



# Mental Health (Scotland) Act 1984

## 1984 CHAPTER 36

### PART II

#### MENTAL WELFARE COMMISSION

#### 2 Mental Welfare Commission.

- (1) There shall continue to be a body called the Mental Welfare Commission for Scotland (in this Act referred to as “the Mental Welfare Commission”) who shall perform the functions assigned to them by or under this Act.
  - (2) The Mental Welfare Commission shall consist of no fewer than 10 commissioners [<sup>F1</sup>appointed under subsection (4) of this section] (including at least 3 women) of whom one shall be chairman, at least 3 shall be medical practitioners (in this Act referred to as “medical commissioners”), and one shall be a person who has been for a period of at least 5 years either a member of the Faculty of Advocates or a solicitor.
  - (3) Five commissioners of whom at least one shall be a medical commissioner shall constitute a quorum of the Mental Welfare Commission.
  - (4) [<sup>F2</sup>Subject to subsection (5A) of this section,] the commissioners shall be appointed by Her Majesty on the recommendation of the Secretary of State and shall hold and vacate office under the terms of the instrument under which they are appointed, but may resign office by notice in writing to the Secretary of State.
  - (5) Before making a recommendation under subsection (4) of this section the Secretary of State shall consult such bodies as appear to him to be concerned.
- [<sup>F3</sup>(5A) The person who holds the post of chief officer of the Mental Welfare Commission shall—
- (a) be a member *ex officio* of the Commission; and
  - (b) cease automatically to hold office as such member on ceasing to hold that post.]

*Status: Point in time view as at 01/07/2003. This version of this provision has been superseded.*

*Changes to legislation: Mental Health (Scotland) Act 1984, Section 2 is up to date with all changes known to be in force on or before 30 July 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)*

- (6) No person who for the time being is employed in the civil service of the Crown whether in an established capacity or not, and whether for the whole or part of his time, shall be appointed to the Mental Welfare Commission.
- (7) The Mental Welfare Commission may—
- (a) pay to [<sup>F4</sup>commissioners appointed under subsection (4) of this section] such remuneration; and
  - (b) make provision for the payment of such pensions, allowances or gratuities to or in respect of [<sup>F4</sup>commissioners appointed under subsection (4) of this section],
- as the Secretary of State may, with the approval of the Treasury, determine; and such determination may make different provision for different cases or different classes of case.
- (8) The following provisions of the <sup>M1</sup>National Health Service (Scotland) Act 1978 shall apply to the Mental Welfare Commission as they apply to a Health Board, that is to say—
- (a) sections 85(1), (2A), (4) and (6) (which contain provisions as to expenditure being met by the Secretary of State);
  - (b) sections 85A(1) and (3) (which impose financial duties); and
  - (c) section 86 (which provides for the auditing and examination of accounts).
- (9) The Secretary of State may provide for the Mental Welfare Commission such officers and servants and such accommodation as the Commission may require.
- (10) The Mental Welfare Commission shall be a body corporate and shall have a common seal.
- (11) The proceedings of the Mental Welfare Commission shall not be invalidated by any vacancy in the membership of the Commission or any defect in the appointment of any commissioner.

#### Textual Amendments

- F1** Words in s. 2(2) inserted (1.7.2003) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 1 para. 10\(2\)\(a\)](#); S.S.I. 2003/316, art. 2
- F2** Words in s. 2(4) inserted (1.7.2003) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 1 para. 10\(2\)\(b\)](#); S.S.I. 2003/316, art. 2
- F3** S. 2(5A) inserted (1.7.2003) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 1 para. 10\(2\)\(c\)](#); S.S.I. 2003/316, art. 2
- F4** Words in s. 2(7) substituted (1.7.2003) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 1 para. 10\(2\)\(d\)](#); S.S.I. 2003/316, art. 2

#### Marginal Citations

- M1** 1978 c. 29.

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