

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace (with amendment to the coming into force date) the Mental Health (Advance Statements) (Prescribed Class of Persons) (Scotland) Regulations 2004 ([S.S.I. 2004/387](#)) which are revoked by these Regulations (regulation 3). The content of the Regulations is identical in all other respects.

The Mental Health (Care and Treatment) (Scotland) Act 2003 (“the Act”) makes provision for the making of “advance statements”. Any such statement must be witnessed and certified by a “prescribed person”. These Regulations prescribe, for the purposes of section 275(2)(d) of the Act, the class of persons who may witness and certify advance statements (regulation 2).

Advance statements may be withdrawn by following the procedure at section 275(3) of the Act. Any such withdrawal must be witnessed and certified in the same way that an advance statement is witnessed and certified.