



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

## 2003 asp 13

### PART 5

#### EMERGENCY DETENTION

##### *Duties on hospital managers*

#### **38 Duties on hospital managers: examination, notification etc.**

- (1) This section applies where a patient is detained in hospital under authority of an emergency detention certificate.
- (2) As soon as practicable after the period of detention authorised by the certificate begins as mentioned in section 36(8)(b) of this Act, the managers of the hospital shall make arrangements for an approved medical practitioner to carry out a medical examination of the patient.
- (3) The managers of the hospital shall—
  - (a) before the expiry of the period of 12 hours beginning with the giving of the certificate to them, inform the persons mentioned in subsection (4) below of the granting of the certificate; and
  - (b) before the expiry of the period of 7 days beginning with the day on which they receive notice under section 37 of this Act—
    - (i) give notice to the persons mentioned in subsection (4) below of the matters notified to them under that section; and
    - (ii) if the certificate was granted without consent to its granting having been obtained from a mental health officer, give notice of those matters to the persons mentioned in subsection (5) below.
- (4) The persons referred to in subsection (3)(a) and (b)(i) above are—
  - (a) the patient's nearest relative;
  - (b) if that person does not reside with the patient, any person who resides with the patient;
  - (c) if—

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*Status: This is the original version (as it was originally enacted).*

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- (i) the managers know who the patient's named person is; and
    - (ii) that named person is not any of the persons mentioned in paragraphs (a) and (b) above,
  - the patient's named person; and
  - (d) the Commission.
- (5) The persons referred to in subsection (3)(b)(ii) above are—
- (a) if the managers know where the patient resides, the local authority for the area in which the patient resides; or
  - (b) if the managers do not know where the patient resides, the local authority for the area in which the hospital is situated.