



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

## 2003 asp 13

### PART 20

#### ABSCONDING

##### *Absconding*

#### **303 Taking into custody and return of absconding patients**

- (1) A person specified in subsection (3)(a) below may, during the period specified in subsection (4) below—
- (a) take into custody any patient who, under sections 301 or 302 of this Act, is liable to be taken into custody;
  - (b) return the patient to the hospital in which the patient was detained or, as the case may be, take the patient to the hospital in which the patient was to be detained or, if that is not appropriate or practicable, take the patient to any other place considered appropriate by the patient's responsible medical officer;
  - (c) return or take the patient to such other place as the patient absconded from or at which the patient failed to reside or, if that is not appropriate or practicable, take the patient to any other place considered appropriate by the patient's responsible medical officer.
- (2) The person specified in subsection (3)(b) below may, during the period specified in subsection (4) below—
- (a) take into custody any patient in respect of whom a certificate under section 41(1), 53(1) or 127(1) of this Act has effect and a condition under section 41(4), 53(4) or, as the case may be, 127(6) of this Act requires that the patient be kept in charge of that person and who, under section 301 or 302 of this Act is liable to be taken into custody; and
  - (b) resume the charge of the patient or, if that is not appropriate or practicable, take the patient to any place considered appropriate by the patient's responsible medical officer.

- (3) The—
- (a) persons referred to in subsection (1) above are—
    - (i) a mental health officer;
    - (ii) a constable;
    - (iii) a member of staff of any hospital and, where the patient liable to be taken into custody is subject to a compulsory treatment order a condition of which requires the patient to reside in an establishment the address of which is specified in the order, a member of staff of that establishment; and
    - (iv) any other person authorised for the purposes of that subsection by the patient’s responsible medical officer;
  - (b) person referred to in subsection (2) above is the person who is authorised under section 41(4), 53(4) or, as the case may be, 127(6) of this Act to have charge of the patient.
- (4) The period referred to in subsection (1) above is—
- (a) in the case of a patient who is subject to a compulsory treatment order, the period of 3 months beginning with the day—
    - (i) when the patient absconded; or
    - (ii) when the patient’s conduct or failure first gave rise to liability to be taken into custody;
  - (b) in any other case, the period ending with the expiry of the order, certificate, report or, as the case may be, provision under or in pursuance of which the patient was to be detained.
- (5) The expiry, during the period referred to in subsection (1) above, of the authorised period in relation to the compulsory treatment order to which a patient is subject does not affect the powers conferred by this section.
- (6) The powers conferred by subsections (1) and (2) above include power to use reasonable force in their exercise.
- (7) A patient who is, under section 301 or 302 of this Act, liable to be taken into custody ceases to be so liable—
- (a) on returning to the hospital or other place from which the patient absconded or arriving at the hospital in which the patient was to be detained;
  - (b) on being returned or taken either there or to such other place as is considered appropriate by the patient’s responsible medical officer under subsection (1) (b) or (c) or (2)(b) above; or
  - (c) on being taken into custody under section 113 of this Act.