



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

2003 asp 13

PART 11

HOSPITAL DIRECTIONS AND TRANSFER FOR TREATMENT DIRECTIONS

Responsible medical officer's duty to keep directions under review

208 Responsible medical officer's duty to keep directions under review

- (1) This section applies where a patient is subject to—
 - (a) a hospital direction; or
 - (b) a transfer for treatment direction.
- (2) Without prejudice to the duty imposed on the patient's responsible medical officer by section 206(2) of this Act, the responsible medical officer shall from time to time consider—
 - (a) whether the conditions mentioned in section 206(4) of this Act continue to apply in respect of the patient;
 - (b) whether, as a result of the patient's mental disorder, it is necessary, in order to protect any other person from serious harm, for the patient to be detained in hospital, whether or not for medical treatment; and
 - (c) whether it continues to be necessary for the patient to be subject to the direction.
- (3) If, having considered the matters mentioned in paragraphs (a) to (c) of subsection (2) above, the responsible medical officer is not satisfied that the patient has a mental disorder, the responsible medical officer shall, as soon as practicable after considering those matters, submit to the Scottish Ministers a report complying with the requirements set out in section 207(3) of this Act and including a recommendation that the direction be revoked.
- (4) If, having considered the matters mentioned in paragraphs (a) to (c) of subsection (2) above, the responsible medical officer—
 - (a) is satisfied that the patient has a mental disorder; but

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 208 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*

(b) is not satisfied—

(i) that, as a result of the patient’s mental disorder, it is necessary, in order to protect any other person from serious harm, for the patient to be detained in hospital, whether or not for medical treatment; and

[^{F1}(ii) either—

(A) that the conditions mentioned in paragraph (b) and (c) of section 206(4) of this Act continue to apply in respect of the patient; or

(B) that it continues to be necessary for the patient to be subject to the direction,]

the responsible medical officer shall, as soon as practicable after considering those matters, submit to the Scottish Ministers a report complying with the requirements set out in section 207(3) of this Act and including a recommendation that the direction be revoked.

Textual Amendments

F1 S. 208(4)(b)(ii) substituted (22.3.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), [ss. 70\(2\)](#), [79\(2\)](#)

Commencement Information

I1 S. 208 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\(3\)](#)