



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

2003 asp 13

PART 6

SHORT-TERM DETENTION

Revocation of certificates

49 Responsible medical officer's duty to review continuing need for detention

- (1) Where a patient is [^{F1}subject to] a short-term detention certificate or an extension certificate, the patient's responsible medical officer shall, from time to time, consider—
- (a) whether the conditions mentioned in paragraphs (a), (b) and (d) of section 44(4) of this Act continue to be met in respect of the patient; and
 - (b) whether it continues to be necessary for the detention in hospital of the patient to be authorised by the certificate.
- (2) If, having complied with subsection (1) above, the responsible medical officer is not satisfied—
- (a) that the conditions referred to in paragraph (a) of that subsection continue to be met in respect of the patient; or
 - (b) that it continues to be necessary for the detention in hospital of the patient to be authorised by the certificate,
- the responsible medical officer shall revoke the certificate.
- (3) The responsible medical officer shall, as soon as practicable after revoking a certificate under subsection (2) above, give notice of its revocation to—
- (a) the patient;
 - (b) the patient's named person;
 - (c) any guardian of the patient;
 - (d) any welfare attorney of the patient; and
 - (e) the mental health officer who was consulted under section 44(3)(c) of this Act.

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Section 49 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

- (4) The responsible medical officer shall, before the expiry of the period of 7 days beginning with the day on which the certificate is revoked, give notice of its revocation to—
- (a) the Tribunal; and
 - (b) the Commission.

Textual Amendments

- F1** Words in s. 49(1) substituted (27.9.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, [sch. 1 para. 32\(7\)](#)

Commencement Information

- I1** [S. 49](#) 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\(3\)](#)