

Status: Point in time view as at 03/05/2004. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Reference to Tribunal by Scottish Ministers is up to date with all changes known to be in force on or before 03 June 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)



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

2003 asp 13

PART 10

COMPULSION ORDERS AND RESTRICTION ORDERS

CHAPTER 2

REVIEW OF ORDERS

VALID FROM 05/10/2005

Reference to Tribunal by Scottish Ministers

185 Duty of Scottish Ministers on receiving report from responsible medical officer

- (1) Where a patient's responsible medical officer submits to the Scottish Ministers—
 - (a) a report under section 183(2) of this Act that includes a recommendation; or
 - (b) a report under section 184 of this Act,the Scottish Ministers shall make a reference to the Tribunal in respect of the compulsion order and restriction order to which the patient is subject.
- (2) Where a reference is made under subsection (1) above, the Scottish Ministers shall, as soon as practicable, give notice that a reference is to be made to—
 - (a) the patient;
 - (b) the patient's named person;
 - (c) any guardian of the patient;
 - (d) any welfare attorney of the patient;
 - (e) the patient's responsible medical officer;
 - (f) the mental health officer; and

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(g) the Commission.

- (3) A reference under subsection (1) above shall state—
- (a) the name and address of the patient;
 - (b) the name and address of the patient’s named person; and
 - (c) the recommendation included in the report submitted by the responsible medical officer.

186 Commission’s power to require Scottish Ministers to make reference to Tribunal

- (1) This section applies where a patient is subject to a compulsion order and a restriction order.
- (2) If it appears to the Commission that it is appropriate to do so, it may, by notice in writing to the Scottish Ministers, require them to make a reference to the Tribunal in respect of the compulsion order and the restriction order to which the patient is subject.
- (3) Where, under subsection (2), the Commission gives notice to the Scottish Ministers, the Commission shall include in that notice its reasons for requiring the Scottish Ministers to make the reference.

187 Notice under section 186(2): reference to Tribunal

- (1) This section applies where, under section 186(2) of this Act, the Commission gives notice to the Scottish Ministers.
- (2) The Scottish Ministers shall, as soon as practicable after receiving notice under section 186(2) of this Act, make a reference to the Tribunal in respect of the compulsion order and restriction order to which the patient is subject.
- (3) Where a reference is made under subsection (2) above, the Scottish Ministers shall, as soon as practicable, give notice that the reference is to be or, as the case may be, has been made to the persons mentioned in paragraphs (a) to (g) of section 185(2) of this Act.
- (4) A reference under subsection (2) above shall state—
 - (a) the name and address of the patient;
 - (b) the name and address of the patient’s named person; and
 - (c) the reason given by the Commission in the notice under section 186(2) of this Act for requiring the Scottish Ministers to make the reference.

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