



Mental Health (Scotland) Act 2015

2015 asp 9

PART 1

THE 2003 ACT

Suspension of orders and measures

7 **Suspension of orders on emergency detention**

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- (2) In section 43 (effect of subsequent emergency detention certificate on compulsory treatment order)—
 - (a) in paragraph (a) of subsection (1), for the words “compulsory treatment order” there is substituted “relevant order”,
 - (b) in subsection (2), for the words “The compulsory treatment order” there is substituted “A relevant order”,
 - (c) in subsection (3)—
 - (i) after the word “Act” there is inserted “or (as the case may be) section 57A(8)(b) of the 1995 Act”,
 - (ii) for the words “compulsory treatment order” in each place where they occur there is substituted “relevant order”,
 - (d) after subsection (3) there is inserted—

“(4) In this section, the references to a relevant order are to—

 - (a) a compulsion order, or
 - (b) a compulsory treatment order or an interim compulsory treatment order.”.
- (3) In relation to section 43—
 - (a) its title becomes “**Effect of emergency detention certificate on certain orders**”,
 - (b) the italic heading immediately preceding it becomes “*Effect of emergency detention certificate on certain orders*”.

8 Suspension of orders on short-term detention

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- (2) In section 56 (effect of subsequent short-term detention certificate on compulsory treatment order)—
- (a) in paragraph (a) of subsection (1), for the words “compulsory treatment order” there is substituted “relevant order”,
 - (b) for subsection (2) there is substituted—
 - “(2) A relevant order shall cease to authorise the measures specified in it for the period during which the patient is subject to—
 - (a) the short-term detention certificate, or
 - (b) an extension certificate.”,
 - (c) after subsection (2) there is inserted—
 - “(3) In this section, the references to a relevant order are to—
 - (a) a compulsion order, or
 - (b) a compulsory treatment order or an interim compulsory treatment order.”.
- (3) In relation to section 56—
- (a) its title becomes “**Effect of short-term detention certificate etc. on certain orders**”,
 - (b) the italic heading immediately preceding it becomes “*Effect of short-term detention certificate etc. on certain orders*”.

9 Suspension of detention for certain purposes

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- (2) In section 127 (suspension of measure authorising detention)—
- (a) in subsection (1), the words “not exceeding 6 months” are repealed,
 - (b) after subsection (1) there is inserted—
 - “(1A) A certificate under subsection (1) above may specify—
 - (a) a single period not exceeding 200 days, or
 - (b) a series of more than one individual period falling within a particular 6 month period.”,
 - (c) after subsection (3) there is inserted—
 - “(3A) A certificate under subsection (3) above may specify—
 - (a) a single period, or
 - (b) a series of more than one individual period.”,
 - (d) subsection (4) is repealed,
 - (e) after subsection (4) there is inserted—
 - “(4A) The purpose for which a certificate under subsection (1) or (3) above is granted must be recorded in the certificate.”.
- (3) In section 221 (assessment order: suspension of measure authorising detention)—
- (a) after subsection (2) there is inserted—

Status: This is the original version (as it was originally enacted).

- “(2A) A certificate under subsection (2) above may specify—
- (a) a single period, or
 - (b) a series of more than one individual period.”,
- (b) after subsection (3) there is inserted—
- “(3A) Subsection (3) above does not require the consent of the Scottish Ministers if the granting of the certificate is for the purpose of enabling the patient to—
- (a) attend a hearing in criminal proceedings against the patient, or
 - (b) meet a medical or dental appointment made for the patient.”,
- (c) subsection (4) is repealed,
- (d) after subsection (4) there is inserted—
- “(4A) The purpose for which a certificate under subsection (2) above is granted must be recorded in the certificate.”.

(4) In section 224 (patients subject to certain other orders and directions: suspension of measure authorising detention)—

- (a) in subsection (1), after paragraph (b) there is inserted—

“(ba) a temporary compulsion order;”,
- (b) in subsection (2), the words “not exceeding 3 months” are repealed,
- (c) after subsection (2) there is inserted—

“(2A) A certificate under subsection (2) above may specify—

 - (a) a single period not exceeding 90 days, or
 - (b) a series of more than one individual period falling within a particular 3 month period.”,
- (d) after subsection (3) there is inserted—

“(3A) In the case of a treatment order, an interim compulsion order or a temporary compulsion order, subsection (3) above does not require the consent of the Scottish Ministers if the granting of the certificate is for the purpose of enabling the patient to—

 - (a) attend a hearing in criminal proceedings against the patient, or
 - (b) meet a medical or dental appointment made for the patient.”,
- (e) subsection (5) is repealed,
- (f) after subsection (5) there is inserted—

“(5A) The purpose for which a certificate under subsection (2) above is granted must be recorded in the certificate.”.

10 Maximum suspension of particular measures

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- (2) In section 127 (suspension of measure authorising detention)—
- (a) for subsection (2) there is substituted—

Status: This is the original version (as it was originally enacted).

- “(2) The total period that an order does not, by reason of certification under subsection (1) above, authorise the measure mentioned in section 66(1)(a) of this Act must not exceed 200 days within any period of 12 months (whenever counted from).”.
- (b) after subsection (2) there is inserted—
- “(2A) For the purpose of subsection (2) above—
- (a) a day does not count towards the total period if the measure is (by reason of such certification) not authorised for a period of 8 hours or less in that day,
- (b) a single period (specified in such certification) of more than 8 hours and less than 24 hours, whether in one day or spanning two days, is to count as a whole day towards the total period.”.
- (3) In section 128 (suspension of other measures)—
- (a) in each of subsections (1) and (2), for the words “3 months” there is substituted “90 days”,
- (b) after subsection (2) there is inserted—
- “(2A) A day is to count as a whole day towards the 90 days mentioned in subsection (2) above if any part of that day falls within the period mentioned in paragraph (a) or (b) of that subsection.”.
- (4) In section 224 (patients subject to certain other orders and directions: suspension of measure authorising detention)—
- (a) for subsection (4) there is substituted—
- “(4) The total period that an order or direction does not, by reason of certification under subsection (2) above, authorise the detention of a patient in hospital must not exceed 200 days within any period of 12 months (whenever counted from).”.
- (b) after subsection (4) there is inserted—
- “(4A) For the purpose of subsection (4) above—
- (a) a day does not count towards the total period if the detention is (by reason of such certification) not authorised for a period of 8 hours or less in that day,
- (b) a single period (specified in such certification) of more than 8 hours and less than 24 hours, whether in one day or spanning two days, is to count as a whole day towards the total period.”.”.