



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

2003 asp 13

PART 17

PATIENT REPRESENTATION ETC.

CHAPTER 3

DETENTION IN CONDITIONS OF EXCESSIVE SECURITY

Other hospitals

271 Orders under sections 268 to 270: recall

- (1) This section applies where an order is made under section 268(2), 269(3) or 270(3) of this Act in respect of a qualifying patient.
- (2) On the application of any of the persons mentioned in subsection (4) below, the Tribunal—
 - (a) shall, if satisfied that detention of the patient in the qualifying hospital does not involve the patient being subject to a level of security that is excessive in the patient's case, 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 268(3) to (5), 269(4) to (6) or 270(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.

Status: This is the original version (as it was originally enacted).

- (5) Before determining an application under subsection (2) above, the Tribunal shall—
- (a) afford the persons mentioned in section 268(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.