



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

2003 asp 13

PART 10

COMPULSION ORDERS AND RESTRICTION ORDERS

CHAPTER 2

REVIEW OF ORDERS

Consequences of annual review

183 Responsible medical officer's report and recommendation following review of compulsion order and restriction order

- (1) This section applies where a patient's responsible medical officer carries out a review under section 182(2) of this Act.
- (2) The responsible medical officer shall, as soon as practicable after carrying out that review, submit a report in accordance with subsection (3) below to the Scottish Ministers.
- (3) That report shall record the responsible medical officer's views as to—
 - (a) whether the conditions mentioned in section 182(4) of this Act continue to apply in respect of the patient;
 - (b) whether, as a result of the patient's mental disorder, it is necessary, in order to protect any other person from serious harm, for the patient to be detained in hospital, whether or not for medical treatment;
 - (c) whether it continues to be necessary for the patient to be subject to the compulsion order; and
 - (d) whether it continues to be necessary for the patient to be subject to the restriction order.

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Consequences of annual review 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*

- (4) If, after having regard to any views expressed by the mental health officer, the responsible medical officer is not satisfied that the patient has a mental disorder, the responsible medical officer shall include in the report submitted to the Scottish Ministers under subsection (2) above a recommendation that the compulsion order be revoked.
- (5) If, after having regard to any views expressed by the mental health officer, the responsible medical officer—
- (a) is satisfied that the patient has a mental disorder; but
 - (b) is not satisfied—
 - (i) that, as a result of the patient’s mental disorder, it is necessary, in order to protect any other person from serious harm, for the patient to be detained in hospital, whether or not for medical treatment; and
 - [^{F1}(ii) either—
 - (A) that the conditions mentioned in paragraphs (b) and (c) of section 182(4) of this Act continue to apply in respect of the patient; or
 - (B) that it continues to be necessary for the patient to be subject to the compulsion order,]
- the responsible medical officer shall include in the report submitted under subsection (2) above a recommendation that the compulsion order be revoked.
- (6) If, after having regard to any views expressed by the mental health officer, the responsible medical officer—
- (a) is satisfied—
 - (i) that the conditions mentioned in section 182(4) of this Act continue to apply in respect of the patient; and
 - (ii) that it continues to be necessary for the patient to be subject to the compulsion order; but
 - (b) is not satisfied—
 - (i) that, as a result of the patient’s mental disorder, it is necessary, in order to protect any other person from serious harm, for the patient to be detained in hospital, whether or not for medical treatment; and
 - (ii) that it continues to be necessary for the patient to be subject to the restriction order,
- the responsible medical officer shall include in the report submitted to the Scottish Ministers under subsection (2) above a recommendation that the restriction order be revoked.
- (7) If, after having regard to any views expressed by the mental health officer, the responsible medical officer—
- (a) is satisfied—
 - (i) that the conditions mentioned in section 182(4) of this Act continue to apply in respect of the patient; and
 - (ii) that it continues to be necessary for the patient to be subject to the compulsion order and the restriction order; but
 - (b) is not satisfied that, as a result of the patient’s mental disorder, it is necessary, in order to protect any other person from serious harm, for the patient to be detained in hospital, whether or not for medical treatment,

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the responsible medical officer may include in the report submitted to the Scottish Ministers under subsection (2) above a recommendation that the patient be conditionally discharged.

(8) Where the responsible medical officer—

- (a) submits a report under subsection (2) above that includes a recommendation under subsection (6) above; and
- (b) is satisfied that the compulsion order should be varied by modifying the measures specified in it,

the responsible medical officer shall include in the report a recommendation that the compulsion order be varied in that way.

Textual Amendments

- F1** S. 183(5)(b)(ii) substituted (22.3.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), ss. [69\(1\)](#), [79\(2\)](#)

Modifications etc. (not altering text)

- C1** S. 183 modified (5.10.2005) by [Mental Health \(Cross-border transfer; patients subject to detention requirement or otherwise in hospital\) \(Scotland\) Regulations 2005 \(S.S.I. 2005/467\)](#), regs. [1\(1\)](#), [39](#) (with [reg. 2](#))

Commencement Information

- I1** S. 183 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\(3\)](#)