



Mental Health (Care and Treatment) (Scotland) Act 2003

2003 asp 13

PART 16

MEDICAL TREATMENT

Supplementary

245 Certificates under sections 235, 236, 239 and 241

- (1) This section applies to certificates under sections 235, 236, 239 and 241 of this Act.
- (2) A certificate shall contain such particulars as may be prescribed by regulations.
- (3) Before giving a certificate, the person giving it shall consult—
 - (a) subject to subsection (4) below—
 - (i) the patient; ^{F1}...
 - (ii) the patient's named person; and
 - [^{F2}(iii) any guardian of the patient; and
 - (iv) any welfare attorney of the patient;]
 - (b) such person or persons as appear to the person giving the certificate to be principally concerned with the patient's medical treatment.
- (4) The person giving a certificate need not consult any person such as is mentioned in paragraph (a) of subsection (3) above in any case where it is impracticable to do so.
- (5) A person who gives a certificate shall, before the expiry of the period of 7 days beginning with the day on which the certificate is given, send a copy of it to the Commission.

Textual Amendments

- F1** Word in s. 245(3)(a) repealed (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 30(2)(a)**, 61(2); S.S.I. 2017/197, art. 2, sch.

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Supplementary is up to date with all changes known to be in force on or before 03 June 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- F2** S. 245(3)(a)(iii)(iv) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 30(2)(b), 61(2)**; [S.S.I. 2017/197](#), art. 2, sch.

Commencement Information

- I1** S. 245 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), art. 2, **Sch. 1**
I2 S. 245 in force at 5.10.2005 in so far as not already in force by [S.S.I. 2005/161](#), **art. 3** (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)

246 Certificates under section 238

[^{F3}(1)] A certificate under section 238 of this Act shall contain such particulars as may be prescribed by regulations.

[^{F4}(2) A person who gives a certificate under section 238 of this Act shall, before the expiry of the period of 7 days beginning with the day on which the certificate is given, send a copy of it to the Commission.]

Textual Amendments

- F3** S. 246(2) inserted (2.12.2004) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 Modification Order 2004 \(S.S.I. 2004/533\)](#), arts. 1, **2(7)**
F4 S. 246(1): s. 246 renumbered as s. 246(1) (2.12.2004) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 Modification Order 2004 \(S.S.I. 2004/533\)](#), arts. 1, **2(7)**

Commencement Information

- I3** S. 246 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), art. 2, **Sch. 1**
I4 S. 246 in force at 5.10.2005 in so far as not already in force by [S.S.I. 2005/161](#), **art. 3** (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)

247 Scope of consent or certificate under sections 235, 236, 238, 239 and 241

Any—

- (a) consent; or
- (b) certificate,

given under section 235, 236, 238, 239 or 241 of this Act may relate to a plan of treatment under which (whether during a specified period or otherwise) one or more of the types of treatment to which the consent or certificate relates is to be given to the patient.

Commencement Information

- I5** S. 247 in force at 5.10.2005 by [S.S.I. 2005/161](#), **art. 3** (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)

248 Sections 235, 236, 238, 239 and 241: review of treatment etc.

- (1) Where medical treatment is given to a patient by virtue of section 235, 236,^[F5]238, 239 or 241 of this Act, the patient's responsible medical officer shall—

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- (a) on the next occasion after the giving of the treatment on which the patient's responsible medical officer submits a record to the Tribunal under section 87(2)(b) of this Act or, as the case may be, makes an application to the Tribunal under section 92 of this Act; or
- (b) at such other time as the patient's responsible medical officer is required to do so by the Commission,
- submit to the Commission a report as to the treatment given and the patient's condition.
- (2) The Commission may at any time by notice to the patient's responsible medical officer revoke, with effect from such time as may be specified in the notice, a certificate given under section 235(2) or (3), 236(2) or (3), 238(1), 239 or 241(1) of this Act.
- (3) A time specified in a notice under subsection (2) above may not be earlier than the time of the notice.

Textual Amendments

F5 Word in s. 248(1) inserted (27.9.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, **sch. 1 para. 32(19)**

Modifications etc. (not altering text)

C1 [S. 248](#) applied (with modifications) (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Transitional and Savings Provisions\) Order 2005 \(S.S.I. 2005/452\)](#), arts. 1, **36(4)**

Commencement Information

I6 [S. 248](#) in force at 5.10.2005 by [S.S.I. 2005/161](#), **art. 3** (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 64(8A)(8B) inserted by [2015 asp 9 s. 1\(2\)](#)
- s. 65(7) inserted by [2015 asp 9 s. 1\(3\)](#)