



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

2003 asp 13

PART 6

SHORT-TERM DETENTION

Short-term detention certificate

45 Mental health officer's duty to interview patient etc.

- (1) Subject to subsection (2) below, before deciding whether to consent for the purposes of section 44(3)(d) of this Act, a mental health officer shall—
 - (a) interview the patient;
 - (b) ascertain the name and address of the patient's named person;
 - (c) inform the patient of the availability of independent advocacy services under section 259 of this Act; and
 - (d) take appropriate steps to ensure that the patient has the opportunity of making use of those services.
- (2) If it is impracticable for the mental health officer to—
 - (a) interview the patient; or
 - (b) ascertain the name and address of the patient's named person,the mental health officer shall comply with the requirements in subsection (3) below.
- (3) Those requirements are—
 - (a) recording the steps taken by the mental health officer with a view to complying with the duty concerned; and
 - (b) before the expiry of the period of 7 days beginning with the day on which the mental health officer is consulted by an approved medical practitioner under section 44(3)(c) of this Act, giving a copy of the record to the approved medical practitioner.

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Section 45 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](#)

Commencement Information

- II** [S. 45](#) 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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[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\(3\)](#)