



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

2003 asp 13

PART 17

PATIENT REPRESENTATION ETC.

CHAPTER 1

NAMED PERSON

Meaning of “named person”

250 Nomination of named person

- (1) Where a person who has attained the age of 16 years (a “nominator”) nominates in accordance with subsection (2) below another person who has attained that age to be the nominator’s named person, that person is, subject to subsections [F1(2A), (3) and (6)] below, the nominator’s named person.
- (2) A person is nominated in accordance with this subsection if—
 - (a) the nomination is signed by the nominator;
 - (b) the nominator’s signature is witnessed by a prescribed person;
 - (c) the prescribed person certifies that, in the opinion of the prescribed person, the nominator—
 - (i) understands the effect of nominating a person to be the nominator’s named person; and
 - (ii) has not been subjected to any undue influence in making the nomination.
- (2A) A nomination under subsection (1) above is valid only if—
 - (a) a docket to the nomination states that the person nominated has consented to the nomination,
 - (b) the docket is signed by the nominated person, F2...

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Chapter 1 is up to date with all changes known to be in force on or before 15 March 2024. 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

^{F3}(c)

- (3) A nomination under subsection (1) above may be revoked by the nominator in accordance with subsection (4) below.
- (4) The nomination of a named person is revoked in accordance with this subsection if—
- (a) the revocation is signed by the nominator;
 - (b) the nominator’s signature is witnessed by a prescribed person;
 - (c) the prescribed person certifies that, in the opinion of the prescribed person, the nominator—
 - (i) understands the effect of revoking the appointment of a person as named person; and
 - (ii) has not been subjected to any undue influence in making the revocation.
- (5) The nomination of a named person shall be effective notwithstanding the nominator’s becoming, after making the nomination, incapable.
- (6) A person nominated under subsection (1) above [^{F4}ceases] to be the nominator’s named person by giving notice to—
- (a) the nominator; and
 - (b) the local authority for the area in which the nominator resides, to that effect.
- (7) In this section—
- “incapable” means incapable by reason of mental disorder or of inability to communicate because of physical disability; but a person shall not fall within this definition by reason only of a lack or deficiency in a faculty of communication if that lack or deficiency can be made good by human or mechanical aid (whether of an interpretative nature or otherwise); and
- “prescribed person” means a person of a class prescribed by regulations.

Textual Amendments

- F1** Words in s. 250(1) substituted (5.5.2017 for specified purposes, 30.6.2017 for specified purposes) by [Mental Health \(Scotland\) Act 2015](#) (asp 9), **ss. 23(2)(a)**, 61(2); S.S.I. 2017/126, art. 2, sch.; S.S.I. 2017/197, art. 2, sch. (with art. 16(a))
- F2** Word in s. 250(2A) repealed (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022](#) (asp 8), **ss. 37(2)(a)**, 59(1) (with s. 48(1)(c)(2)(c)(3)(b))
- F3** S. 250(2A)(c) repealed (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022](#) (asp 8), **ss. 37(2)(b)**, 59(1) (with s. 48(1)(c)(2)(c)(3)(b))
- F4** Word in s. 250(6) substituted (5.5.2017 for specified purposes, 30.6.2017 for specified purposes) by [Mental Health \(Scotland\) Act 2015](#) (asp 9), **ss. 23(2)(c)**, 61(2); S.S.I. 2017/126, art. 2, sch.; S.S.I. 2017/197, art. 2, sch. (with art. 16(a))

Modifications etc. (not altering text)

- C1** S. 250(2)(3)-(5)(7) applied by S.S.I. 2008/356, reg. 8A(4) (as inserted (30.6.2017) by [The Mental Health \(Cross-border transfer patients subject to requirements other than detention\) \(Scotland\) Regulations 2017](#) (S.S.I. 2017/232), regs. 2, 8)
- C2** S. 250(2)(3)-(5)(7) applied by S.S.I. 2005/467, reg. 13A(4) (as inserted (30.6.2017) by [The Mental Health \(Cross-border transfer patients subject to detention requirement or otherwise in hospital\) \(Scotland\) Amendment Regulations 2017](#) (S.S.I. 2017/229), regs. 2, 16 (with reg. 4(1)))

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Chapter 1 is up to date with all changes known to be in force on or before 15 March 2024. 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

- I1** S. 250 in force at 1.9.2004 for specified purposes by [S.S.I. 2004/367, art. 2, Sch. 1](#)
- I2** S. 250 in force at 4.10.2004 in so far as not already in force by [S.S.I. 2004/367, art. 3, Sch. 2](#)

^{F5}251 Named person where no person nominated or nominated person declines to act

.....

Textual Amendments

- F5** S. 251 repealed (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\), ss. 22\(2\), 61\(2\); S.S.I. 2017/197, art. 2, sch.](#) (with arts. 13-15)

252 Named person in relation to child

- (1) The named person of a person who has not attained the age of 16 years (“the child”) shall be—
- (a) subject to subsection (2) below, in a case where [^{F6}a relevant person] has parental rights and parental responsibilities in relation to the child, that person;
 - (b) in a case where the child is in the care of a local authority by virtue of a care order made under section 31 of the Children Act 1989 (c. 41), that authority; or
 - (c) in any other case, where the child’s primary carer has attained the age of 16 years, that person.
- (2) Subject to subsection (3) below, where two or more [^{F7}relevant persons] have parental rights and parental responsibilities in relation to the child, the named person of the child shall be—
- (a) if those persons agree that one of them is to be the named person of the child, that person; or
 - (b) if those persons do not so agree, the one of them—
 - (i) who provides, on a regular basis, all, or most, of the care for, and support to, the child;
 - (ii) in a case where the child is in hospital, who provided all, or most, of that care for, and support to, the child before the child was admitted to hospital.
- (3) If—
- (a) one of the [^{F8}relevant] persons who has parental rights and parental responsibilities in relation to the child is a local authority; and
 - (b) the local authority has those rights and responsibilities by virtue of an order under section 86(1) of the Children (Scotland) Act 1995 (c. 36) (orders transferring parental rights and parental responsibilities),
- the local authority shall be the child’s named person.
- (4) In this section—
- “parental responsibilities”, in relation to a child, has the meaning given by section 1(3) of the Children (Scotland) Act 1995 (c. 36); ^{F9}...
- “parental rights”, in relation to a child, has the meaning given by section 2(4) of that Act.

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Chapter 1 is up to date with all changes known to be in force on or before 15 March 2024. 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*

[^{F10}; and

“relevant person” means–

- (a) a local authority; or
- (b) a person who has attained the age of 16 years.]

Textual Amendments

- F6** Words in s. 252(1)(a) 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(20)(a)**
- F7** Words in s. 252(2) 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(20)(b)**
- F8** Word in s. 252(3) inserted (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(20)(c)**
- F9** Word in s. 252(4) omitted (27.9.2005) by virtue of [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, **sch. 1 para. 32(20)(d)(i)**
- F10** Words in s. 252(4) inserted (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(20)(d)(ii)**

Commencement Information

- I3** S. 252 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)

^{F11}253 Declaration in relation to named person

.....

Textual Amendments

- F11** [S. 253](#) repealed (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 22(2)**, 61(2); [S.S.I. 2017/197](#), art. 2, **sch.** (with arts. 13-15)

254 Meaning of “nearest relative”

- (1) In this Act, “nearest relative”, in relation to a person (the “relevant person”), means—
- (a) subject to subsection (3) below, in a case where only one person falls within the list set out in subsection (2) below, that person;
 - (b) subject to subsections (3) and (4) below, in a case where two or more persons fall within that list, the person falling within the paragraph first appearing in the list set out in subsection (2) below.
- (2) The list mentioned in subsection (1) above is—
- (a) the relevant person’s spouse; [^{F12}or civil partner]
 - (b) a person such as is mentioned in subsection (7) below;
 - (c) the relevant person’s child;
 - (d) the relevant person’s parent;
 - (e) the relevant person’s brother or sister;
 - (f) the relevant person’s grandparent;
 - (g) the relevant person’s grandchild;
 - (h) the relevant person’s uncle or aunt;

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Chapter 1 is up to date with all changes known to be in force on or before 15 March 2024. 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

- (i) the relevant person's niece or nephew;
 - (j) the person mentioned in subsection (8) below.
- (3) If the relevant person's spouse^{F13} or civil partner]—
- (a) is permanently separated (either by agreement or under an order of a court) from the relevant person; or
 - (b) has deserted, or has been deserted by, the relevant person and the desertion continues,
- subsection (2)(a) above shall be disregarded for the purposes of subsection (1) above.
- (4) Where two or more persons fall within the paragraph first appearing on the list set out in subsection (2) above, the nearest relative shall be—
- (a) if those persons agree that one of them should be the nearest relative, that person; or
 - (b) if those persons do not so agree, the person determined in accordance with the following rules—
 - (i) brothers and sisters of the whole blood shall be preferred over brothers and sisters of the half-blood; and
 - (ii) the elder or eldest, as the case may be, shall be preferred.
- (5) A relevant person's nearest relative may decline to be the named person of the relevant person by giving notice to—
- (a) the relevant person; and
 - (b) the local authority for the area in which the relevant person resides,
- to that effect.
- (6) For the purposes of subsection (2) above—
- (a) a relationship of the half-blood shall, subject to subsection (4)(b)(i) above, be treated as a relationship of the whole blood;
 - (b) the stepchild of a person shall be treated as the child of that person;
 - (c) if the relevant person is ordinarily resident in the United Kingdom, the Channel Islands or the Isle of Man, any person who is not so resident shall be disregarded; and
 - (d) any person who is under 16 years of age shall be disregarded.
- (7) The person referred to in subsection (2)(b) above is a person who—
- (a) is living with the relevant person—
 - (i) as husband and wife; or
 - (ii) in a relationship which has the characteristics of the relationship between ^{F14}civil partners]; and
 - (b) has been living with the relevant person for a period of at least 6 months or, if the relevant person is for the time being in hospital^{F15} or in a care home service], had been living with the relevant person for such period when the relevant person was admitted to hospital^{F16} or to a care home service].
- (8) The person referred to in subsection (2)(j) above is a person who—
- (a) is living with the relevant person and has been living with the relevant person for a period of at least 5 years; or
 - (b) if the relevant person is in hospital^{F17} or in a care home service], had been living with the relevant person for such period when the relevant person was admitted to hospital^{F18} or to a care home service].

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Chapter 1 is up to date with all changes known to be in force on or before 15 March 2024. 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

Textual Amendments

- F12** Words in s. 254(2)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 69(2)**; [S.S.I. 2005/604](#), art. 2(c)
- F13** Words in s. 254(3) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 69(3)**; [S.S.I. 2005/604](#), art. 2(c)
- F14** Words in s. 254(7)(a)(ii) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(c), **Sch. 28 para. 69(4)**; [S.S.I. 2005/604](#), art. 2(c)
- F15** Words in s. 254(7)(b) inserted (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(21)(a)(i)**
- F16** Words in s. 254(7)(b) inserted (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(21)(a)(ii)**
- F17** Words in s. 254(8)(b) inserted (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(21)(b)(i)**
- F18** Words in s. 254(8)(b) inserted (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(21)(b)(ii)**

Commencement Information

- I4** S. 254 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)

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.

^{F19}(3)

^{F19}(4)

^{F19}(5)

- (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—

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Chapter 1 is up to date with all changes known to be in force on or before 15 March 2024. 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*

- (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—
 - ^{F20}(i)
 - (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.

Textual Amendments

F19 S. 255(3)-(5) repealed (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), ss. 24(2)(a), 61(2); S.S.I. 2017/197, art. 2, sch.

F20 S. 255(7)(b)(i) repealed (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), ss. 24(2)(b), 61(2); S.S.I. 2017/197, art. 2, sch.

Commencement Information

I5 S. 255 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)

Applications to Tribunal by patient etc.

256 Named person: application by patient etc.

- (1) Where—
 - ^{F21}(a)
 - (b) [^{F22}a person mentioned in subsection (2) below (“the applicant”)] considers that though the patient has a named person it is inappropriate that that person be the patient’s named person; or
 - (c) circumstances of such description as may be prescribed by regulations exist, the applicant may apply to the Tribunal for an order under section 257 of this Act in relation to the patient.
- (2) Those persons are—
 - (a) the patient;
 - (b) the patient’s responsible medical officer;
 - (c) if the patient is a child, any person who has parental responsibilities in relation to the patient;
 - (d) if the patient is in hospital, the managers of the hospital;
 - (e) any welfare attorney of the patient;
 - (f) any guardian of the patient;
 - (g) any relative of the patient; and
 - (h) any other person having an interest in the welfare of the patient.
- (3) In subsection (2)(c) above, “child” and “parental responsibilities” have the same meanings as they have in Part I of the Children (Scotland) Act 1995 (c. 36).

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Chapter 1 is up to date with all changes known to be in force on or before 15 March 2024. 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

Textual Amendments

- F21** S. 256(1)(a) repealed (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 24(3)(a)**, 61(2); [S.S.I. 2017/197](#), art. 2, sch.
- F22** Words in s. 256(1)(b) substituted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 24(3)(b)**, 61(2); [S.S.I. 2017/197](#), art. 2, sch.

Commencement Information

- I6** S. 256 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), art. 2, **Sch. 1**
- I7** S. 256 in force at 5.10.2005 in so far as not already in force 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)

Tribunal's powers

257 Named person: Tribunal's powers

^{F23}(1)

(2) Where—

- (a) an application is made under section 255(6) or (7)(b)(ii) or 256(1)(b) of this Act; and
- (b) the Tribunal is satisfied that it is inappropriate for the named person (“the acting named person”) to be the patient’s named person,

the Tribunal may, subject to subsection (4) below, make an order [^{F24}as allowed by subsection (3A)].

(3) Where an application is made under section 256(1)(c) of this Act, the Tribunal may, subject to subsection (4) [^{F25}or (5)] below, make such order as it thinks fit.

[^{F26}(3A) For the purpose of subsection (2), this subsection allows an order—

- (a) in any case, to declare that the acting named person is not the named person,
- (b) if the patient has not attained the age of 16 years, to appoint the person specified in the order to be the patient's named person in place of the acting named person.]

(4) It shall not be competent for the Tribunal to make an order under this section appointing a person who has not attained the age of 16 years to be a patient’s named person.

[^{F27}(5) An order under this section appointing a person to be a patient's named person may be made only if—

- (a) a document, signed by the person, states that the person has consented to being the patient's named person, and
- (b) the person's signature is witnessed by someone.

(6) A person appointed by an order under this section to be a patient's named person ceases to be the patient's named person by giving notice to that effect to—

- (a) the Tribunal,
- (b) the patient, and
- (c) the local authority for the area in which the patient resides.]

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Chapter 1 is up to date with all changes known to be in force on or before 15 March 2024. 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*

Textual Amendments

- F23** S. 257(1) repealed (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 24(4)(a)**, 61(2); S.S.I. 2017/197, art. 2, sch.
- F24** Words in s. 257(2) substituted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 24(4)(b)**, 61(2); S.S.I. 2017/197, art. 2, sch.
- F25** Words in s. 257(3) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 23(3)(a)**, 61(2); S.S.I. 2017/197, art. 2, sch. (with art. 16(b))
- F26** S. 257(3A) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 24(4)(c)**, 61(2); S.S.I. 2017/197, art. 2, sch.
- F27** S. 257(5)(6) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 23(3)(b)**, 61(2); S.S.I. 2017/197, art. 2, sch. (with art. 16(b))

Commencement Information

- I8** S. 257 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)

f^{F28} Ability to act if no named person

Textual Amendments

- F28** S. 257A and cross-heading inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 25(2)**, 61(2); S.S.I. 2017/197, art. 2, sch.

257A Ability to act if no named person

- (1) This section applies if—
 - (a) a patient does not have a named person,
 - (b) the patient has attained the age of 16 years, and
 - (c) the patient is incapable in relation to a decision as to whether to initiate an application or appeal in the patient's case.
- (2) In subsection (1)(c) above, “incapable” has the same meaning as in section 250 of this Act.
- (3) Each of the persons listed in subsection (9)(a) to (d) below has authority to initiate an application or appeal that may be made by the patient under section 50(1), 99(1), 100(2), 120(2), 125(2), 126(2), 163(1), 164(2), [^{F29}164A,] 192(2), 201(1), 204(1), 214(2), 219(2), 220(2), 264(2), 268(2), 320(2), 321(1) or 322(2) of this Act.
- (4) Each of the persons listed in subsection (9)(a) and (b) below has authority to obtain any notice or information that is to be provided under section 54(3), 60(1), 87(2)(c), 124(4) or (6), 127(7), 128(3), 129(3) or (4), 153(2)(c), 200(3), 218(4), (6) or (10)(b), 224(8), 225(3) or 226(3) of this Act.
- (5) The reference in subsection (3) above to section 264(2), 268(2), 320(2), 321(1) or 322(2) of this Act does not apply in relation to a guardian or a welfare attorney of the patient (as that person is already entitled to make an application or appeal under that section).
- (6) In the application of subsection (4) above—

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Chapter 1 is up to date with all changes known to be in force on or before 15 March 2024. 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

- (a) the reference to section 87(2)(c) or 153(2)(c) relates only to notice of the determination mentioned in that section (and not also to a copy of the record mentioned in that section),
 - (b) the reference to section 128(3) or 129(4) relates to a responsible medical officer's reasons only if that officer is satisfied that it is appropriate to give notice of them to a guardian or a welfare attorney of the patient (having regard to the need to ensure the patient's wellbeing and confidentiality).
- (7) Neither of the persons listed in subsection (9)(c) or (d) below has authority to act in relation to a patient by virtue of this section if the patient has made a written declaration precluding the person (or all persons) from so acting.
- (8) Subsections (2) to (5) and (7) of section 250 of this Act apply to a declaration mentioned in subsection (7) above as they apply to a nomination to which subsection (1) of that section relates (with that section to be read accordingly).
- (9) The listed persons are—
- (a) any guardian of the patient,
 - (b) any welfare attorney of the patient,
 - (c) the patient's primary carer (if any),
 - (d) the patient's nearest relative.]

Textual Amendments

F29 Word in s. 257A(3) inserted (30.11.2020) by [Management of Offenders \(Scotland\) Act 2019 \(asp 14\)](#), [ss. 26\(6\)](#), 63(2); S.S.I. 2020/245, [reg. 2](#), [sch.](#) (with [reg. 3](#))

Modifications etc. (not altering text)

- C3** S. 257A(5) excluded by [S.S.I. 2005/467](#) regs. 14(4), 15(3) (as inserted (30.6.2017) by [The Mental Health \(Cross-border transfer patients subject to detention requirement or otherwise in hospital\) \(Scotland\) Amendment Regulations 2017 \(S.S.I. 2017/229\)](#), [regs. 2](#), 18(4), 19(3) (with [reg. 4\(1\)\)](#))
- C4** S. 257A(5) excluded by [S.S.I. 2008/356](#), [reg. 9\(4\)](#) (as inserted (30.6.2017) by [The Mental Health \(Cross-border transfer: patients subject to requirements other than detention\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/232\)](#), [regs. 1](#). 9(1))

Interpretation of Chapter

258 Interpretation of Chapter

In this Chapter, other than section 252, “person” means a natural person.

Commencement Information

I9 S. 258 in force at 1.9.2004 by [S.S.I. 2004/367](#), [art. 2](#), [Sch. 1](#)

Changes to legislation:

Mental Health (Care and Treatment) (Scotland) Act 2003, Chapter 1 is up to date with all changes known to be in force on or before 15 March 2024. 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.

[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\(3\)](#)