



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

2003 asp 13

PART 2

THE MENTAL WELFARE COMMISSION FOR SCOTLAND

Particular functions

13 Visits in relation to patients

- (1) The Commission shall secure that a [^{F1}Commission Visitor] visits, as often as the Commission [^{F2}Visitor] considers it appropriate to do so, such patients who fall within the categories mentioned in subsection (2) below as [^{F3}the Commission Visitor] considers appropriate.
- (2) Those categories are—
- (a) patients who are detained in hospital and whose detention is authorised by virtue of—
 - (i) this Act; or
 - (ii) the 1995 Act;
 - (b) patients who, though not detained in hospital, are subject to—
 - (i) a compulsory treatment order;
 - (ii) an interim compulsory treatment order;
 - (iii) an emergency detention certificate;
 - (iv) a short-term detention certificate;
 - (v) a compulsion order;
 - (vi) an interim compulsion order;
 - (vii) an assessment order;
 - (viii) a treatment order;
 - (ix) a hospital direction; or
 - (x) a transfer for treatment direction;
 - (c) patients who are subject to—

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- (i) an intervention order of which the Commission has been notified under section 53(10)(b) of the Adults with Incapacity (Scotland) Act 2000 (asp 4); or
 - (ii) a guardianship order of which the Commission has been notified under section 58(7)(d) of that Act;
 - (d) patients in respect of whom a person is a guardian by virtue of subparagraph (4), (5), (6) or (7) of paragraph 1 of schedule 4 to the Adults with Incapacity (Scotland) Act 2000 (asp 4); and
 - (e) patients who have granted, in accordance with section 16 of that Act, a welfare power of attorney, a copy of which has been sent to the Commission under section 19(2)(c) of that Act.
- (3) If it appears to the Commission that patients—
- (a) may be resident, or may be receiving medical treatment, in premises mentioned in subsection (4) below; or
 - (b) may use facilities provided in such premises,
- a [^{F4}Commission Visitor] may visit such premises for ^{F5}... the purposes mentioned in [^{F6}subsection (5A)] below.
- (4) Those premises are—
- (a) a health service hospital (as defined in section 108(1) of the National Health Service (Scotland) Act 1978 (c. 29));
 - (b) premises in which—
 - (i) an independent health care service is provided;
 - (ii) a care home service is provided; or
 - (iii) a secure accommodation service is provided;
 - (c) premises provided by a local authority for the purpose of their duty under section 26 of this Act;
 - (d) a prison; and
 - (e) a young offenders institution.
- [^{F7}(5A) The purposes are—
- (a) to provide an opportunity for any patient who may for the time being be present in the premises to meet a Commission Visitor and discuss with the Visitor any concerns that the patient may have; and
 - (b) to assess whether the requirements of such patients in relation to this Act, the Adults with Incapacity (Scotland) Act 2000 (asp 4) and other relevant legislation are being met.
- (5B) A Commission Visitor may, when visiting premises under subsection (3), conduct an assessment of the suitability of the premises (and its facilities) in relation to the requirements of the patients (or any one of them).]
- (6) A visit under subsection (1) or (3) above may be made with or without prior notification.
- ^{F8}(7)
- (8) In—
- (a) subsection (4)(b)(ii) above, “care home service” has the meaning given to that expression by [^{F9}paragraph 2 of schedule 12 to the Public Services Reform (Scotland) Act 2010 (asp 8)]; and

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- (b) subsection (4)(b)(iii) above, “secure accommodation service” has the meaning given to that expression by [F10 paragraph 6 of schedule 12 to] that Act.

Textual Amendments

- F1** Words in s. 13(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(10)(a)(i)**, 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.
- F2** Word in s. 13(1) inserted (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(10)(a)(ii)**, 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.
- F3** Words in s. 13(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 \(asp 8\)](#), **111(10)(a)(iii)**, 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.
- F4** Words in s. 13(3) 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 \(asp 8\)](#), **111(10)(b)(i)**, 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.
- F5** Words in s. 13(3) repealed (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 \(asp 8\)](#), **111(10)(b)(ii)**, 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.
- F6** Words in s. 13(3) 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 \(asp 8\)](#), **111(10)(b)(iii)**, 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.
- F7** S. 13(5A)(5B) substituted for s. 13(5) (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(10)(c)**, 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.
- F8** S. 13(7) repealed (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(10)(d)**, 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.
- F9** Words in s. 13(8)(a) 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(10)(e)(a)**, 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.
- F10** Words in s. 13(8)(b) 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(10)(e)(b)**, 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. 13 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\(3\)](#)