



# Mental Health (Scotland) Act 1984

## 1984 CHAPTER 36

An Act to consolidate the Mental Health (Scotland) Act 1960. [12th July 1984]

<sup>X1F1F2</sup>Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Editorial Information

- X1** A Table showing the derivation of the provisions of this consolidation Act will be found at the end of the Act. The Table has no official status.

### Textual Amendments

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#) (as amended by [S.S.I. 2005/465](#), art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in [S.S.I. 2005/452](#)); [S.S.I. 2005/161](#), art. 3 (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see [S.S.I. 2005/161](#), art. 3); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by [2004 c. 33](#), s. 263(10)(c), [Sch. 28 paras. 50, 51](#); [S.S.I. 2005/604](#), art. 2(c), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by [2005 c. 4](#), s. 148(1), [Sch. 9 para. 40](#); [S.I. 2009/1604](#), art. 2(d)

### Modifications etc. (not altering text)

- C1** Act modified by [Repatriation of Prisoners Act 1984 \(c. 47, SIF 39:1\)](#), s. 3, [Sch. para. 5\(3\)](#)
- C2** By [Criminal Justice Act 1991 \(c.53, SIF 39:1\)](#), s. 101(1), [Sch. 12 para. 23](#); [S.I. 1991/2208](#), art. 2(1), [Sch. 1](#) it is provided (14.10.1991) that in relation to any time before the commencement of s.70 of that 1991 Act (which came into force on 1.10.1992 by [S.I. 1992/333](#), art. 2(2), [Sch. 2](#)) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.

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**Commencement Information**

**II** Act wholly in force at 30.9.1984 see s. 130

<sup>F1F2</sup>**PART I**

APPLICATION OF ACT

**1 Application of Act: “mental disorder”.**

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<sup>F1F2</sup>**PART II**

MENTAL WELFARE COMMISSION

**2 Mental Welfare Commission.**

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**3 Functions and duties of the Mental Welfare Commission.**

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**4 Proceedings and evidence at enquiries under section 3.**

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**5 Duties of the Secretary of State and of local authorities in relation to the Mental Welfare Commission.**

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**5A Duties in relation to private hospitals**

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**6 Appointment and payment of staff.**

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**PART III**

LOCAL AUTHORITY SERVICES

<sup>F1F2</sup>**7 Functions of local authorities.**

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**F1F28 Provision of after-care services.**

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**F1F29 Appointment of mental health officers.**

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## **[<sup>F1</sup>10 Welfare of certain hospital patients.**

- (1) The provisions of this section shall apply to any patient suffering from mental disorder who is—
- <sup>F3</sup>(a) .....
  - <sup>F3</sup>(aa) .....
  - (b) a person who is under the guardianship of a local authority under <sup>F4</sup>... the provisions of the <sup>M1</sup>Mental Health Act 1983; or
  - (c) a person the functions of whose nearest relative <sup>F5</sup>... under the Mental Health Act 1983 are for the time being transferred to a local authority.
- (2) Where [<sup>F6</sup>, in Scotland, a patient to whom this section applies is (whether for treatment for mental disorder or for any other reason) admitted to any hospital or to accommodation provided by a care home service] then, without prejudice to their duties in relation to the patient apart from the provisions of this section, the authority having rights or functions in relation to him as aforesaid shall arrange for visits to be made to him on their behalf, and shall take such other steps in relation to the patient while in the hospital or [<sup>F7</sup>accommodation] as would be expected of a parent.]

### **Textual Amendments**

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- F3** S. 10(1)(a)(aa) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see S.S.I. 2005/161, art. 3)
- F4** Words in s. 10(1)(b) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see S.S.I. 2005/161, art. 3)
- F5** Words in s. 10(1)(c) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see S.S.I. 2005/161, art. 3)
- F6** Words in s. 10(2) substituted (S.) (1.4.2002) by [2001 asp 8](#), ss. 79, 81(2), [Sch. 3 para. 11\(3\)\(a\)](#); S.S.I. 2002/162, [art. 2\(f\)\(h\)](#) (subject to [arts. 3-13](#))
- F7** Words in s. 10(2) substituted (S.) (1.4.2002) by [2001 asp 8](#), ss. 79, 81(2), [Sch. 3 para. 11\(3\)\(b\)](#); S.S.I. 2002/162, [art. 2\(f\)\(h\)](#) (subject to [arts. 3-13](#))

### **Marginal Citations**

- M1** 1983 c. 20.

## **[<sup>F1F2</sup>11 The training and occupation of the mentally handicapped.**

### **Textual Amendments**

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**F2** para. 32(28) and with savings and transitional provisions in [S.S.I. 2005/452](#); [S.S.I. 2005/161](#), art. 3 (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2) Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see [S.S.I. 2005/161](#), [art. 3](#)); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by [2004 c. 33](#), s. 263(10)(c), [Sch. 28 paras. 50, 51](#); [S.S.I. 2005/604](#), [art. 2\(c\)](#), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by [2005 c. 4](#), s. 148(1), [Sch. 9 para. 40](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)

## <sup>F1F2</sup> PART IV

### PRIVATE HOSPITALS

#### **12 Registration of private hospitals.**

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#### **13 Pre-requisites of registration.**

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#### **14 Control of private hospitals.**

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#### **15 Cancellation and continuance in certain circumstances of registration.**

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#### **16 Offences against this Part of this Act and penalties.**

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## <sup>F1F2</sup> PART V

### ADMISSION TO AND DETENTION IN HOSPITAL AND GUARDIANSHIP

#### *Grounds for hospital admission*

#### **17 Patients liable to be detained in hospital.**

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#### *Procedure for admission of patients: hospital*

#### **18 Admission and detention of patients: hospital.**

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**19 General provisions as to applications: hospital.**

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**20 Medical recommendations: hospital.**

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**21 Approval of applications by the sheriff: hospital.**

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**22 Effect of applications: hospital.**

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**23 Rectification of application and recommendations: hospital.**

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**24 Emergency admission: hospital.**

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**25 Detention of patients already in hospital.**

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**26 Short term detention.**

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**26A Interim detention.**

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*Care and treatment of patients: hospital*

**27 Leave of absence from hospital.**

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**28 Return and re-admission of patients absent without leave: hospital.**

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**29 Transfer of patients: hospital.**

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*Duration of authority for detention and discharge of patients: hospital*

**30 Duration of authority: hospital.**

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**31 Special provisions as to patients absent without leave: hospital.**

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**31A Patients who are taken into custody or return within 28 days: hospital.**

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**31B Patients who are taken into custody or return after more than 28 days: hospital.**

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**32 Special provisions as to patients sentenced to imprisonment etc.: hospital.**

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**33 Discharge of patients: hospital.**

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**34 Restrictions on discharge by nearest relative: hospital.**

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*Appeals: hospital*

**35 Appeals to the sheriff: hospital.**

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*Community care orders*

**35A Community care orders.**

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**35B Community care applications.**

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**35C Duration and renewal of community care order.**

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**35D Variation of conditions in community care order.**

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**35E Change of special medical officer or after-care officer.**

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**35F Appeal against community care order.**

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**35G Admission to hospital for reassessment.**

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**35H Reassessment: further provisions.**

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**35I Revocation of community care order.**

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**35J Patients in custody or admitted to hospital in pursuance of emergency recommendations.**

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**35K Patients moving from England and Wales to Scotland.**

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*Grounds for reception into guardianship*

**36** .....

*Procedure for reception of patients: guardianship*

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**38** .....

**39** .....



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**41** .....

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*Care and treatment of patients: guardianship*

**43** .....

**44** .....

**45** .....

**46** .....

*Duration of authority for guardianship and discharge of patients*

**47** .....

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**48A** .....

**48B** .....

**49** .....

**50** .....

**51** .....

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*Functions of relatives of patients*

53 **Definition of relative and nearest relative.**

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54 **Children and young persons in care of local authority.**

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55 **Nearest relative of child under guardianship etc.**

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56 **Appointment by sheriff of acting nearest relative.**

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57 **Discharge and variation of orders under s. 56.**

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*Supplementary*

58 **Regulations for purposes of Part V.**

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59 **Interpretation of Part V.**

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<sup>F1F2</sup>**PART VI**

DETENTION OF PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS  
ETC. AND TRANSFER OF PATIENTS UNDER SENTENCE

*Provisions for compulsory detention and guardianship  
of patients charged with offences et cetera*

60 **Effect of hospital orders.**

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- 61 .....
- 62 **Effect of restriction orders.**  
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- 62A **Effect of hospital direction.**  
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- 63 **Right of appeal of restricted patients etc.**  
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- 64 **Right of appeal of patients subject to restriction orders.**  
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- 65 **Right of appeal of patients subject to restriction directions.**  
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- 66 **Further consideration of case of conditionally discharged patient.**  
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- 66A **Appeal to Court of Session against sheriff’s decisions under sections 64, 65 and 66**  
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- 67 **Application of sections 63 to 66 to other persons treated as restricted patients.**  
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- 68 **Powers of Secretary of State in respect of patients subject to restriction orders.**  
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- 69 **Persons ordered to be kept in custody during Her Majesty’s pleasure.**  
.....  

*Transfer to hospital or guardianship of prisoners et cetera* etc.
- 70 **Removal to hospital of persons in prison awaiting trial etc.**  
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**71 Removal to hospital of persons serving sentences of imprisonment and other prisoners.**

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**71A Further provision as to persons removed to hospital under section 71.**

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**72 Restriction on discharge of prisoners removed to hospital.**

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**73 Further provisions as to persons removed to hospital while awaiting trial etc.**

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**74 Further provision as to transfer directions and restriction directions.**

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**75 Further provisions as to civil prisoners and persons detained under the Immigration Act 1971.**

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*Supplementary*

**76 Interpretation of Part VI.**

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**F1F2 PART VII**

REMOVAL AND RETURN OF PATIENTS WITHIN UNITED KINGDOM ETC.

*Removal to and from England and Wales*

**77 Removal of patients to England and Wales.**

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**77A Transfer of responsibility for patients to England and Wales.**

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**78 Position of nearest relative on removal to England and Wales.**

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**79 Position of nearest relative on removal to Scotland.**

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**80 Removal of patients to Northern Ireland.**

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**80A Transfer of responsibility for patients to Northern Ireland.**

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**81 Removal to Scotland of patients from Northern Ireland.**

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**81A Transfer of responsibility for patients to Scotland from Northern Ireland.**

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*Other provisions as to removal*

**82 Removal of certain patients from Channel Islands and Isle of Man to Scotland.**

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**82A Responsibility for patients transferred from Channel Islands or Isle of Man to Scotland.**

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**82B Transfer of responsibility for patients to Channel Islands or Isle of Man.**

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**83 Removal of alien patients.**

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*Return of patients absent without leave*

**84 Patients absent from hospitals in Scotland.**

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**85 Patients absent from hospitals in Northern Ireland.**

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### Supplementary

#### 86 Regulations for purposes of Part VII.

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#### 87 General provisions as to patients removed from Scotland.

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#### 88 Intimation of removal of patients to Scotland.

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#### 89 Interpretation of Part VII.

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### <sup>F1F2</sup>PART VIII

#### STATE HOSPITALS

90 .....

#### 91 Administrative provisions.

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### PART IX

#### PROTECTION OF PROPERTY OF PATIENTS

#### <sup>F1F2</sup>92 Duties of local authority in relation to property.

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**F1F2**94 **Powers of managers in relation to property of patients.**  
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**Textual Amendments**

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#) (as amended by [S.S.I. 2005/465](#), art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in [S.S.I. 2005/452](#); [S.S.I. 2005/161](#), art. 3 (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see [S.S.I. 2005/161](#), art. 3); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by [2004 c. 33](#), s. 263(10)(c), [Sch. 28 paras. 50, 51](#); [S.S.I. 2005/604](#), art. 2(c), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by [2005 c. 4](#), s. 148(1), [Sch. 9 para. 40](#); [S.I. 2009/1604](#), art. 2(d)

**95 Reciprocal arrangements in relation to Northern Ireland as to exercise of powers.**

- (1) Where a curator bonis, tutor <sup>[F8]</sup>, guardian] or judicial factor has been appointed under the law in force in Scotland for any person suffering from mental disorder, the provisions of that law shall apply in relation to the property and affairs of that person in Northern Ireland unless <sup>[F9]</sup>he is a patient in relation to whom powers have been exercised under Part VIII of the Mental Health (Northern Ireland) Order 1986, or a person as to whom powers are exercisable and have been exercised under Article 97(2) of that Order].
- (2) <sup>[F10]</sup>Part VIII of the Mental Health (Northern Ireland) Order 1986 shall apply in relation to the property and affairs in Scotland of a patient in relation to whom powers have been exercised under that Part, or a person as to whom powers are exercisable and have been exercised under Article 97(2) of that Order, as it applies in relation to his property and affairs in Northern Ireland] unless a curator bonis, tutor <sup>[F11]</sup>, guardian] or judicial factor has been appointed for him in Scotland.

*Changes to legislation: Mental Health (Scotland) Act 1984 is up to date with all changes known to be in force on or before 09 May 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) View outstanding changes*

(3) In this section references to property do not include references to land or interests in land:

Provided that this subsection shall not prevent the receipt of rent or other income arising from land or interests in land.

**Textual Amendments**

- F8** Word in s. 95(1) inserted (1.10.2003) by Adults with Incapacity (Scotland) Act 2000 (asp 4), s. 89(2), **sch. 5 para. 17(23)(a)**; S.S.I. 2003/267, art. 2(2)(d)
- F9** Words substituted by S.I. 1986/596, **art. 3(16)**
- F10** Words substituted by S.I. 1986/596, **art. 3(17)**
- F11** Word in s. 95(2) inserted (1.10.2003) by Adults with Incapacity (Scotland) Act 2000 (asp 4), s. 89(2), **sch. 5 para. 17(23)(b)**; S.S.I. 2003/267, art. 2(2)(d)

**F1F2 PART X**

CONSENT TO TREATMENT

**96 Preliminary.**

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**97 Treatment requiring consent and a second opinion.**

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**98 Treatment requiring consent or a second opinion.**

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**99 Review of treatment.**

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**100 Plans of treatment.**

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**101 Withdrawal of consent.**

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**102 Urgent treatment.**

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*Changes to legislation: Mental Health (Scotland) Act 1984 is up to date with all changes known to be in force on or before 09 May 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) View outstanding changes*

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**103 Treatment not requiring consent.**

.....

**PART XI**

MISCELLANEOUS AND GENERAL

*F1F2* Offences

**104 False statements.**

.....

**105 Ill-treatment of patients.**

.....

**106 Protection of mentally handicapped females.**

.....

**107 Protection of patients.**

.....

**108 Assisting patients to absent themselves without leave etc.**

.....

**109 Obstruction.**

.....

*F1F2* Miscellaneous provisions

**110 Duty to give information to patients and nearest relatives.**

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**111 Duty of managers to inform nearest relative of discharge of detained patients.**

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**112 Religious persuasion of patients.**

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*Changes to legislation: Mental Health (Scotland) Act 1984 is up to date with all changes known to be in force on or before 09 May 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) View outstanding changes*

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**113 Duty of sheriff to give patient opportunity to be heard.**

.....

**114 Provision for personal expenses of in-patients in hospital.**

.....

**115 Correspondence of patients.**

.....

**116 Review of decision to withhold postal packet.**

.....

**117 Entry on premises and warrant to search for and remove patients.**

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**118 Mentally disordered persons found in public places.**

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**119 Code of practice.**

.....

*Supplementary*

**<sup>F1F2</sup>120 Provisions as to custody, conveyance and detention.**

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**Textual Amendments**

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\), s. 333\(2\), sch. 5 Pt. 1](#) (as amended by [S.S.I. 2005/465](#), art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in [S.S.I. 2005/452](#); [S.S.I. 2005/161](#), art. 3 (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see [S.S.I. 2005/161](#), art. 3); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by [2004 c. 33, s. 263\(10\)\(c\), Sch. 28 paras. 50, 51](#); [S.S.I. 2005/604](#), art. 2(c), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by [2005 c. 4, s. 148\(1\), Sch. 9 para. 40](#); [S.I. 2009/1604](#), art. 2(d)

**<sup>F1F2</sup>121 Retaking of patients escaping from custody.**

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**Textual Amendments**

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#) (as amended by S.S.I. 2005/465, art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in S.S.I. 2005/452); S.S.I. 2005/161, [art. 3](#) (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with [art. 16\(2\)](#)) (see S.S.I. 2005/161, [art. 3](#)); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by 2004 c. 33, s. 263(10)(c), [Sch. 28 paras. 50, 51](#); S.S.I. 2005/604, [art. 2\(c\)](#), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by 2005 c. 4, s. 148(1), [Sch. 9 para. 40](#); S.I. 2009/1604, [art. 2\(d\)](#)

<sup>F1F2</sup>**121** Warrants for arrest of escaped mental patients.

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**Textual Amendments**

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#) (as amended by S.S.I. 2005/465, art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in S.S.I. 2005/452); S.S.I. 2005/161, [art. 3](#) (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with [art. 16\(2\)](#)) (see S.S.I. 2005/161, [art. 3](#)); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by 2004 c. 33, s. 263(10)(c), [Sch. 28 paras. 50, 51](#); S.S.I. 2005/604, [art. 2\(c\)](#), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by 2005 c. 4, s. 148(1), [Sch. 9 para. 40](#); S.I. 2009/1604, [art. 2\(d\)](#)

<sup>F1F2</sup>**122** Protection for acts done in pursuance of this Act.

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**Textual Amendments**

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#) (as amended by S.S.I. 2005/465, art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in S.S.I. 2005/452); S.S.I. 2005/161, [art. 3](#) (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with [art. 16\(2\)](#)) (see S.S.I. 2005/161, [art. 3](#)); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by 2004 c. 33, s. 263(10)(c), [Sch. 28 paras. 50, 51](#); S.S.I. 2005/604, [art. 2\(c\)](#), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by 2005 c. 4, s. 148(1), [Sch. 9 para. 40](#); S.I. 2009/1604, [art. 2\(d\)](#)

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## FIF<sup>2</sup> 123 Inquiries.

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### Textual Amendments

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\), s. 333\(2\), sch. 5 Pt. 1](#) (as amended by [S.S.I. 2005/465](#), art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in [S.S.I. 2005/452](#)); [S.S.I. 2005/161](#), art. 3 (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see [S.S.I. 2005/161](#), [art. 3](#)); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by [2004 c. 33, s. 263\(10\)\(c\), Sch. 28 paras. 50, 51](#); [S.S.I. 2005/604](#), [art. 2\(c\)](#), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by [2005 c. 4, s. 148\(1\), Sch. 9 para. 40](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)

## FIF<sup>2</sup> 124 General provisions as to regulations and orders.

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### Textual Amendments

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\), s. 333\(2\), sch. 5 Pt. 1](#) (as amended by [S.S.I. 2005/465](#), art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in [S.S.I. 2005/452](#)); [S.S.I. 2005/161](#), art. 3 (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see [S.S.I. 2005/161](#), [art. 3](#)); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by [2004 c. 33, s. 263\(10\)\(c\), Sch. 28 paras. 50, 51](#); [S.S.I. 2005/604](#), [art. 2\(c\)](#), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by [2005 c. 4, s. 148\(1\), Sch. 9 para. 40](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)

## FIF<sup>2</sup> 125 Interpretation.

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### Textual Amendments

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\), s. 333\(2\), sch. 5 Pt. 1](#) (as amended by [S.S.I. 2005/465](#), art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in [S.S.I. 2005/452](#)); [S.S.I. 2005/161](#), art. 3 (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see [S.S.I. 2005/161](#), [art. 3](#)); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by [2004 c. 33, s. 263\(10\)\(c\), Sch. 28 paras. 50, 51](#); [S.S.I. 2005/604](#), [art. 2\(c\)](#), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by [2005 c. 4, s. 148\(1\), Sch. 9 para. 40](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)

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**F1F2 126 Preservation of amendments.**

**Textual Amendments**

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#) (as amended by [S.S.I. 2005/465](#), art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in [S.S.I. 2005/452](#)); [S.S.I. 2005/161](#), art. 3 (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see [S.S.I. 2005/161](#), [art. 3](#)); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by [2004 c. 33](#), s. 263(10)(c), [Sch. 28 paras. 50, 51](#); [S.S.I. 2005/604](#), [art. 2\(c\)](#), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by [2005 c. 4](#), s. 148(1), [Sch. 9 para. 40](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)

**F1F2 127 Consequential and transitional provisions and repeals.**

**Textual Amendments**

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#) (as amended by [S.S.I. 2005/465](#), art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in [S.S.I. 2005/452](#)); [S.S.I. 2005/161](#), art. 3 (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see [S.S.I. 2005/161](#), [art. 3](#)); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by [2004 c. 33](#), s. 263(10)(c), [Sch. 28 paras. 50, 51](#); [S.S.I. 2005/604](#), [art. 2\(c\)](#), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by [2005 c. 4](#), s. 148(1), [Sch. 9 para. 40](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)

**F1F2 128 Application to England and Wales.**

**Textual Amendments**

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#) (as amended by [S.S.I. 2005/465](#), art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in [S.S.I. 2005/452](#)); [S.S.I. 2005/161](#), art. 3 (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see [S.S.I. 2005/161](#), [art. 3](#)); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by [2004 c. 33](#), s. 263(10)(c), [Sch. 28 paras. 50, 51](#); [S.S.I. 2005/604](#), [art. 2\(c\)](#), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by [2005 c. 4](#), s. 148(1), [Sch. 9 para. 40](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)

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## <sup>F1F2</sup>129 Application to Northern Ireland.

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### Textual Amendments

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#) (as amended by [S.S.I. 2005/465](#), art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in [S.S.I. 2005/452](#)); [S.S.I. 2005/161](#), art. 3 (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)
- F2** Act (except ss. 10, 95, 130) repealed (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), art. 1(2), [Sch. 3](#) (with art. 16(2)) (see [S.S.I. 2005/161](#), [art. 3](#)); and ss. 53, 54 expressed to be amended (5.12.2005) in so far as still in force by [2004 c. 33](#), s. 263(10)(c), [Sch. 28 paras. 50, 51](#); [S.S.I. 2005/604](#), [art. 2\(c\)](#), 4; and s. 66A expressed to be amended (1.10.2009) in so far as still in force by [2005 c. 4](#), s. 148(1), [Sch. 9 para. 40](#); [S.I. 2009/1604](#), [art. 2\(d\)](#)

## <sup>F1</sup>130 Short title and commencement.

This Act may be cited as the Mental Health (Scotland) Act 1984 and shall come into force on 30th September 1984.]

### Textual Amendments

- F1** Act (except ss. 10(1)(b)(c)(2), 95) repealed (S.) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [sch. 5 Pt. 1](#) (as amended by [S.S.I. 2005/465](#), art. 1, sch. 1 para. 32(28) and with savings and transitional provisions in [S.S.I. 2005/452](#)); [S.S.I. 2005/161](#), art. 3 (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)

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**Changes to legislation:** *Mental Health (Scotland) Act 1984 is up to date with all changes known to be in force on or before 09 May 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) View outstanding changes*

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## SCHEDULES

<sup>F1F2</sup>SCHEDULE 1

Section 91(2).

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<sup>F1F2</sup>SCHEDULE 2

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<sup>F1F2</sup>SCHEDULE 3

Section 127(1).

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<sup>F1F2</sup>SCHEDULE 4

Section 127(1).

.....

<sup>F1F2</sup>SCHEDULE 5

Section 127(2).

REPEALS

.....

**Changes to legislation:**

Mental Health (Scotland) Act 1984 is up to date with all changes known to be in force on or before 09 May 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.

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**Changes and effects yet to be applied to :**

- s. 7(4) substituted by [2002 c. 41 s. 46\(4\)](#) (S. 46 is repealed (prosp.) by 2016 c. 19, Sch. 11 para. 41)
- s. 8(5) substituted by [2002 c. 41 s. 46\(5\)](#) (S. 46 is repealed (prosp.) by 2016 c. 19, Sch. 11 para. 41)
- s. 55(3) words substituted by [2000 asp 4 Sch. 5 para. 17\(22\)](#) (This amendment not applied to legislation.gov.uk. Sch. 5 para. 17(22) repealed (5.10.2005) without ever being in force by 2003 asp 13, ss. 331(2), 333(3), Sch. 5 Pt. 1; S.I. 2005/161, art. 3)
- s. 125(1) words inserted by [2000 asp 4 Sch. 5 para. 17\(24\)\(b\)](#)
- s. 125(1) words substituted by [2000 asp 4 Sch. 5 para. 17\(24\)\(a\)](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [1996 c. 46 Sch. 2 para. 9](#)(replacing 1968 c 20 s. 23) (This amendment not applied to legislation.gov.uk. Sch. 2 repealed (31.3.2005) without ever being in force by 2004 c. 28, Sch. 11; S.I. 2005/579, art. 3(i))
- Act applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing 1957 c 53 s. 63) (This amendment not applied to legislation.gov.uk. Sch. 2 repealed (31.3.2005) without ever being in force by 2004 c. 28, Sch. 11; S.I. 2005/579, art. 3(i))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing 1955 c 19 s. 116) (This amendment not applied to legislation.gov.uk. Sch. 2 repealed (31.3.2005) without ever being in force by 2004 c. 28, Sch. 11; S.I. 2005/579, art. 3(i))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing 1955 c 18 s 116) (This amendment not applied to legislation.gov.uk. Sch. 2 repealed (31.3.2005) without ever being in force by 2004 c. 28, Sch. 11; S.I. 2005/579, art. 3(i))
- Act power to applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing 1957 c 53 s. 63) (This amendment not applied to legislation.gov.uk. Sch. 2 repealed (31.3.2005) without ever being in force by 2004 c. 28, Sch. 11; S.I. 2005/579, art. 3(i))
- Act power to applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing 1955 c 19 s. 116) (This amendment not applied to legislation.gov.uk. Sch. 2 repealed (31.3.2005) without ever being in force by 2004 c. 28, Sch. 11; S.I. 2005/579, art. 3(i))
- Act power to applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing 1955 c 18 s 116) (This amendment not applied to legislation.gov.uk. Sch. 2 repealed (31.3.2005) without ever being in force by 2004 c. 28, Sch. 11; S.I. 2005/579, art. 3(i))

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 13(1)(aa) inserted by [2000 asp 4 s. 38\(4\)](#)

**Commencement Orders yet to be applied to the Mental Health (Scotland) Act 1984**

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2009/1604 art. 2](#) commences (2005 c. 4)