



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

## 2003 asp 13

### PART 10

#### COMPULSION ORDERS AND RESTRICTION ORDERS

### CHAPTER 3

#### CONDITIONAL DISCHARGE

#### **200 Variation of conditions imposed on conditional discharge**

- (1) This section applies where—
  - (a) a patient has been conditionally discharged by the Tribunal under section 193(7) of this Act; and
  - (b) the Tribunal imposed conditions on that discharge under that section.
- (2) The Scottish Ministers may, if satisfied that it is necessary, vary such of the conditions imposed by the Tribunal under section 193(7) of this Act as they think fit.
- [<sup>F1</sup>(2A) Before varying any conditions under subsection (2), the Scottish Ministers must have regard to any victim's representations.]
- (3) Where the Scottish Ministers vary, under subsection (2) above, conditions imposed by the Tribunal under section 193(7) of this Act, the Scottish Ministers shall, as soon as practicable, give notice of that variation to—
  - (a) the patient;
  - (b) the patient's named person;
  - (c) the patient's responsible medical officer; and
  - (d) the mental health officer.

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*Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Chapter 3 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*

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#### Textual Amendments

- F1** S. 200(2A) inserted (30.9.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 60(3)**, 61(2); [S.S.I. 2017/234](#), art. 2(2)(c)

#### Commencement Information

- I1** S. 200 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)

### 201 Appeal to Tribunal against variation of conditions imposed on conditional discharge

- (1) Where the Scottish Ministers vary, under section 200(2) of this Act, conditions imposed by the Tribunal under section 193(7) of this Act on a patient who has been conditionally discharged under that section, the persons mentioned in subsection (2) below may, before the expiry of the period of 28 days beginning with the day on which notice is given under section 200(3) of this Act, appeal against the variation of those conditions to the Tribunal.
- (2) Those persons are—
  - (a) the patient; and
  - (b) the patient’s named person.
- (3) Where an appeal is made to the Tribunal under subsection (1) above, section 193 of this Act shall apply as if the patient had applied under section 192 of this Act for an order conditionally discharging the patient.

#### Commencement Information

- I2** S. 201 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)

### 202 Recall of patients from conditional discharge

- (1) This section applies to a patient conditionally discharged by the Tribunal under section 193(7) of this Act.
- (2) If the Scottish Ministers are satisfied that it is necessary for the patient to be detained in hospital, they may, by warrant, recall the patient to hospital.

#### Commencement Information

- I3** S. 202 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)

### 203 Effect of recall from conditional discharge

Where the Scottish Ministers recall a patient to hospital under section 202 of this Act, if the hospital specified in the warrant is not the hospital specified in the compulsion

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order to which the patient is subject, that order shall have effect as if the hospital specified in the warrant were the hospital specified in the order.

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**Commencement Information**

**I4** [S. 203](#) 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](#))

## **204 Appeal to Tribunal against recall from conditional discharge**

- (1) Where a patient has been recalled to hospital under section 202 of this Act, each of the persons mentioned in subsection (2) below may, before the expiry of the period of 28 days beginning with the day on which the patient returns or is returned to hospital, appeal against that recall to the Tribunal.
- (2) Those persons are—
  - (a) the patient; and
  - (b) the patient's named person.
- (3) Where an appeal is made to the Tribunal under subsection (1) above, section 193 of this Act shall apply as if the patient had applied under section 192 of this Act for an order conditionally discharging the patient.

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**Commencement Information**

**I5** [S. 204](#) 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](#))

**Changes to legislation:**

Mental Health (Care and Treatment) (Scotland) Act 2003, Chapter 3 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.

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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\(3\)](#)