



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

2003 asp 13

PART 17

PATIENT REPRESENTATION ETC.

CHAPTER 3

DETENTION IN CONDITIONS OF EXCESSIVE SECURITY

[^{F1}Process for orders: further provision

Textual Amendments

- F1** S. 271A and cross-heading inserted (16.11.2015) by [Mental Health \(Scotland\) Act 2015 \(asp 9\), ss. 16\(5\), 61\(2\); S.S.I. 2015/361, art. 2](#)

271A Regulation-making powers

- (1) A hospital is a “qualifying hospital” for the purposes of sections 268 to 271 of this Act if—
 - (a) it is not a state hospital, and
 - (b) it is specified, or is of a description specified, in regulations.
- (2) Regulations may specify the test for the purposes of sections 268(2), 269(3) and 271(2) (a) of this Act.
- (3) Regulations under subsection (2) above specifying the test—
 - (a) must include as a requirement for the test to be met in relation to a patient that the Tribunal be satisfied that detention of the patient in the hospital in which the patient is being detained involves the patient being subject to a level of security that is excessive in the patient's case, and
 - (b) may include further requirements for the test to be met in relation to a patient.

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Process for orders: further provision is up to date with all changes known to be in force on or before 26 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*

- (4) Regulations may make provision about when, for the purposes of—
- (a) any regulations made under subsection (2) above, and
 - (b) sections 268 to 271 of this Act,
- a patient's detention in a hospital is to be taken to involve the patient being subject to a level of security that is excessive in the patient's case.
- (5) Regulations may modify sections 264 and 268 of this Act so as to provide that a person must meet criteria besides being a medical practitioner in order to prepare a report for the purpose of subsection (7A) in each of those sections.]

Changes to legislation:

Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Process for orders: further provision is up to date with all changes known to be in force on or before 26 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\(3\)](#)