



Mental Health (Scotland) Act 2015

2015 asp 9

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 24th June 2015 and received Royal Assent on 4th August 2015

An Act of the Scottish Parliament to amend the Mental Health (Care and Treatment) (Scotland) Act 2003 in various respects; to make provision about mental health disposals in criminal cases; to make provision as to the rights of victims of crime committed by mentally-disordered persons; and for connected purposes.

PART 1

THE 2003 ACT

Procedure for compulsory treatment

PROSPECTIVE

1 Measures until application determined

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- (2) In section 64 (powers of Tribunal on application under section 63: compulsory treatment order), after subsection (8) there is inserted—
 - “(8A) If the patient has been detained in hospital by virtue of section 47(4)(a) or 68(2)(a) of this Act in connection with the application by virtue of which this section applies, the 6 months referred to in subsection (4)(a)(i) above is to be regarded as reduced by the period during which the patient has been so detained under that section.
 - (8B) Subsection (8A) above is of no effect if the patient has been detained in hospital in accordance with an interim compulsory treatment order made in connection with the application by virtue of which this section applies.”.
- (3) In section 65 (powers of Tribunal on application under section 63: interim compulsory treatment order), after subsection (6) there is inserted—

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Changes to legislation: There are currently no known outstanding effects for the Mental Health (Scotland) Act 2015. (See end of Document for details)

“(7) If the patient has been detained in hospital by virtue of section 47(4)(a) or 68(2)(a) of this Act in connection with the application by virtue of which this section applies, the 56 days referred to in subsection (3) above is to be regarded as reduced by the period during which the patient has been so detained under that section.”.

2 Information where order extended

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- (2) After section 87 there is inserted—

“87A Further information where order extended

- (1) Subsections (2) and (3) below apply where—
 - (a) a mental health officer receives notice of a determination under section 86 of this Act from a patient's responsible medical officer, and
 - (b) the Tribunal is required by virtue of section 101(2)(a) of this Act to review the determination.
- (2) The mental health officer must—
 - (a) prepare a record stating the information mentioned in subsection (4) below,
 - (b) submit the record to the Tribunal, and
 - (c) at the same time as submitting the record to the Tribunal, send to the persons mentioned in subsection (6) below—
 - (i) a copy of the record, and
 - (ii) a statement of the matters mentioned in subsection (5) below.
- (3) At the same time as submitting the record to the Tribunal, the mental health officer must send a copy of the record to the patient except where the officer considers that doing so carries a risk of significant harm to the patient or others.
- (4) The information to be stated in the record is—
 - (a) the name and address of the patient,
 - (b) if known by the mental health officer, the name and address of—
 - (i) the patient's named person, and
 - (ii) the patient's primary carer,
 - (c) the things done by the mental health officer in compliance with the requirements in subsection (2) of section 85 of this Act (and, if by virtue of subsection (3) of that section the first-listed one has not been complied with, the reason why compliance with it was impracticable),
 - (d) so far as relevant to the extension of the compulsory treatment order—
 - (i) the details of the personal circumstances of the patient, and
 - (ii) if known by the mental health officer, the details of any advance statement made by the patient (and not withdrawn by the patient),
 - (e) the views of the mental health officer on the extension of the compulsory treatment order, and

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- (f) any other information that the mental health officer considers relevant in relation to the extension of the compulsory treatment order.
- (5) The matters referred to in subsection (2)(c) above are—
 - (a) whether the mental health officer is sending a copy of the record to the patient, and
 - (b) if the mental health officer is not sending a copy of the record to the patient, the reason for not doing so.
- (6) For the purposes of subsection (2)(c) above, the persons are—
 - (a) the patient's named person,
 - (b) the patient's responsible medical officer, and
 - (c) the Commission.”.

Commencement Information

I1 [S. 2](#) in force at 30.6.2017 by [S.S.I. 2017/197](#), art. 2, [sch.](#) (with art. 3)

3 Transfer to another hospital

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- (2) In section 124 (transfer to other hospital)—
 - (a) in subsection (1), for the words “by a compulsory treatment order.” there is substituted “by—
 - (a) a compulsory treatment order, or
 - (b) an interim compulsory treatment order.”,
 - (b) in subsection (14), for the words “compulsory treatment order” there is substituted “order in question”.

Commencement Information

I2 [S. 3](#) in force at 30.6.2017 by [S.S.I. 2017/197](#), art. 2, [sch.](#)

Emergency, short-term and temporary steps

4 Emergency detention in hospital

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- (2) In subsection (2) of section 36 (emergency detention in hospital), after paragraph (d) there is inserted—
 - “(da) section 113(5) of this Act;”.
- (3) In section 38 (duties on hospital managers: examination, notification etc.)—
 - (a) in paragraph (b)(i) of subsection (3), for the words “persons mentioned in subsection (4) below” there is substituted “Commission of the granting of the certificate and”,
 - (b) after subsection (3) there is inserted—

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- “(3A) The managers of the hospital may, so far as they consider it appropriate, give notice of the matters notified to them under section 37 of this Act to the persons mentioned in subsection (4) below.”,
- (c) in subsection (4)—
- (i) in the text preceding paragraph (a), for the words “subsection (3)(a) and (b)(i)” there is substituted “ subsections (3)(a) and (3A) ”,
 - (ii) after paragraph (c) there is inserted—
 - “(ca) if known to the managers and not falling within paragraph (a) or (b) above—
 - (i) any guardian of the patient; and
 - (ii) any welfare attorney of the patient.”,
 - (iii) paragraph (d) is repealed together with the word “and” immediately preceding it.
- (4) In subsection (2) of section 40 (revocation of emergency detention certificate: notification), after the word “inform” there is inserted “ the Commission and ”.
- (5) In subsection (4) of section 42 (certificate under section 41: revocation), after the word “inform” there is inserted “ the Commission and ”.

Commencement Information

I3 [S. 4](#) in force at 30.6.2017 by [S.S.I. 2017/197](#), [art. 2](#), [sch.](#) (with [art. 5](#))

5 Short-term detention in hospital

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- (2) In subsection (2) of section 44 (short-term detention in hospital), after paragraph (c) there is inserted—

“(ca) section 113(5) of this Act;”.
- (3) In section 46 (hospital managers' duties: notification)—
 - (a) in subsection (3), the words “, and send a copy of it,” are repealed,
 - (b) after subsection (3) there is inserted—

“(4) When giving notice under subsection (2) or (3) above, the managers of the hospital are to send a copy of the certificate to each recipient of the notice.”.

Commencement Information

I4 [S. 5](#) in force at 30.6.2017 by [S.S.I. 2017/197](#), [art. 2](#), [sch.](#) (with [art. 6](#))

6 Meaning of temporary compulsion

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.

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- (2) In section 230 (appointment of patient's responsible medical officer), in paragraph (c) of the definition of “appropriate act” in subsection (4), the words “under section 54(1) (c) of the 1995 Act” are repealed.
- (3) In section 329 (interpretation), at the appropriate alphabetical place in subsection (1) there is inserted—
- ““temporary compulsion order” means an order made under section 54(1)(c) of the 1995 Act;”.

Commencement Information

I5 [S. 6](#) in force at 30.6.2017 by [S.S.I. 2017/197](#), [art. 2](#), [sch.](#)

Suspension of orders and measures

7 Suspension of orders on emergency detention

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- (2) In section 43 (effect of subsequent emergency detention certificate on compulsory treatment order)—
- (a) in paragraph (a) of subsection (1), for the words “compulsory treatment order” there is substituted “relevant order”,
 - (b) in subsection (2), for the words “The compulsory treatment order” there is substituted “A relevant order”,
 - (c) in subsection (3)—
 - (i) after the word “Act” there is inserted “or (as the case may be) section 57A(8)(b) of the 1995 Act”,
 - (ii) for the words “compulsory treatment order” in each place where they occur there is substituted “relevant order”,
 - (d) after subsection (3) there is inserted—

“(4) In this section, the references to a relevant order are to—

 - (a) a compulsion order, or
 - (b) a compulsory treatment order or an interim compulsory treatment order.”.
- (3) In relation to section 43—
- (a) its title becomes “**Effect of emergency detention certificate on certain orders**”,
 - (b) the italic heading immediately preceding it becomes “*Effect of emergency detention certificate on certain orders*”.

Commencement Information

I6 [S. 7](#) in force at 30.6.2017 by [S.S.I. 2017/197](#), [art. 2](#), [sch.](#) (with [art. 7](#))