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**Changes to legislation:** *Mental Health (Care and Treatment) (Scotland) Act 2003 is up to date with all changes known to be in force on or before 25 June 2024. 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. (See end of Document for details)*

VALID FROM 21/03/2005

SCHEDULE 1

*(introduced by section 4)*

THE MENTAL WELFARE COMMISSION FOR SCOTLAND

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VALID FROM 26/03/2004

SCHEDULE 2

*(introduced by section 21)*

THE MENTAL HEALTH TRIBUNAL FOR SCOTLAND

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VALID FROM 05/10/2005

SCHEDULE 3

*(introduced by section 71)*

APPLICATION OF CHAPTER 1 OF PART 7 TO CERTAIN PATIENTS

.....

VALID FROM 05/10/2005

SCHEDULE 4

*(introduced by section 331(1))*

MINOR AND CONSEQUENTIAL AMENDMENTS

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PROSPECTIVE

## SCHEDULE 5

(introduced by section 331(2) and (3))

### REPEALS AND REVOCATIONS

#### PART 1

#### REPEALS

<i>Enactment</i>	<i>Extent of repeal</i>
The National Health Service (Scotland) Act 1978 (c. 29)	In section 102, paragraph (a) of subsection (4), the word “or” immediately following that paragraph and subsection (5).
The Mental Health (Scotland) Act 1984 (c. 36)	The whole Act <sup>F3</sup> with the exception of section 10(1)(b) and (c) and (2) and section 95].
The Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73)	Section 51(2)(b).
The Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33)	In section 7(9), in paragraph (c) of the definition of “the managers”, the words from “a State Hospital Management Committee” to “constituted”.
The Children Act 1989 (c. 41)	In Schedule 13, paragraph 50.
The National Health Service and Community Care Act 1990 (c. 19)	In Schedule 5, paragraph 13. In Schedule 9, paragraph 28.
The Access to Health Records Act 1990 (c. 23)	In section 11, in the definition of “health service body”, paragraph (c).
The Mental Health (Detention) (Scotland) Act 1991 (c. 47)	The whole Act.
The Further and Higher Education (Scotland) Act 1992 (c. 37)	In Schedule 9, paragraph 9.
The Prisoners and Criminal Proceedings (Scotland) Act 1993 (c. 9)	Section 4(2) and (3). In Schedule 5, paragraph 2.
The State Hospitals (Scotland) Act 1994 (c. 16)	Section 2(4) and (5).
The Children (Scotland) Act 1995 (c. 36)	In Schedule 4, paragraph 33.
The Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)	Section 13(3).
The Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40)	In Schedule 4, paragraph 50.

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The Criminal Procedure (Scotland) Act 1995 (c. 46)	In section 52, subsections (2) to (7). In section 58, subsection (1); in subsections (2) and (3), the words “(1) or”; subsections (4) and (5); in subsection (7), the words “hospital order or” and <sup>F4</sup> ...; subsection (9); subsection (10); in subsection (11), the words “subsection (1) of”. Section 59(3). In section 200(9), the words “within 24 hours of his remand or, as the case may be, committal,”. In section 210(1), in paragraphs (a) and (c) (iii), the words “52, 53 or”. In section 230(1), the words “, not extending beyond 12 months from the date of the requirement,”. In section 307(1), the definitions of “hospital order”, “residential establishment” and “responsible medical officer”.
The Mental Health (Patients in the Community) Act 1995 (c. 52)	Sections 4 to 6. Schedule 2.
The Crime (Sentences) Act 1997 (c. 43)	In schedule 3, paragraphs 6 to 10.
The Crime and Punishment (Scotland) Act 1997 (c. 48)	Sections 7 and 8. In Schedule 1, paragraph 9.
The Crime and Disorder Act 1998 (c. 37)	In Schedule 8, paragraph 55.
The Health Act 1999 (c. 8)	In Schedule 4, paragraph 70.
The Mental Health (Public Safety and Appeals) (Scotland) Act 1999 (asp 1)	The whole Act.
The Mental Health (Amendment) (Scotland) Act 1999 (c. 32)	The whole Act.
The Immigration and Asylum Act 1999 (c. 33)	Section 120(4) and (5). In Schedule 15, paragraph 10.
The Adults with Incapacity (Scotland) Act 2000 (asp 4)	In section 9(1), the words “Without prejudice to their functions under the 1984 Act,” and paragraphs (a), (b), (e) and (f). In section 12(1)(b), the words “or (e)”. In section 35(1)(b), the words “or private psychiatric hospital”. Section 38(4). In section 47(2), the words “and to”. Section 48(1). In section 57(3)(a), the words from “approved” to the end. Section 87(2) and (3). In schedule 1, paragraph 1(c)(ii) and the word “or” immediately following it. In schedule 5, paragraph 17(3) to (24).

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The Regulation of Care (Scotland) Act 2001 (asp 8)	Section 2(5)(b). In section 77, in subsection (1), the definition of “private psychiatric hospital” and, in subsection (2), the words “(not being a private psychiatric hospital)”. In schedule 3, paragraph 11(2) to (7).
The International Criminal Court (Scotland) Act 2001 (asp 13)	Section 25.
The Scottish Public Services Ombudsman Act 2002 (asp 11)	In schedule 6, paragraph 6.

#### Textual Amendments

- F3** Words in Sch. 5 inserted (27.9.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, **sch. 1 para. 32(28)**
- F4** Words in Sch. 5 repealed (27.9.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, **Sch. 2**

## PART 2

### REVOCATIONS

<i>Enactment</i>	<i>Extent of repeal</i>
The Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999 (S.I. 1999/1820)	In Schedule 2, paragraph 74.
The Postal Services Act 2000 (Consequential Modifications No.1) Order 2001 (S.I. 2001/1149)	In Schedule 1, paragraph 60.

## SCHEDULE 6

*(introduced by section 332(1))*

### TRANSITORY AMENDMENTS OF THE MENTAL HEALTH (SCOTLAND) ACT 1984

- 1 Sections 33, 64 and 66 of the Mental Health (Scotland) Act 1984 (c. 36) shall, until their repeal by this Act, have effect as follows.
- 2 In section 33 (discharge of patients from hospital), in subsection (4)—
  - (a) after “is”, where secondly occurring, insert “ not ”; and
  - (b) in each of paragraphs (a) and (b) omit “not”.
- 3 In section 64 (appeal by patient subject to restriction order)—
  - (a) in subsection (1)—
    - (i) after “shall” insert “, subject to subsection (2) of this section, ”;

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- (ii) after “is”, where first occurring, insert “ not ”;
    - (iii) in each of paragraphs (a) and (b) omit “not”;
    - (iv) omit “and (in either case)” and paragraph (c);
  - (b) in subsection (2)—
    - (i) for “(1)” substitute “ (A1) ”;
    - (ii) after “is”, where secondly occurring, insert “ not ”;
    - (iii) for the words from “not” to “subsection”, where thirdly occurring, substitute “ is satisfied that it is appropriate for the patient to remain liable to be recalled to hospital for further treatment ”.
- 4 In section 66 (further consideration of case of conditionally discharged patient) in subsection (3) after “is”, where first, secondly and thirdly occurring, insert “ not ”.

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