



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

2003 asp 13

## PART 17

### PATIENT REPRESENTATION ETC.

#### CHAPTER 1

##### NAMED PERSON

###### *Mental health officer's duties etc.*

#### **255 Named person: mental health officer's duties etc.**

- (1) Subsection (2) below applies where—
  - (a) a mental health officer is discharging any function by virtue of this Act or the 1995 Act in relation to a patient; and
  - (b) it is necessary for the purposes of the discharge of the function to establish whether the patient has a named person.
- (2) The mental health officer shall take such steps as are reasonably practicable—
  - (a) to establish whether the patient has a named person; and
  - (b) if so, to ascertain who that person is.
- (3) Subsection (4) below applies where the mental health officer—
  - (a) establishes that the patient does not have a named person; or
  - (b) is unable to establish whether the patient has a named person.
- (4) The mental health officer—
  - (a) shall make a record of the steps taken under subsection (2)(a) above; and
  - (b) may apply to the Tribunal for an order under section 257 of this Act.
- (5) Where the mental health officer makes a record under subsection (4)(a) above, the mental health officer shall, as soon as practicable, give a copy of the record to—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the Tribunal; and
  - (b) the Commission.
- (6) Where by virtue of subsection (2) above—
- (a) the mental health officer—
    - (i) establishes that the patient has a named person; and
    - (ii) ascertains the name of that person (“the apparent named person”); but
  - (b) the mental health officer considers that it is inappropriate for the apparent named person to be the patient’s named person,
- the mental health officer shall apply to the Tribunal for an order under section 257 of this Act.
- (7) Where—
- (a) a mental health officer is discharging any function by virtue of this Act in relation to a patient; and
  - (b) it appears to the mental health officer—
    - (i) that the patient does not have a named person; or
    - (ii) that the patient has a named person (“the apparent named person”) but the mental health officer considers that it is inappropriate for the apparent named person to be the patient’s named person,
- the mental health officer may apply to the Tribunal for an order under section 257 of this Act.