

Draft Order laid before the Scottish Parliament under paragraph 7(6) of schedule 1A to the Mental Health (Care and Treatment) (Scotland) Act 2003 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2014 No.

MENTAL HEALTH

The National Confidential Forum (Prescribed Care and Health Services) (Scotland) Order 2014

Made - - - -

Coming into force - -

1st July 2014

The Scottish Ministers make the following Order in exercise of the powers conferred by paragraph 7(3) of schedule 1A to the Mental Health (Care and Treatment) (Scotland) Act 2003^(a) and all other powers enabling them to do so.

In accordance with paragraph 7(6) of schedule 1A to 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) This Order may be cited as the National Confidential Forum (Prescribed Care and Health Services) (Scotland) Order 2014 and comes into force on 1st July 2014.

(2) In this Order—

“prescribed” means prescribed for the purposes of paragraph 7(3) of schedule 1A to the Mental Health (Care and Treatment) (Scotland) Act 2003.

Prescribed health services

2.—(1) The health services prescribed are health services provided in—

- (a) a hospital;
- (b) an independent clinic;
- (c) a sanatorium.

(2) In paragraph (1)(a), “hospital” has the meaning given in section 108(1) of the National Health Service (Scotland) Act 1978^(b).

(3) In paragraph (1)(b), “independent clinic” has the meaning given in section 10F(2)(c) of that Act.

^(a) 2003 asp 13. Schedule 1A was inserted by section 31(2) of the Victims and Witnesses (Scotland) Act 2014 (asp 1).

^(b) 1978 c.29.

^(c) Section 10F was inserted by section 108 of the Public Services Reform (Scotland) Act 2010 (asp 8).

Prescribed care services

3.—(1) The care services prescribed are—

- (a) the provision of school education;
- (b) the provision of accommodation—
 - (i) by, or on behalf of, a local authority in pursuance of its duty under any enactment to provide accommodation for children;
 - (ii) by any other person for the purposes of the Social Work (Scotland) Act 1968(a), the Children (Scotland) Act 1995(b) or the Children’s Hearings (Scotland) Act 2011(c);
 - (iii) by a voluntary organisation or any other person in a children’s home;
 - (iv) to evacuees during war;
 - (v) to persons by reason of a disability (physical or mental);
 - (vi) to persons on remand or sentenced to imprisonment or detention, or whose liberty is otherwise restricted; and
 - (vii) to persons in need by reason of being destitute.

(2) In paragraph 1(a), “school education” has the meaning given by section 1(5) of the Education (Scotland) Act 1980(d).

(3) In paragraph 1(b)(i), the reference to a local authority includes any body which, before 1st February 1996(e), exercised functions analogous to those of a local authority.

Services provided at private dwellings

4. Neither article 2 nor article 3 are to be taken to prescribe a service provided at premises used wholly or mainly as a private dwelling.

St Andrew’s House,
Edinburgh
Date

Name
Authorised to sign by the Scottish Ministers

(a) 1968 c.49.
(b) 1995 c.36.
(c) 2011 asp 1.
(d) 1980 c.44. Section 1(5) has been relevantly amended by Schedules 2 and 3 to the Standards in Scotland’s Schools etc. Act 2000 (asp 6) and schedule 3 to the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4).
(e) 1st February 1996 is the date that section 2 (constitution of councils) of the Local Government etc. (Scotland) Act 1994 (c.39) was brought into effect.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision under paragraph 7 of schedule 1A (National Confidential Forum) to the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the schedule”).

The National Confidential Forum (NCF) is a committee of the Mental Welfare Commission with functions relating to persons who were placed in institutional care as children. The NCF may hear testimony from eligible persons. It is a condition of eligibility that a person has been placed in institutional care.

Articles 2 and 3 prescribe care and health services for the purposes of the definition of “institutional care” in paragraph 7(3) of the schedule. Those services also require to meet the conditions in paragraph 7(4) of the schedule.

The services prescribed in the Order do not include services provided in private dwellings (article 4).

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