Draft Regulations laid before the Scottish Parliament under section 326(4) of the Mental Health (Care and Treatment) (Scotland) Act 2003, for approval by resolution of the Scottish Parliament.

#### DRAFT SCOTTISH STATUTORY INSTRUMENTS

### 2015 No.

# MENTAL HEALTH

# The Mental Health (Detention in Conditions of Excessive Security) (Scotland) Regulations 2015

Laid before the Scottish Parliament in draft

Made - - - - \*\*\*

Coming into force - - \*\*\*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by section 271A(1), (2) and (4) of the Mental Health (Care and Treatment) (Scotland) Act 2003 and all other powers enabling them to do so.

In accordance with section 326(4) of that Act, a draft of this instrument has been laid before and approved by a resolution of the Scottish Parliament.

#### Citation and commencement

**1.** These Regulations may be cited as the Mental Health (Detention in Conditions of Excessive Security) (Scotland) Regulations 2015 and come into force on \*\*\*.

#### Interpretation

- 2. In these Regulations—
  - (a) "the Act" means the Mental Health (Care and Treatment) (Scotland) Act 2003;
  - (b) reference to a hospital includes a hospital unit as defined in section 273(3) of the Act.

## Meaning of qualifying hospital

- 3. The following are qualifying hospitals for the purposes of sections 268 to 271 of the Act—
  - (a) the Orchard Clinic in Royal Edinburgh Hospital, Morningside Terrace, Edinburgh;
  - (b) the Rowanbank Clinic, 133C Balornock Road, Glasgow;
  - (c) the Medium Secure Service, Rohallion Clinic, Murray Royal Hospital, Muirhall Road, Perth.

#### Test to be applied under sections 268(2), 269(3) and 271(2)(a) of the Act

**4.** The test for the purposes of sections 268(2), 269(3) and 271(2)(a) of the Act is met in relation to a patient if detention of the patient in the hospital in which the patient is being detained involves the patient being subject to a level of security that is excessive in the patient's case.

#### Further provision about when a hospital's level of security is excessive

- 5.—(1) Paragraph (2) makes provision for the purposes of—
  - (a) sections 268 to 271 of the Act, and
  - (b) regulation 4.
- (2) A patient's detention in a hospital is to be taken to involve the patient being subject to a level of security that is excessive in the patient's case when the security at the hospital is greater than is necessary to safely manage—
  - (a) the risk that the patient may pose to—
    - (i) the patient's own safety; and
    - (ii) the safety of any other person; and
  - (b) any risk to the patient's safety that other persons may pose.

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