

**Part 1**

Thank you for inviting SASW, the Scottish Association of Social Work (part of BASW UK) to comment on the above Act and associated instruments.

We received the first batch of attachments on 12 May and further extensive material on 15 May.

We received these messages and forwarded them on May 18 (as we were out of office) to members of our Mental Health Officers Forum, these are two reps based in every local authority across the country, asking them to forward to the local network of MH social workers.

We received some replies suggesting the timescales were impossible to adhere to, so asked if an extension was available and were advised two more days, leading up to today, the 24<sup>th</sup> was granted.

We have had three responses from the MHOs:

1. My first comment is that if The Health & Sports Committee of the Scottish Parliament are genuinely looking for comments from MHOs on the instruments or issues that MHOs would wish the Committee to raise with the Scottish Government then to give MHOs so few working days within which to do this is completely inappropriate and unrealistic.
2. Unfortunately I am unable to read and formulate a comprehensive response within these short timescales. I would like to raise my concerns that this is a new piece of legislation but that there is to be no national training, and training locally will have to be undertaken using a draft codes of practice which will not be available until 30 May. We have also not yet been provided the new forms to consider how these are to be used. For example, will there will be a specific template for named person to agree to the role, or will this have to be created locally. I query whether this approach will lead to inconsistencies across Scotland and query whether MHOs will be competent to utilise the new legislation with the lack of national training, provision of only a draft code of practice, and the short timescale from this draft being available and the new act going live.
3. have looked through the draft regulations and cannot find anything obviously wrong – however I would have much preferred to have time to discuss with other MHOs but have been unable to do so

I have personally also looked through the many attachments and on first glance can't see any glaring omissions, however I would agree with the few respondents that a more comprehensive review allowing the views, observations and suggestions of frontline MHO workers would have been infinitely preferable. It is very disappointing that this was not the case.

SASW has facilitated an Annual MHO Forum Study Day in October of every year which was supported by Scottish Government until 2015, when the funding was withdrawn because of other priorities, including "training in the new- i.e. 2015- Act".

There were two free places per LA, and further places could be bought at a very competitive rate (£60)

We have subsequently formed an MHO Collaborative with partners in the Scottish Social Services Council, Social Work Scotland, Mental Welfare Commission, Learning Network West and support from a senior lecturer from Glasgow Caledonian University and managed to continue this (once a year only) significant event for MHOs, as it is the only place where MHOs from across Scotland and the various Health and Social Care Partnerships and local authorities are able to come together to discuss practice. It j

Has also been the event where over more than a decade Scottish Government were able to consult with front line practitioners on policy and legislation. We are currently planning for the October 2017 Conference and will be inviting Government to present or have input.

## **Part 2**

### **A General Comment:**

Changes to legislation will be required when the UK is no longer part of the EU.

Overall having so many statutory instruments and regulations in different places is confusing and impractical, especially when having to check the requirements when dealing with a crisis, or high risk situation.

We are very concerned about the Act being introduced without any provision of training or training materials. Further that the Codes of Practice may only be in draft form on the implementation date.

### **MH [Absconding] [Miscellaneous Amendments] [Sc] Regulations 2017 Policy Note**

P2 paragraph 3 - A few days to return the patient to their home area may not be realistic, e.g. if their home area is reluctant to accept them or if the person is too unwell to transport, especially if they originate from out with the UK.

### **MH [Absconding] [Miscellaneous Amendments] [Sc] Regulations 2017**

Sections 9 – 14 - These sections need to be more clearly detailed. It is protracted having to refer to numerous sections and different Acts to elicit the meaning of a regulation. It is also unrealistic that this can be achieved when dealing with a crisis [which often occur out of hours when MHOs do not have colleagues to consult with and legal services are not available].

### **MH[Cross-Border Visits][S]Amendment Regs 2017 – No specific comment**

**MH [Cross-Border Transfer: Patients Subject to Detention Requirement or Otherwise in Hospital] [S] Amendment Regs 2017 –** We agree that there is a need to protect a patient's right to autonomy and privacy and not notify the carer or nearest relative, however we think this needs to be balanced with elements of risk/concerns and not have a blanket approach.

**MH [Cross-Border Transfer: Patients Subject To Requirements Other Than Detention [S] Regs 2017 –** No specific comment.

**MH [Safeguards for Certain Informal Patients][S]Amendment Regs 2017**

Treatments 'extended to nutrition by artificial means, to increase protections for patients under 16' – The concerns that restraint may be used to prevent e.g. nasogastric tubes being removed by patient, when not in agreement/mentally unwell.