



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

2003 asp 13

PART 22

APPEALS

322 Appeal to Court of Session against certain decisions of the Tribunal

- (1) This section applies to the following decisions of the Tribunal—
- (a) a decision to make an order revoking a compulsion order under section 193(3) or (4) of this Act;
 - (b) a decision to make an order revoking a restriction order under section 193(5) of this Act;
 - (c) a decision to make an order varying a compulsion order under section 193(6) of this Act;
 - (d) a decision to make an order conditionally discharging a patient under section 193(7) of this Act;
 - (e) a decision, under section 193 of this Act, to make no order under that section;
 - (f) a decision, under section 215(2) of this Act, to make no direction;
 - (g) a decision to make a direction under section 215(3) or (4) of this Act;
 - (h) a decision to make or refuse to make an order under section 219(5) or 220(5) of this Act preventing a transfer or requiring that a transferred patient be returned; and
 - (i) a decision, in relation to a patient who is subject to a restriction order, a hospital direction or a transfer for treatment direction—
 - (i) to make or refuse to make an order under section 264(2), 265(3) or 266(3) of this Act;
 - (ii) under section 267(2) of this Act to recall or refuse to recall an order made under section 264, 265 or 266 of this Act;
 - (iii) to make or refuse to make an order under section 268(2), 269(3) or 270(3) of this Act; or
 - (iv) under section 271(2) of this Act to recall or refuse to recall an order made under section 268, 269 or 270 of this Act.

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Section 322 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

- (2) A relevant party to proceedings before the Tribunal may appeal to the Court of Session against a decision to which this section applies.
- (3) Subject to subsection (4) below, in this section “relevant party” means—
- (a) the person to whom the decision relates;
 - (b) that person’s named person;
 - (c) any guardian of the person;
 - (d) any welfare attorney of the person; and
 - (e) the Scottish Ministers.
- (4) Where the appeal is against a decision mentioned in paragraph (i) of subsection (1) above, “relevant party” means—
- (a) the person to whom the decision relates;
 - (b) that person’s named person;
 - (c) any guardian of the person;
 - (d) any welfare attorney of the person;
 - (e) the Commission;
 - (f) the relevant Health Board (within the meaning of section 273 of this Act); and
 - (g) the Scottish Ministers.

Modifications etc. (not altering text)

- C1** S. 322 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), **15** (with reg. 2)
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Commencement Information

- II** S. 322 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\(3\)](#)