



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

2003 asp 13

PART 20

ABSCONDING

Absconding

301 Absconding etc. by patients subject to compulsory treatment order

- (1) A patient who is subject to a compulsory treatment order authorising detention in hospital and who—
- (a) absconds from—
 - (i) any place where the patient is kept pending removal to hospital under the order; or
 - (ii) the hospital in which, under the order, the patient is being detained; or
 - (b) while being removed to hospital under the order or transferred under section 124 of this Act, absconds,
- is liable to be taken into custody and dealt with in accordance with section 303 of this Act.
- (2) A patient who is subject to such an order and in respect of whom—
- (a) a certificate under section 127(1) of this Act has effect; and
 - (b) a condition under subsection (6) of that section requires—
 - (i) that the patient be kept in the charge of an authorised person or reside continuously or for or at specified times at a specified place; or
 - (ii) that the patient, on being recalled or on the expiry of a specified period or on or after the occurrence of a specified event, return to the hospital in which the patient was detained under the order or go to such other place as may be specified,
- and who absconds from the charge of that authorised person or otherwise fails to comply with the condition is liable to be taken into custody and dealt with in accordance with section 303 of this Act.

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 301 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*

- (3) A patient who is subject to a compulsory treatment order imposing a requirement that the patient reside at a specified place and who fails to comply with that requirement is liable to be taken into custody and dealt with in accordance with section 303 of this Act.
- (4) A patient who is subject to a compulsory treatment order imposing a requirement that the patient obtain the approval of the mental health officer to any proposed change of address and who changes address without having obtained that approval is liable to be taken into custody and dealt with in accordance with section 303 of this Act.
- (5) A patient who has been taken into custody under this section and who absconds from that custody remains liable to be taken into custody and dealt with in accordance with section 303 of this Act.

Modifications etc. (not altering text)

- C1** Ss. 301-303 applied (with modifications) (5.10.2005) by [Mental Health \(Cross-border transfer; patients subject to detention requirement or otherwise in hospital\) \(Scotland\) Regulations 2005 \(S.S.I. 2005/467\)](#), regs. 1(1), **22** (with reg. 2)
- C2** S. 301 applied (with modifications) (2.10.2008) by [Mental Health \(Absconding Patients from Other Jurisdictions\) \(Scotland\) Regulations 2008 \(S.S.I. 2008/333\)](#), regs. 1(1), **2**, **3**
- C3** S. 301 applied (with modifications) (3.11.2008) by [Mental Health \(England and Wales Cross-border transfer: patients subject to requirements other than detention\) \(Scotland\) Regulations 2008 \(S.S.I. 2008/356\)](#), regs. 1(1), **12(4)**, (5) (with reg. 2)
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Commencement Information

- I1** S. 301 in force at 5.10.2005 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)

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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\(3\)](#)