



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

2003 asp 13

PART 17

PATIENT REPRESENTATION ETC.

CHAPTER 3

DETENTION IN CONDITIONS OF EXCESSIVE SECURITY

State hospitals

267 Orders under sections 264 to 266: recall

- (1) This section applies where an order is made under section 264(2), 265(3) or 266(3) of this Act in respect of a patient.
- (2) On the application of any of the persons mentioned in subsection (4) below, the Tribunal—
 - (a) shall, if satisfied that the patient requires to be detained under conditions of special security that can be provided only in a state hospital, recall the order;
 - (b) may, on any other grounds, recall the order.
- (3) Where the order is recalled, the relevant Health Board ceases to be subject to the duties under section 264(3) to (5), 265(4) to (6) or 266(4) to (6) to which it became subject by virtue of the making of the order.
- (4) The persons referred to in subsection (2) above are—
 - (a) the relevant Health Board;
 - (b) in the case of a relevant patient, the Scottish Ministers;
 - (c) in the case of a patient who is not a relevant patient, the patient's responsible medical officer.
- (5) Before determining an application under subsection (2) above, the Tribunal shall—

Status: *This is the original version (as it was originally enacted).*

- (a) afford the persons mentioned in section 264(10) of this Act the opportunity—
 - (i) of making representations (whether orally or in writing); and
 - (ii) of leading, or producing, evidence; and
- (b) whether or not any such representations are made, hold a hearing.