

MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 20 – Absconding

Sections 304 to 308: effect of period of unauthorised absence on expiry of compulsory treatment order

609. **Section 304** makes clear that the unauthorised absence does not affect the expiry date of any order or calculation of any period specified under the 2003 Act. Subsection (3) provides that a compulsory treatment order expires where the patient’s unauthorised absence has continued for a period of 3 months.
610. **Section 305** sets out the procedures to be followed where a patient is returned from a period of unauthorised absence more than 14 days before the expiry of the compulsory treatment order. Subsection (1) states that if a patient is absent for longer than 28 consecutive days and is returned at any point before the final 14 days of the compulsory treatment order, the order will cease to have effect at the end of a 14 day period which begins on the day that the patient was returned. Subsection (2) places a duty on the patient’s responsible medical officer to carry out a review of the compulsory treatment order in line with the provisions of section 77(3) during this 14 day period after the patient has been returned.
611. Subsections (3) to (6) make provision as to how this review sits with the reviews provided for in Chapter 4 of Part 7 of the 2003 Act.
612. **Sections 306** and **307** deal respectively with patients who are subject to compulsory treatment orders and whose absence ceases when the order has less than 14 days to run and patients subject to compulsory treatment orders whose period of unauthorised absence is for less than 3 months but ends after the expiry of the order. In these cases, the compulsory treatment order shall be deemed to continue for a period of 14 days from the return of the patient in order to enable the responsible medical officer to carry out a review. Again, subsections (2) to (5) of each section explain how this review operates in relation to the reviews normally carried out under Chapter 4 of Part 7 of the 2003 Act.
613. **Section 308** states that where a patient subject to a short-term detention certificate or to a certificate issued under section 114(2) or 115(2) is returned in the last 13 days before the expiry of that certificate, the measures specified in the certificate will apply for a further 14 days. (This is to allow time for further assessment of the patient and, where appropriate, an application for a compulsory treatment order).