



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

## 2003 asp 13

### PART 19

#### ENTRY, REMOVAL AND DETENTION POWERS

##### *Removal to place of safety*

#### **298 Removal under section 297: further provision**

- (1) This section applies where a constable removes a relevant person to a place of safety under section 297 of this Act.
- (2) The constable shall—
  - (a) as soon as reasonably practicable after removing a relevant person to a place of safety, ensure—
    - (i) that the local authority in whose area the place of safety is situated are informed of the matters mentioned in subsection (3) below; and
    - (ii) subject to subsection (4) below, that the nearest relative of the relevant person is informed of those matters; and
  - (b) before the expiry of the period of 14 days beginning with the day on which the person is removed to the place of safety, ensure that the Commission is given notice of those matters.
- (3) The matters are—
  - (a) the name and address of the relevant person;
  - (b) the date and time at which the relevant person was removed from the public place;
  - (c) the circumstances giving rise to the removal of the relevant person to the place of safety;
  - (d) the address of the place of safety;
  - (e) if the relevant person is removed to a police station, the reason why the relevant person was removed there; and
  - (f) any other matter prescribed by regulations.

---

*Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Section 298 is up to date with all changes known to be in force on or before 01 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*

---

(4) Where—

- (a) it is impracticable to ensure that the relevant person’s nearest relative is informed of the matters mentioned in subsection (3) above; or
- (b) the nearest relative is so informed but the nearest relative does not reside with the relevant person,

the constable shall, as soon as reasonably practicable after removing the relevant person to the place of safety, ensure that, where reasonably practicable, a person falling within subsection (5) below is informed of those matters.

(5) A person falls within this subsection if—

- (a) the person—
  - (i) resides with the relevant person; or
  - (ii) provides a care service [<sup>F1</sup>or, independent health care service] to the relevant person; or
- (b) the person is an individual who, otherwise than—
  - (i) by virtue of a contract of employment, or other contract, with any person; or
  - (ii) as a volunteer for a voluntary organisation, provides care for the relevant person.

(6) In this section—

“care service” has the meaning given by [<sup>F2</sup>section 47(1) of the Public Services Reform (Scotland) Act 2010] (asp 8);

[<sup>F3</sup>“independent health care service” means any of the following—

- (a) an independent hospital;
- (b) a private psychiatric hospital;
- (c) an independent clinic; or
- (d) an independent medical agency,

as each of those terms is defined in section 10F(2) of the National Health Service (Scotland) Act 1978 (c.29);.]

“nearest relative” has the meaning given by section 254 of this Act; and

“public place” has the meaning given by section 297 of this Act.

**Textual Amendments**

- F1** Words in s. 298(5)(a)(ii) inserted (1.4.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications\) Order 2011 \(S.S.I. 2011/211\)](#), art. 1, [sch. 2 para. 8\(4\)\(a\)](#)
- F2** Words in s. 298(6) substituted (1.4.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications\) Order 2011 \(S.S.I. 2011/211\)](#), art. 1, [sch. 1 para. 13\(4\)](#)
- F3** Words in s. 298(6) inserted (1.4.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications\) Order 2011 \(S.S.I. 2011/211\)](#), art. 1, [sch. 2 para. 8\(4\)\(b\)](#)

**Commencement Information**

- I1** S. 298 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), art. 2, [Sch. 1](#)
- I2** S. 298 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 298 is up to date with all changes known to be in force on or before 01 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\(3\)](#)