

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

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7 – Compulsory Treatment Orders

Chapter 1: application for, and making of, orders

Outcome of application

Section 65: interim compulsory treatment order

109. Where an application for a compulsory treatment order has been made, the Tribunal has power to grant an interim compulsory treatment order. The Tribunal may do so at its own discretion or on the application of any party with an interest in the proceedings. An interim order may last for any period of up to 28 days. The Tribunal may grant more than one interim order in respect of a patient. In that case however, the total period authorised by the interim orders must not exceed 56 consecutive days.
110. *Section 65(5)* stipulates which persons must be afforded the opportunity to make representations to the Tribunal before an interim order can be granted.

Section 66: measures which may be authorised by a compulsory treatment order or an interim compulsory treatment order

111. A compulsory treatment order (or an interim compulsory treatment order) authorises the measures set out in it. The measures are drawn from the list in subsection (1) of section 66. The measures include detention of the patient in hospital and various measures which are delivered in the community. Whether or not the patient is in hospital, the compulsory treatment order may specify that the patient is to be given medical treatment in accordance with Part 16.

Sections 67, 70, 71, 75 and 76: actions following the making of a compulsory treatment order

112. Where a compulsory treatment order or an interim compulsory treatment order is made, the order will provide the authority for the patient to be removed to the hospital or other place specified in the order (section 67) within 7 days. Other duties which must be carried out once either of these orders has been made include:
- the appointment of a responsible medical officer by the hospital managers (if the patient does not already have a responsible medical officer) (section 230- see paragraphs 419 to 421 of these Notes)
 - the preparation of a social circumstances report by the mental health officer (except where this would serve little or no practical purpose) (section 231- see paragraph 422 of these Notes)

*These notes relate to the Mental Health (Care and Treatment) (Scotland)
Act 2003 (asp 13) which received Royal Assent on 25 April 2003*

- the preparation of a care plan by the patient's responsible medical officer. The responsible medical officer must ensure that this care plan is placed with the patient's medical records (section 76- see paragraph 119 of these Notes).
113. **Section 70** provides that where an interim compulsory treatment order or a compulsory treatment order is made while a patient is detained on short-term detention, the certificate which authorised the short-term detention is automatically revoked upon the making of the subsequent order. Similarly, section 75 provides that where a patient is made subject to a compulsory treatment order while already subject to an interim compulsory treatment order, that interim order shall be revoked on the making of the 'full' compulsory treatment order.
114. **Section 71** introduces schedule 3 and provides that Chapter 1 of Part 7 applies where a patient is subject to a hospital direction made under section 59A of the 1995 Act or a transfer for treatment direction made under section 136 of the 2003 Act subject to the modifications of that Chapter set out in schedule 3.