



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

2003 asp 13

PART 19

ENTRY, REMOVAL AND DETENTION POWERS

Removal to place of safety

293 Removal order

- (1) If, on the application of a relevant mental health officer, a sheriff is satisfied that—
- (a) a person who is aged 16 years or over has a mental disorder;
 - (b) any of the circumstances mentioned in subsection (2) below apply in respect of that person; and
 - (c) that person is likely to suffer significant harm if not removed to a place of safety,
- the sheriff may make an order under this section (any such order being referred to in this Act as a “removal order”) in respect of that person.
- (2) The circumstances referred to in subsection (1)(b) above are—
- (a) that the person is subject, or exposed, to—
 - (i) ill-treatment;
 - (ii) neglect; or
 - (iii) some other deficiency in care or treatment;
 - (b) that, because of the mental disorder, the person’s property—
 - (i) is suffering loss or damage; or
 - (ii) is at risk of suffering loss or damage; and
 - (c) that the person is—
 - (i) living alone or without care; and
 - (ii) unable to look after himself or his property or financial affairs.
- (3) A removal order is an order—
- (a) authorising—

Status: This is the original version (as it was originally enacted).

- (i) the mental health officer specified in the order;
 - (ii) any other persons so specified; and
 - (iii) any constable of the police force maintained for the area in which the premises are situated,before the expiry of the period of 72 hours beginning with the granting of the order, to enter any premises so specified;
 - (b) authorising any such constable, before the expiry of that period, for the purpose of exercising the power mentioned in paragraph (a) above, to open lockfast places on premises so specified; and
 - (c) authorising—
 - (i) before the expiry of that period, the removal of the person who is the subject of the removal order to a place of safety specified in the order; and
 - (ii) the detention of that person in that place for such period, not exceeding 7 days, as may be specified in the order.
- (4) An application for a removal order shall be made to the sheriff of the sheriffdom in which the premises to which the application relates are situated.
- (5) Before determining an application for a removal order, the sheriff shall, subject to subsection (7) below, afford the persons mentioned in subsection (6) below the opportunity—
- (a) of making representations (whether orally or in writing); and
 - (b) of leading, or producing, evidence.
- (6) Those persons are—
- (a) the person who is the subject of the application; and
 - (b) such other persons as may be prescribed by regulations.
- (7) If the sheriff considers that such delay as would result from compliance with the requirements of subsection (5) above would be likely to be prejudicial to the person who is the subject of the application, the sheriff may dispense with the requirements of that subsection.
- (8) In this section “relevant mental health officer” means a mental health officer appointed by the local authority for the area in which the premises to which the application relates are situated.