



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

## 2003 asp 13

### PART 16

#### MEDICAL TREATMENT

##### *Supplementary*

#### **245 Certificates under sections 235, 236, 239 and 241**

- (1) This section applies to certificates under sections 235, 236, 239 and 241 of this Act.
- (2) A certificate shall contain such particulars as may be prescribed by regulations.
- (3) Before giving a certificate, the person giving it shall consult—
  - (a) subject to subsection (4) below—
    - (i) the patient; <sup>F1</sup>...
    - (ii) the patient's named person; and
    - [<sup>F2</sup>(iii) any guardian of the patient; and
    - (iv) any welfare attorney of the patient;]
  - (b) such person or persons as appear to the person giving the certificate to be principally concerned with the patient's medical treatment.
- (4) The person giving a certificate need not consult any person such as is mentioned in paragraph (a) of subsection (3) above in any case where it is impracticable to do so.
- (5) A person who gives a certificate shall, before the expiry of the period of 7 days beginning with the day on which the certificate is given, send a copy of it to the Commission.

#### **Textual Amendments**

- F1** Word in s. 245(3)(a) repealed (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 30(2)(a)**, 61(2); S.S.I. 2017/197, art. 2, sch.

---

**Changes to legislation:** *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 245 is up to date with all changes known to be in force on or before 25 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*

---

- F2** S. 245(3)(a)(iii)(iv) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\), ss. 30\(2\)\(b\), 61\(2\)](#); [S.S.I. 2017/197](#), art. 2, sch.

---

**Commencement Information**

- I1** S. 245 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), art. 2, [Sch. 1](#)
- I2** S. 245 in force at 5.10.2005 in so far as not already in force 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:**

Mental Health (Care and Treatment) (Scotland) Act 2003, Section 245 is up to date with all changes known to be in force on or before 25 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.

[View outstanding changes](#)

**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\(3\)](#)