant to this Order.

(5) Section 79 was amended by the 1984 Act, section 127(1) and Schedule 3, paragraph 50. There have been other amendments not relevant to this Order.

(6) Section 80 was amended by the Mental Health (Amendment) (Scotland) Act 1983 (c. 39), section 41(2), Schedule 1, paragraph 2, Schedule 2, paragraph 1(a) and the 1984 Act, sections 79(1), 126(2)(d), 127 and Schedule 3, paragraph 51.

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- (c) after subsection (7) add–
- “(8) Reference in this section to a patient’s detention in hospital being authorised by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995 shall be read as including references to a patient in respect of whom a certificate under one of the provisions listed in section 290(7)(a) of the Act of 2003 is in operation.”.
- (5) In section 88 (patients absent from hospitals in England and Wales)(7), in subsection (3)(a) for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”.
- (6) In section 90 (regulations for purposes of Part 6)(8)–
- (a) for “Part 7 of the Mental Health (Scotland) Act 1984” substitute “regulations made under section 290 of the Mental Health (Care and Treatment) (Scotland) Act 2003 and articles 2, 3 and 10 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005”; and
- (b) for “those Parts” substitute “that Part or those regulations or articles”.
- (7) In section 91 (general provisions as to patients removed from England and Wales)–
- (a) in subsection (1), after “guardianship” where secondly appearing, insert “or, where he is not received into a hospital but his detention in hospital is authorised by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995”; and
- (b) after subsection (2) add–
- “(3) Reference in this section to a patient’s detention in hospital being authorised by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995 shall be read as including references to a patient in respect of whom a certificate under one of the provisions listed in section 290(7)(a) of the Act of 2003 is in operation.”.
- (8) In section 92 (interpretation of Part 6)(9), in subsection (3), for “Part 7 of the Mental Health (Scotland) Act 1984” substitute “the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 and regulations made under section 290 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.
- (9) In section 135 (warrant to search for and remove patients)(10)–
- (a) in subsection (2)–
- (i) for “section 83 of the Mental Health (Scotland) Act 1984” substitute “article 8 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005”; and
- (ii) for “section 83” where secondly occurring, substitute “article 8”; and
- (b) in subsection (4)(b), for “section 83 of the Mental Health (Scotland) Act 1984” substitute “article 8 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005”.

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(7) Section 88 was amended by the 1984 Act, sections 127 and Schedule 3, paragraph 52 and by [S.I. 1986/596](#).

(8) Section 90 was amended by the 1984 Act, section 127 and Schedule 3, paragraph 53.

(9) Section 92 was amended by the 1984 Act, section 127 and Schedule 3, paragraph 54. There have been other amendments not relevant to this Order.

(10) Section 135 was amended by the 1984 Act, section 127 and Schedule 3, paragraph 56. There have been other amendments not relevant to this Order.

*Insolvency Act 1986 (c. 45)*

3.—(1) The Insolvency Act 1986 is amended as follows.

(2) In section 389A (authorisation of nominees and supervisors)(**11**), in subsection (3)(c), for “section 125(1) of the Mental Health (Scotland) Act 1984” substitute “section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

(3) In section 390 (persons not qualified to act as insolvency practitioners)(**12**), in subsection (4)(c), for “section 125(1) of the Mental Health (Scotland) Act 1984” substitute “section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Social Security Contributions and Benefits Act 1992 (c. 4)*

4.—(1) The Social Security Contributions and Benefits Act 1992 is amended as follows.

(2) In section 67 (exclusions by regulation), in subsection (2)(a)(iv), for “section 7 of the Mental Health (Scotland) Act 1984” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

(3) In section 72 (the care component), in subsection (8)(a)(ii), for “section 7 of the Mental Health (Scotland) Act 1984” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Immigration and Asylum Act 1999 (c. 33)*

5. In section 156(7) of the Immigration and Asylum Act 1999 (arrangements for the provision of escorts and custody)—

- (a) the words “a transfer direction given under” become paragraph (a) of that subsection;
- (b) the existing paragraphs (a) and (b) become, respectively, sub-paragraphs (i) and (ii) of that new paragraph;
- (c) in the new sub-paragraph (i), omit the words “or section 71 of the Mental Health (Scotland) Act 1984”; and
- (d) after the new sub-paragraph (ii), add—

“or

- (b) a transfer for treatment direction given under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 as applied by article 13 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005.”.

*Nationality, Immigration and Asylum Act 2002 (c. 41)*

6. In section 46 of the Nationality, Immigration and Asylum Act 2002 (section 44: supplemental: Scotland and Northern Ireland), for subsections (4) and (5) substitute—

“(4) The following shall be substituted for article 14(2) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 (mental health services provided by local authorities)—

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(11) Section 389A was inserted by the Insolvency Act 2000 (c. 39), section 4. There have been other amendments not relevant to this Order.

(12) Section 390 was amended by the Enterprise Act 2002 (c. 40), Schedule 21, paragraph 4. There have been other amendments not relevant to this Order.

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“(2) Section 95(2) to (7) of the Immigration and Asylum Act 1999 shall apply for the purposes of paragraph (1); and for that purpose a reference to the Secretary of State in section 95(4) or (5) shall be treated as a reference to a local authority.”.

*Sexual Offences Act 2003 (c. 42)*

7. In section 133(1) of the Sexual Offences Act 2003 (Part 2: general interpretation)(**13**)–
- (a) in paragraph (a) of the definition of “admitted to a hospital”, for “58” substitute “57A(2)”; and
  - (b) in paragraph (a) of the definition of “detained in a hospital”, for “section 71 of the Mental Health (Scotland) Act 1984 (c. 36)” substitute “section 136 of the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#)”.

SCHEDULE 2

Article 15

MODIFICATION OF STATUTORY INSTRUMENTS

*Mental Health (Hospital, Guardianship and Consent to Treatment) Regulations 1983 (S.I. 1983/893)*

1. In regulation 11(1) of the Mental Health (Hospital, Guardianship and Consent to Treatment) Regulations 1983 (removal to England and Wales)(**14**), for “Part 6 of the Mental Health (Scotland) Act 1960” substitute “the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 and regulations made under section 290 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595)*

- 2.—(1) The Mental Health (Northern Ireland) Order 1986(**15**) is amended as follows.
- (2) In Article 84(1)(c) (interpretation), for “section 80(2) of the Mental Health (Scotland) Act 1984 substitute “article 4(2) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005”.
  - (3) In Article 129(3) (warrant to search for and remove patients), for “section 84 of the Mental Health (Scotland) Act 1984” substitute “article 8 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005”.
  - (4) In Article 132(5) (retaking of patients escaping from custody)–
    - (a) for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”; and
    - (b) for “Part 7 of the Act of 1984” substitute “being removed to Northern Ireland under regulations made under section 290 of the Act of 2003”.
  - (5) In Article 134 (patients removed to or from Northern Ireland)–
    - (a) in paragraph (1), for “Part 7 of the 1984 Act” substitute “admitted to hospital in Northern Ireland under article 4 of the 2005 Order”;

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(13) Section 133 has been prospectively amended by the Domestic Violence, Crime and Victims Act 2004 (c. 28), Schedule 10, paragraph 57. There have been other amendments to section 133 not relevant to this Order.

(14) S.I. 1983/893 to which there are amendments not relevant to this Order.

(15) S.I. 1986/595 (N.I. 4) to which there are amendments not relevant to this Order.

- (b) in paragraph (3), for “Part 7 of the 1984 Act” substitute “regulations made under section 290 of the Mental Health (Care and Treatment) (Scotland) Act 2003”;
- (c) in paragraph (4)–
  - (i) for “Part 7 of the 1984 Act” substitute “article 6 of the 2005 Order”; and
  - (ii) after “guardianship” where secondly appearing, insert “or, where he is not received into a hospital but his detention in hospital is authorised by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995”;
- (d) in paragraph (6), for “Part 7 of the 1984 Act” substitute “article 6 of the 2005 Order”;
- (e) in paragraph (7)–
  - (i) omit the words from “the 1984 Act” to the end; and
  - (ii) at the end add–

““the 2005 Order” means the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005.”; and
- (f) after paragraph (7) add–

“(8) Reference in this Article to a patient whose detention in hospital is authorised by virtue of the Mental Health (Care and Treatment) (Scotland) Act 2003 or the Criminal Procedure (Scotland) Act 1995, shall be read as including references to a patient in respect of whom a certificate under one of the provisions listed in section 290(7)(a) of the Act of 2003 is in operation.”.

*Income Support (General) Regulations 1987 (S.I. 1987/1967)*

**3.—(1)** The Income Support (General) Regulations 1987(**16**) are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of “nursing home”, for “a private hospital within the meaning of section 12 of the Mental Health (Scotland) Act 1984 (private hospitals)” substitute “an independent health care service within the meaning of section 2(5) of the Regulation of Care (Scotland) Act 2001”.

(3) In regulation 16 (circumstances in which a person is to be treated as being or not being a member of the household), in paragraph (3)(a), for “section 90(1) of the Mental Health (Scotland) Act 1984 (provision of hospitals for patients requiring special security)” substitute “section 102 of the National Health Service (Scotland) Act 1978 (state hospitals)”.

(4) In regulation 21 (special cases)–

(a) in paragraph (3)–

- (i) in the definition of “prisoner”, for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”; and
- (ii) in the definition of “residential accommodation”, for “section 7 of the Mental Health (Scotland) Act 1984 (functions of local authorities)” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (care and support services etc.)”; and

(b) in paragraph (3E), for “section 7 of the Mental Health (Scotland) Act 1984” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

(5) In paragraph 2A of Schedule 7 (applicable amounts in special cases) for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”.

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**(16)** S.I. 1987/1967; relevant amending instruments are S.I. 1990/547, S.I. 992/3147, S.I. 1993/518, S.I. 1994/2139, S.I. 1995/516, S.I. 1998/563, S.I. 1998/2117 and S.I. 2001/3767.

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- (6) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)–
- (a) in paragraph 15A(1), for “section 7 of the Mental Health (Scotland) Act 1984” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003”; and
  - (b) in paragraph 66, for “section 8 of the Mental Health (Scotland) Act 1984” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Housing Benefit (General) Regulations 1987 (S.I. 1987/1971)*

- 4.—(1) The Housing Benefit (General) Regulations 1987(17) are amended as follows.
- (2) In regulation 5 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)–
- (a) in paragraph (8ZA)(a), for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”; and
  - (b) in paragraph (9), in the definition of “residential accommodation”, in sub-paragraph (j)(ii), for “a private hospital within the meaning of section 12 of the Mental Health (Scotland) Act 1984 (private hospitals)” substitute “an independent health care service within the meaning of section 2(5) of the Regulation of Care (Scotland) Act 2001”.
- (3) In regulation 7(3)(e)(ii) (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling), for “a private hospital within the meaning of section 12 of the Mental Health (Scotland) Act 1984 (private hospitals)” substitute “an independent health care service within the meaning of section 2(5) of the Regulation of Care (Scotland) Act 2001”.
- (4) In regulation 25(5)(d) (meaning of income), for “section 7 of the Mental Health (Scotland) Act 1984 (functions of local authorities)” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.
- (5) In regulation 63(7)(e)(iii) (non dependant deductions), for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”.
- (6) The amendment made by sub paragraph (4) is to the Housing Benefit (General) Regulations 1997 as modified in their application to persons to whom regulation 2 of the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003(18) applies.

*Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405)*

5. In article 348A(3)(c) of the Insolvency (Northern Ireland) Order 1989 (authorisation of nominees and supervisors)(19), for “section 125(1) of the Mental Health (Scotland) Act 1984 (c. 36)” substitute “section 329(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

*National Health Service Trusts (Membership and Procedure) Regulations 1990 (S.I. 1990/2024)*

6. In regulation 1(2) of the National Health Service Trusts (Membership and Procedure) Regulations 1990 (citation, commencement and interpretation)(20), in the definition of “health service body”, omit sub paragraph (c).

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(17) S.I. 1987/1971; relevant amending instruments are S.I. 1990/2564, S.I. 1992/50, S.I. 1995/560, S.I. 1998/563, S.I. 2003/325 and S.I. 2005/573.

(18) S.I. 2003/325.

(19) S.I. 1989/2405; the relevant amending instrument is S.I. 2002/3152.

(20) S.I. 1990/2024 to which there are amendments not relevant to this Order.

*Radioactive Substances (Hospitals) Exemption Order 1990 (S.I. 1990/2512)*

7. In article 2(1) of the Radioactive Substances (Hospitals) Exemption Order 1990 (interpretation)(21), in the definition of “hospital”, for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Income Tax (Building Societies) (Dividends and Interest) Regulations 1990 (S.I. 1990/2231)*

8. In regulation 2(1) of the Income Tax (Building Societies) (Dividends and Interest) Regulations 1990 (interpretation)(22), in the definition of “mental disorder”, for “section 1(2) of the Mental Health (Scotland) Act 1984” substitute “section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Income Tax (Deposit-Takers) (Interest Payments) Regulations 1990 (S.I. 1990/2232)*

9. In regulation 2 of the Income Tax (Deposit-Takers) (Interest Payments) Regulations 1990 (interpretation)(23), in the definition of “mental disorder”, for “section 1(2) of the Mental Health (Scotland) Act 1984” substitute “section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Savings Certificates Regulations 1991 (S.I. 1991/1031)*

10. In regulation 33(a) of the Savings Certificates Regulations 1991 (application to Scotland)(24), for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Savings Certificates (Children’s Bonus Bonds) Regulations 1991 (S.I. 1991/1407)*

11. In regulation 29(a) of the Savings Certificates (Children’s Bonus Bonds) Regulations 1991 (application to Scotland)(25), for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Social Security (Attendance Allowance) Regulations 1991 (S.I. 1991/2740)*

12. In regulation 7(1)(a)(ii) of the Social Security (Attendance Allowance) Regulations 1991 (persons in certain accommodation other than hospitals)(26), for “section 7 of the Mental Health (Scotland) Act 1984” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Social Security (Disability Living Allowance) Regulations 1991 (S.I. 1991/2890)*

13.—(1) The Social Security (Disability Living Allowance) Regulations 1991(27) are amended as follows.

(2) In regulation 9(1)(a)(ii) (persons in certain accommodation other than hospitals), for “section 7 of the Mental Health (Scotland) Act 1984” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

(21) S.I. 1990/2512 to which there are amendments not relevant to this Order.

(22) S.I. 1990/2231; the relevant amending instrument is S.I. 1992/11.

(23) S.I. 1990/2232; the relevant amending instrument is S.I. 1992/13.

(24) S.I. 1991/1031 to which there are amendments not relevant to this Order.

(25) S.I. 1991/1407 to which there are amendments not relevant to this Order.

(26) S.I. 1991/2740 to which there are amendments not relevant to this Order.

(27) S.I. 1991/2890; the relevant amending instrument is S.I. 1996/1436.

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(3) In regulation 12B (exemption from regulation 12A), in paragraphs (5) and (6)(a), for “Part 5 or 6 of the Mental Health (Scotland) Act 1984” substitute “Part 5, 6 or 7 or section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 or section 52D or 52M of the Criminal Procedure (Scotland) Act 1995”.

*Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814)*

**14.**—(1) The Council Tax Benefit (General) Regulations 1992(**28**) are amended as follows.

(2) In regulation 4C—

(a) in paragraph (5)(a), for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”; and

(b) in paragraph (6), in the definition of “residential accommodation”, in sub paragraph (i)(ii), for “a private hospital within the meaning of section 12 of the Mental Health (Scotland) Act 1984 (private hospitals)” substitute “an independent health care service within the meaning of section 2(5) of the Regulation of Care (Scotland) Act 2001”.

(3) In regulation 17(5)(d) (meaning of “income”), for “section 7 of the Mental Health (Scotland) Act 1984 (functions of local authorities)” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (care and support services etc.)”.

(4) The amendment made by sub paragraph (3) is to the Council Tax Benefit (General) Regulations 1992 as modified in their application to persons to whom regulation 12 of the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003(**29**) applies.

*Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (S.I. 1992/1815)*

**15.** In regulation 1(2) of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (citation, commencement and interpretation)(**30**), in the definition of “prisoner”, for “the Mental Health (Scotland) Act 1984” substitute “Part 5, 6 or 7 or section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 or section 52D or 52M of the Criminal Procedure (Scotland) Act 1995”.

*Redundancy Payments (National Health Service) (Modification) Order 1993 (S.I. 1993/3167)*

**16.** In Schedule 1 of the Redundancy Payments (National Health Service) (Modification) Order 1993(**31**), omit paragraph 7.

*Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207)*

**17.**—(1) The Jobseeker’s Allowance Regulations 1996(**32**) are amended as follows.

(2) In regulation 1(3) (citation, commencement and interpretation), in the definition of “nursing home”, for “a private hospital within the meaning of section 12 of the Mental Health (Scotland) Act 1984 (private hospitals)” substitute “an independent health care service within the meaning of section 2(5) of the Regulation of Care (Scotland) Act 2001”.

(3) In regulation 85(4) (special cases)—

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(28) [S.I. 1992/1814](#); relevant amending instruments are [S.I. 1995/560](#), [S.I. 1995/625](#), [S.I. 1998/563](#), [S.I. 2003/325](#) and [S.I. 2005/573](#).

(29) [S.I. 2003/325](#).

(30) [S.I. 1992/1815](#) to which there are amendments not relevant to this Order.

(31) [S.I. 1993/3167](#) to which there are amendments not relevant to this Order.

(32) [S.I. 1996/207](#); the relevant amending instrument is [S.I. 1998/563](#).



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- (a) in the definition of “prisoner”, for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”; and
  - (b) in the definition of “residential accommodation”, for “section 7 of the Mental Health (Scotland) Act 1984 (functions of local authorities)” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (care and support services etc.)”.
- (4) In Schedule 7, paragraph 16(1) (sums to be disregarded in the calculation of income other than earnings), for “section 7 of the Mental Health (Scotland) Act 1984” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Courts-Martial and Standing Civilian Courts (Army and Royal Air Force)  
(Additional Powers on Trial of Civilians) Regulations 1997 (S.I. 1997/579)*

**18.** In regulation 2 of the Courts-Martial and Standing Civilian Courts (Army and Royal Air Force) (Additional Powers on Trial of Civilians) Regulations 1997 (interpretation)(**33**), in the definition of “duly qualified medical practitioner”, for “section 20 or 39 of the Mental Health (Scotland) Act 1984” substitute “section 22(4) of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Individual Savings Account Regulations 1998 (S.I. 1998/1870)*

**19.** In regulation 12(13) of the Individual Savings Account Regulations 1998 (conditions for application to subscribe to an account)(**34**), for “section 1(2) of the Mental Health (Scotland) Act 1984” substitute “section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Asylum Support Regulations 2000 (S.I. 2000/704)*

**20.** In regulation 23(1)(e) of the Asylum Support Regulations 2000 (meaning of “destitute” for certain other purposes)(**35**), for “sections 7(3) and 8(4) of the Mental Health (Scotland) Act 1984” substitute “article 14 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005”.

*Child Support (Maintenance Calculations and Special Cases) Regulations 2000 (S.I. 2001/155)*

**21.** In regulation 1(2) of the Child Support (Maintenance Calculations and Special Cases) Regulations 2000 (citation, commencement and interpretation)(**36**), in the definition of “prisoner”, for “the Mental Health (Scotland) Act 1984” substitute “Part 5, 6 or 7 or section 136 of the Mental Health (Care and Treatment) (Scotland) 2003 Act or section 52D or 52M of the Criminal Procedure (Scotland) Act 1995”.

*State Pension Credit Regulations 2002 (S.I. 2002/1792)*

- 22.**—(1) The State Pension Credit Regulations 2002(**37**) are amended as follows.
- (2) In regulation 1(2) (citation, commencement and interpretation), in the definition of “prisoner”, for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”.

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(33) [S.I. 1997/579](#).

(34) [S.I. 1998/1870](#); the relevant amending instrument is [S.I. 2002/3158](#).

(35) [S.I. 2000/704](#) to which there are amendments not relevant to this Order.

(36) [S.I. 2001/155](#) to which there are amendments not relevant to this Order.

(37) [S.I. 2002/1792](#); the relevant amending instrument is [S.I. 2003/2274](#).

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(3) In regulation 5(1)(c)(i) (persons treated as being or not being members of the same household), for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”.

(4) In regulation 15(7)(d) (income for the purposes of the Act), for “section 7 of the Mental Health (Scotland) Act 1984 (functions of local authorities)” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (care and support services etc.)”.

*Child Benefit (General) Regulations 2003 (S.I. 2003/493)*

**23.** In regulation 1(2) of the Child Benefit (General) Regulations 2003 (citation, commencement and interpretation)(**38**), in the definition of “the Mental Health Acts”, for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Guardian’s Allowance (General) Regulations 2003 (S.I. 2003/495)*

**24.** In regulation 7(1)(b)(iv) of the Guardian’s Allowance (General) Regulations 2003 (circumstances in which a person is to be treated as being in prison)(**39**), for “58” substitute “57A”.

*Community Care, Services for Carers and Children’s Services (Direct Payments) (England) Regulations 2003 (S.I. 2003/762)*

**25.—(1)** The Community Care, Services for Carers and Children’s Services (Direct Payments) (England) Regulations 2003(**40**) are amended as follows.

(2) In regulation 1(2) (citation, commencement and application)–

- (a) omit ““the 1984 Act” means the Mental Health (Scotland) Act 1984;” and
- (b) before ““direct payment”” insert ““the 2003 Act” means the Mental Health (Care and Treatment) (Scotland) Act 2003;”.

(3) In regulation 2(2) (prescribed descriptions of persons – community care services and services for carers)–

- (a) in sub paragraph (i), for “after-care under a community care order under section 35A of the 1984 Act” substitute “the imposition of any of the requirements mentioned in section 66(1) (c), (d), (e) or (f) of the 2003 Act”;
- (b) in sub paragraph (j), for “section 27 of the 1984 Act” substitute “section 41(1), 53(1) or 127 of the 2003 Act”;
- (c) in sub paragraph (l), for “a restricted patient within the meaning of section 63(1) of the 1984 Act who has been given a conditional discharge under section 64 or 68 of that Act” substitute “a patient who is subject to a restriction order within the meaning of the 2003 Act who has been conditionally discharged under section 193(7) of that Act”; and
- (d) in sub paragraph (m), after “57(2)(a), (b), (c) or (d),” insert “57A(2),”.

*Communications (Television Licensing) Regulations 2004 (S.I. 2004/692)*

**26.—(1)** The Communications (Television Licensing) Regulations 2004(**41**) are amended as follows.

(38) S.I. 2003/493 to which there are amendments not relevant to this Order.

(39) S.I. 2003/495 to which there are amendments not relevant to this Order.

(40) S.I. 2003/762.

(41) S.I. 2004/692; the relevant amending instrument is S.I. 2005/606.

- (2) In Schedule 4, paragraph 7(1) (Scotland)–
- (a) in the definition of “accommodation for residential care”, for “section 7 of the Mental Health (Scotland) Act 1984” substitute “section 25 of the Mental Health (Care and Treatment) (Scotland) Act 2003”; and
  - (b) in the definition of “mental disorder”, for “Mental Health (Scotland) Act 1984” substitute “Mental Health (Care and Treatment) (Scotland) Act 2003”.

*Community Care, Services for Carers and Children’s Services  
(Direct Payments) (Wales) Regulations 2004 (S.I. 2004/1748)*

**27.**—(1) The Community Care, Services for Carers and Children’s Services (Direct Payments) (Wales) Regulations 2004(42) are amended as follows.

- (2) in regulation 2(1) of the English text (interpretation)–
- (a) omit ““the 1984 Act” (“Deddf 1984”) means the Mental Health (Scotland) Act 1984;” and
  - (b) before ““the 2003 Regulations”” insert ““the 2003 Act” (“Deddf 2003”) means the Mental Health (Care and Treatment) (Scotland) Act 2003;”.
- (3) In regulation 2(1) of the Welsh text (dehongli)–
- (a) omit “ystyr “Deddf 1984” (“the 1984 Act”) yw Deddf Iechyd Meddwl (Yr Alban) 1984;”;
  - (b) before “mae I “gwasanaeth perthnasol”” insert ystyr “Deddf 2003” (“the 2003 Act”) yw Deddf Iechyd Meddwl (Gofal a Thriniaeth) (Yr Alban) 2003;”.
- (4) In Schedule 1 of the English text (persons to whom direct payments may not be made)–
- (a) in paragraph (i), for “after care under a community care order under section 35A of the 1984 Act” substitute “the imposition of any of the requirements mentioned in section 66(1) (c), (d), (e) or (f) of the 2003 Act”;
  - (b) in paragraph (j), for “section 27 of the 1984 Act” substitute “section 41(1), 53(1) or 127 of the 2003 Act”;
  - (c) in paragraph (1), for “a restricted patient within the meaning of section 63(1) of the 1984 Act and who has been given a conditional discharge under section 64 or 68 of that Act” substitute “a patient who is subject to a restriction order within the meaning of the 2003 Act who has been conditionally discharged under section 193(7) of that Act”; and
  - (d) in paragraph (m), after “57(2)(a), (b), (c) or (d),” insert “57A(2),”.
- (5) In Schedule 1 of the Welsh text (Atodlen 1 – personau na cheir gwneud taliadau uniongyrchol iddynt)–
- (a) in paragraph (ff), for “yn destun ol olaf o dan orchymyn gofal cymunedol o dan adran 35A o Ddeddf 1984” substitute “sy'n ddarostyngedig i unrhyw un neu rhai o'r gofynion a grybwyllir yn adran 66(1)(c), (d), (e) neu (f) o Ddeddf 2003”;
  - (b) in paragraph (g), for “adran 27 o Ddeddf 1984” substitute “adran 41(1), 53(1) neu 127 o Ddeddf 2003”;
  - (c) in paragraph (h), for “cyfyngedig yn ystyr adran 63(1) o Ddeddf 1984 y rhoddwyd rhyddhad amodol iddo o dan adran 64 neu 68 o'r Ddeddf honno” substitute “, sy'n destun gorchymyn cyfyngu yn ystyr Deddf 2003 ac y rhoddwyd rhyddhad amodol id do o dan adran 193(7) o'r Ddeddf honno”;
  - (d) in paragraph (i), after “57(2)(a), (b), (c) neu (d),” insert “57A(2),”.

(42) [S.I. 2004/1748 \(W.185\)](#). The Welsh title of the Regulations is “Rheoliadau Gofal Cymunedol, Gwasanaethau ar gyfer Gofalwyr a Gwasanaethau Plant (Taliadau Uniongyrchol) (Cymru) 2004 (S.I. 2004/1748 (Cy. 185)).”

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## SCHEDULE 3

Article 16

*REPEALS*

<i>Enactment</i>	<i>Extent of repeal</i>
Mental Health Act 1983 (c. 20)	Section 25J(1).  Section 80(2) to (6).  Section 80A(2) and (3).  In section 116, in subsection (2)(b) the words “or the Mental Health (Scotland) Act 1984” and in subsection (2)(c) the words “or under the Mental Health (Scotland) Act 1984”.
Mental Health (Scotland) Act 1984 (c. 36)	The whole Act except sections 10, 95 and 130. In section 10(1), paragraphs (a) and (aa); in paragraph (b), the words “the following provisions of this Act or under”; and in paragraph (c), the words “under this Act or”.
Income and Corporation Taxes Act 1988 (c. 1)	In section 519A(2), paragraph (e).
Children Act 1989 (c. 41)	Section 83(9)(d).