



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

2003 asp 13

PART 7

COMPULSORY TREATMENT ORDERS

CHAPTER 1

APPLICATION FOR, AND MAKING OF, ORDERS

Making of order etc.

64 Powers of Tribunal on application under section 63: compulsory treatment order

- (1) This section applies where an application is made under section 63 of this Act.
- (2) Before determining the application, the Tribunal shall afford the persons mentioned in subsection (3) below the opportunity—
 - (a) of making representations (whether orally or in writing); and
 - (b) of leading, or producing, evidence.
- (3) Those persons are—
 - (a) the patient;
 - (b) the patient's named person;
 - (c) any guardian of the patient;
 - (d) any welfare attorney of the patient;
 - (e) the mental health officer;
 - (f) the medical practitioners who submitted the mental health reports which accompany the application;
 - (g) if the patient has a responsible medical officer, that officer;
 - (h) the patient's primary carer;
 - (i) any curator *ad litem* appointed in respect of the patient by the Tribunal; and

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- (j) any other person appearing to the Tribunal to have an interest in the application.
- (4) The Tribunal may—
- (a) if satisfied that all of the conditions mentioned in subsection (5) below are met, make an order—
 - (i) authorising, for the period of 6 months beginning with the day on which the order is made, such of the measures mentioned in section 66(1) of this Act as may be specified in the order;
 - (ii) specifying such medical treatment, community care services, relevant services, other treatment, care or service as the Tribunal considers appropriate (any such medical treatment, community care services, relevant services, other treatment, care or service so specified being referred to in this Act as a “recorded matter”);
 - (iii) recording (by reference to the appropriate paragraph (or paragraphs) of the definition of “mental disorder” in section 328(1) of this Act) the type (or types) of mental disorder that the patient has; and
 - (iv) if the order does not authorise the detention of the patient in hospital, specifying the name of the hospital the managers of which are to have responsibility for appointing the patient’s responsible medical officer; or
 - (b) refuse the application.
- (5) The conditions referred to in subsection (4)(a) above are—
- (a) that the patient has a mental disorder;
 - (b) that medical treatment which would be likely to—
 - (i) prevent the mental disorder worsening; or
 - (ii) alleviate any of the symptoms, or effects, of the disorder,
 is available for the patient;
 - (c) that if the patient were not provided with such medical treatment there would be a significant risk—
 - (i) to the health, safety or welfare of the patient; or
 - (ii) to the safety of any other person;
 - (d) that because of the mental disorder the patient’s ability to make decisions about the provision of such medical treatment is significantly impaired;
 - (e) that the making of a compulsory treatment order in respect of the patient is necessary; and
 - (f) where the Tribunal does not consider it necessary for the patient to be detained in hospital, such other conditions as may be specified in regulations.
- (6) Subject to subsection (7) below, an order under subsection (4)(a) above may, in addition to, or instead of, specifying some or all of the measures sought in the application to which the order relates, specify measures other than those set out in that application.
- (7) The Tribunal may specify in the order under subsection (4)(a) above measures other than those set out in the application only if, before making the order—
- (a) subject to subsection (8) below, the Tribunal gives notice to the persons mentioned in subsection (3) above—
 - (i) stating what it is proposing to do; and
 - (ii) setting out what those measures are;

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- (b) the Tribunal affords those persons the opportunity—
 - (i) of making representations (whether orally or in writing) in relation to the proposal; and
 - (ii) of leading, or producing, evidence.
- (8) Where the duty under subsection (7)(a) above arises during a hearing of the application, notice need not be given under that subsection to any person mentioned in subsection (3) above who is present at the hearing.
- (9) Before making regulations under subsection (5)(f) above, the Scottish Ministers shall consult such persons as they consider appropriate.

Commencement Information

- I1** S. 64 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161, art. 2, Sch. 1](#)
- I2** [S. 64](#) 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](#))

65 Powers of Tribunal on application under section 63: interim compulsory treatment order

- (1) This section applies where an application is made under section 63 of this Act.
- (2) Subject to subsections (3) and (4) below and to section 69 of this Act, on the application of any person having an interest in the proceedings, or *ex proprio motu*, the Tribunal may, if satisfied as to the matters mentioned in subsection (6) below, make an order (an “interim compulsory treatment order”)—
 - (a) authorising for such period not exceeding 28 days as may be specified in the order such of the measures mentioned in section 66(1) of this Act as may be so specified; and
 - (b) if the order does not authorise the detention of the patient in hospital, specifying the name of the hospital the managers of which are to have responsibility for appointing the patient’s responsible medical officer.
- (3) The Tribunal may not make an interim compulsory treatment order if its effect, when taken with any other interim compulsory treatment order made in respect of the patient, would be to authorise measures in respect of the patient for a continuous period of more than 56 days.
- (4) Before making an interim compulsory treatment order, the Tribunal shall afford the persons mentioned in subsection (5) below the opportunity—
 - (a) of making representations (whether orally or in writing); and
 - (b) of leading, or producing, evidence.
- (5) Those persons are—
 - (a) the persons referred to in section 64(3)(a) to (e) and (g) to (i) of this Act;
 - (b) the medical practitioners who submitted the mental health reports which accompany the application under section 63 of this Act; and
 - (c) any other person appearing to the Tribunal to have an interest in that application.
- (6) The matters referred to in subsection (2) above are—

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- (a) that the conditions mentioned in paragraphs (a) to (d) of section 64(5) of this Act are met in respect of the patient; and
- (b) that it is necessary to make an interim compulsory treatment order.

Commencement Information

I3 S. 65 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)

66 Measures that may be authorised

- (1) Subject to subsection (2) below, the measures referred to in sections 64(4)(a)(i) and 65(2)(a) of this Act are—
- (a) the detention of the patient in the specified hospital;
 - (b) the giving to the patient, in accordance with Part 16 of this Act, of medical treatment;
 - (c) the imposition of a requirement on the patient to attend—
 - (i) on specified or directed dates; or
 - (ii) at specified or directed intervals,
 specified or directed places with a view to receiving medical treatment;
 - (d) the imposition of a requirement on the patient to attend—
 - (i) on specified or directed dates; or
 - (ii) at specified or directed intervals,
 specified or directed places with a view to receiving community care services, relevant services or any treatment, care or service;
 - (e) the imposition of a requirement on the patient to reside at a specified place;
 - (f) the imposition of a requirement on the patient to allow—
 - (i) the mental health officer;
 - (ii) the patient’s responsible medical officer; or
 - (iii) any person responsible for providing medical treatment, community care services, relevant services or any treatment, care or service to the patient who is authorised for the purposes of this paragraph by the patient’s responsible medical officer,
 to visit the patient in the place where the patient resides;
 - (g) the imposition of a requirement on the patient to obtain the approval of the mental health officer to any proposed change of address; and
 - (h) the imposition of a requirement on the patient to inform the mental health officer of any change of address before the change takes effect.
- (2) Regulations may make provision for measures prescribed by the regulations to be treated as included among the measures mentioned in subsection (1) above.
- (3) In this section—
- “directed” means in accordance with directions given by the patient’s responsible medical officer; and
 - “specified” means specified in the compulsory treatment order or, as the case may be, the interim compulsory treatment order.

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Commencement Information

- I4** S. 66 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161, art. 2, Sch. 1](#)
- I5** [S. 66](#) 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](#))

67 Order authorising detention: ancillary authorisation

- (1) Where a compulsory treatment order or an interim compulsory treatment order—
- (a) authorises the detention of a patient in a hospital specified in the order; or
 - (b) imposes a requirement on a patient to reside at a place specified in the order,
- this section authorises the removal, before the expiry of the period of 7 days beginning with the appropriate day, of the patient in respect of whom the order is made to that hospital or, as the case may be, place.
- (2) In subsection (1) above, “appropriate day” means the day on which—
- (a) a compulsory treatment order or, as the case may be, an interim compulsory treatment order authorising detention of a patient in hospital is made; or
 - (b) a compulsory treatment order is varied so as to authorise the detention of a patient in the hospital specified in the order.

Commencement Information

- I6** [S. 67](#) 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\(3\)](#)