



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

2003 asp 13

PART 9

COMPULSION ORDERS

CHAPTER 2

REVIEW OF COMPULSION ORDERS

Applications to Tribunal by patient etc.

164 Application to Tribunal by patient etc. for revocation or variation of compulsion order

- (1) This section applies where a patient is subject to a relevant compulsion order.
- (2) Either of the persons mentioned in subsection (3) below may, subject to subsections (4) to (6) below, make an application under this section to the Tribunal for an order under section 167 of this Act—
 - (a) revoking the compulsion order; or
 - (b) varying that order by modifying the measures specified in it.
- (3) The persons referred to in subsection (2) above are—
 - (a) the patient; and
 - (b) the patient's named person.
- (4) An application under this section may not be made—
 - (a) in respect of a compulsion order that has not been extended;
 - (b) during the period of 3 months beginning with the making of—
 - (i) an order in respect of the compulsion order made under section 166 of this Act; or

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Section 164 is up to date with all changes known to be in force on or before 26 May 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

(ii) an order in respect of the compulsion order made, by virtue of section 149 or 158 of this Act, under section 167 of this Act.

(5) If—

(a) an application under this section for revocation of a compulsion order is refused; or

(b) an application is made under this section for variation of a compulsion order, the person who made the application shall not be entitled to make more than one further application under this section in respect of the compulsion order during the period mentioned in subsection (7) below.

(6) If an application under section 163 of this Act for revocation of a determination under section 152 of this Act is refused, the person who made that application shall not be entitled to make more than one application under this section in respect of the compulsion order which is the subject of the determination during the period mentioned in subsection (7) below.

(7) The period referred to in subsections (5) and (6) above is—

(a) where the application is made during the period of 6 months beginning with the expiry of the initial period, that period of 6 months; or

(b) any subsequent period of 12 months that begins with, or with an anniversary of, the expiry of the period of 6 months mentioned in paragraph (a) above.

(8) In subsection (7)(a) above, “initial period” means the period of 6 months beginning with the day on which the compulsion order is made.

Modifications etc. (not altering text)

C1 S. 164 modified (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, **17(2)**

C2 S. 164 modified (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, **10(1)**

Commencement Information

II S. 164 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\(3\)](#)