



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

2003 asp 13

PART 2 **S**

THE MENTAL WELFARE COMMISSION FOR SCOTLAND

Particular functions

12 **Investigations: further provision** **S**

- (1) The Commission may, if it considers it appropriate to do so, cause an inquiry to be held for the purpose of carrying out an investigation, [^{F1}in relation to any of the circumstances mentioned in section 11(2)] of this Act, into any case.
- (2) The Commission—
 - (a) may appoint such person (or persons) as it considers appropriate to chair or to conduct any such inquiry and to report to it on the findings of any such inquiry; and
 - (b) may pay to a person appointed by it under paragraph (a) above such—
 - (i) remuneration; and
 - (ii) expenses,as it may, with the consent of the Scottish Ministers, determine.
- (3) A person appointed to chair any such inquiry—
 - (a) may, by notice, require any person to attend and give evidence at a time and place set out in the notice; and
 - (b) may administer oaths and examine witnesses on oath and may accept, in place of evidence on oath by a person, evidence on affirmation or a statement in writing by the person.
- (4) A person required, by virtue of notice under subsection (3)(a) above, to attend and give evidence for the purposes of an inquiry under subsection (1) above—
 - (a) shall not be obliged to attend and give evidence as required in the notice unless the necessary expenses of attendance are paid or tendered to the person; and

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Section 12 is up to date with all changes known to be in force on or before 29 December 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

- (b) shall not be obliged at the inquiry to answer a question which the person would be entitled to decline to answer, on the ground of privilege or confidentiality, if the question were asked in the course of proceedings in a court.
- (5) Proceedings in an inquiry under this section shall have the privilege of proceedings in a court.
- (6) The Commission shall pay to a person required by notice under subsection (3)(a) above to attend for the purposes of an inquiry under subsection (1) above such expenses as it considers appropriate.
- (7) A person—
 - (a) who is required to attend for the purposes of an inquiry by virtue of notice under subsection (3)(a) above; and
 - (b) who refuses or wilfully neglects to attend or, subject to subsection (4)(b) above, to give evidence,
 shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Textual Amendments

- F1** Words in [s. 12\(1\)](#) substituted (1.8.2010 for specified purposes, 1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), [ss. 111\(9\)](#), [134\(7\)](#); [S.S.I. 2010/221](#), [art. 3\(2\)\(3\)](#), [sch.](#); [S.S.I. 2010/321](#), [art. 3](#), [sch.](#); [S.S.I. 2011/122](#), [art. 2](#), [sch.](#)

Commencement Information

- I1** S. 12 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](#))

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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\(3\)](#)