



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

## 2003 asp 13

### PART 13 **S**

#### PARTS 8, 10 AND 11: SUSPENSION

##### *Assessment orders*

#### **221 Assessment order: suspension of measure authorising detention **S****

- (1) This section applies where a patient is subject to an assessment order.
- (2) Subject to subsection (3) below, where the patient's responsible medical officer grants a certificate specifying a period during which the assessment order to which the patient is subject shall not authorise the detention of the patient in hospital, the order does not authorise that detention during that period.
  - [<sup>F1</sup>(2A) A certificate under subsection (2) above may specify—
    - (a) a single period, or
    - (b) a series of more than one individual period.]
  - (3) The patient's responsible medical officer may grant a certificate under subsection (2) above only with the consent of the Scottish Ministers.
  - [<sup>F2</sup>(3A) Subsection (3) above does not require the consent of the Scottish Ministers if the granting of the certificate is for the purpose of enabling the patient to—
    - (a) attend a hearing in criminal proceedings against the patient, or
    - (b) meet a medical or dental appointment made for the patient.]
  - [<sup>F3</sup>(4) .....
  - [<sup>F4</sup>(4A) The purpose for which a certificate under subsection (2) above is granted must be recorded in the certificate.]
- (5) If the responsible medical officer considers that it is necessary—
  - (a) in the interests of the patient; or

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(b) for the protection of any other person, a certificate under subsection (2) above may include conditions such as are mentioned in subsection (6) below; and any such conditions shall have effect.

(6) Those conditions are—

- (a) that, during the period specified in the certificate, the patient be kept in the charge of a person authorised in writing for the purpose by the patient's responsible medical officer; and
- (b) such other conditions as may be specified by the patient's responsible medical officer.

#### Textual Amendments

- F1** S. 221(2A) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 9(3)(a)**, 61(2); S.S.I. 2017/197, art. 2, sch.
- F2** S. 221(3A) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 9(3)(b)**, 61(2); S.S.I. 2017/197, art. 2, sch.
- F3** S. 221(4) repealed (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 9(3)(c)**, 61(2); S.S.I. 2017/197, art. 2, sch.
- F4** S. 221(4A) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 9(3)(d)**, 61(2); S.S.I. 2017/197, art. 2, sch.

#### Commencement Information

- I1** S. 221 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)

## 222 Certificate under section 221: revocation by responsible medical officer S

- (1) Subsection (2) below applies where a certificate is granted under section 221(2) of this Act.
- (2) If the patient's responsible medical officer is satisfied that it is necessary—
  - (a) in the interests of the patient; or
  - (b) for the protection of any other person,
 that the certificate be revoked, the responsible medical officer may revoke the certificate.
- (3) Where, under subsection (2) above, the responsible medical officer revokes a certificate, the responsible medical officer shall, as soon as practicable after the revocation, give notice of it to—
  - (a) the patient;
  - (b) where a person is authorised for the purposes of section 221(6)(a) of this Act, that person; and
  - (c) the Scottish Ministers.

#### Commencement Information

- I2** S. 222 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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## 223 Certificate under section 221: revocation by Scottish Ministers **S**

- (1) Subsection (2) below applies where a certificate is granted under section 221(2) of this Act.
- (2) If the Scottish Ministers are satisfied that it is necessary—
  - (a) in the interests of the patient; or
  - (b) for the protection of any other person,that the certificate be revoked, the Scottish Ministers may revoke the certificate.
- (3) Where, under subsection (2) above, the Scottish Ministers revoke a certificate, they shall, as soon as practicable after the revocation, give notice of it to—
  - (a) the patient;
  - (b) the patient’s responsible medical officer; and
  - (c) where a person is authorised for the purposes of section 221(6)(a) of this Act, that person.

### Commencement Information

- I3** S. 223 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)

### *Certain other orders and directions*

## 224 Patients subject to certain other orders and directions: suspension of measure authorising detention **S**

- (1) This section applies where a patient is subject to—
  - (a) a treatment order;
  - (b) an interim compulsion order;
  - [<sup>F5</sup>(ba) a temporary compulsion order;]
  - (c) a compulsion order and a restriction order;
  - (d) a hospital direction; or
  - (e) a transfer for treatment direction.
- (2) Subject to subsections (3) and (4) below, where the patient’s responsible medical officer grants a certificate specifying a period <sup>F6</sup>... during which the order or direction to which the patient is subject shall not authorise the detention of the patient in hospital, the order or direction does not authorise that detention during that period.
  - [<sup>F7</sup>(2A) A certificate under subsection (2) above may specify—
    - (a) a single period not exceeding 90 days, or
    - (b) a series of more than one individual period falling within a particular 3 month period.]
  - (3) The patient’s responsible medical officer may grant a certificate under subsection (2) above only with the consent of the Scottish Ministers.
  - [<sup>F8</sup>(3A) In the case of a treatment order, an interim compulsion order or a temporary compulsion order, subsection (3) above does not require the consent of the Scottish Ministers if the granting of the certificate is for the purpose of enabling the patient to—

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- (a) attend a hearing in criminal proceedings against the patient, or
- (b) meet a medical or dental appointment made for the patient.]

[<sup>F9</sup>(4) The total period that an order or direction does not, by reason of certification under subsection (2) above, authorise the detention of a patient in hospital must not exceed 200 days within any period of 12 months (whenever counted from).]

[<sup>F10</sup>(4A) For the purpose of subsection (4) above—

- (a) a day does not count towards the total period if the detention is (by reason of such certification) not authorised for a period of 8 hours or less in that day,
- (b) a single period (specified in such certification) of more than 8 hours and less than 24 hours, whether in one day or spanning two days, is to count as a whole day towards the total period.”. Specification of hospital units]

[<sup>F11</sup>(5) .....

[<sup>F12</sup>(5A) The purpose for which a certificate under subsection (2) above is granted must be recorded in the certificate.]

- (6) If the responsible medical officer considers that it is necessary—
  - (a) in the interests of the patient; or
  - (b) for the protection of any other person,

a certificate under subsection (2) above may include conditions such as are mentioned in subsection (7) below; and any such conditions shall have effect.

[<sup>F13</sup>(6A) Before deciding what conditions such as are mentioned in subsection (7) below to include in a certificate under subsection (2) above (if any), the responsible medical officer must have regard to any victim's representations.]

(7) Those conditions are—

- (a) that, during the period specified in the certificate, the patient be kept in the charge of a person authorised in writing for the purpose by the patient's responsible medical officer; and
- (b) such other conditions as may be specified by the patient's responsible medical officer.

(8) Where a patient's responsible medical officer proposes to grant a certificate under subsection (2) above specifying—

- (a) a period of more than 28 days; or
- (b) a period which, when taken together with the period specified in any other certificate granted under that subsection, would exceed 28 days,

the responsible medical officer shall, before granting such a certificate, give notice of the proposal to the persons mentioned in subsection (9) below.

(9) Those persons are—

- (a) the patient;
- (b) the patient's named person;
- (c) the patient's general medical practitioner; and
- (d) the mental health officer.

(10) Where a certificate is granted under subsection (2) above specifying a period of more than 28 days, the patient's responsible medical officer shall, before the expiry of the

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period of 14 days beginning with the day on which the certificate is granted, give notice of the granting of the certificate to the Commission.

#### Textual Amendments

- F5** S. 224(1)(ba) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 9(4)(a)**, 61(2); [S.S.I. 2017/197](#), [art. 2](#), [sch.](#)
- F6** Words in s. 224(2) repealed (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 9(4)(b)**, 61(2); [S.S.I. 2017/197](#), [art. 2](#), [sch.](#)
- F7** S. 224(2A) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 9(4)(c)**, 61(2); [S.S.I. 2017/197](#), [art. 2](#), [sch.](#)
- F8** S. 224(3A) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 9(4)(d)**, 61(2); [S.S.I. 2017/197](#), [art. 2](#), [sch.](#)
- F9** S. 224(4) substituted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 10(4)(a)**, 61(2); [S.S.I. 2017/197](#), [art. 2](#), [sch.](#) (with [art. 9\(c\)](#))
- F10** S. 224(4A) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 10(4)(b)**, 61(2); [S.S.I. 2017/197](#), [art. 2](#), [sch.](#) (with [art. 9\(c\)](#))
- F11** S. 224(5) repealed (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 9(4)(e)**, 61(2); [S.S.I. 2017/197](#), [art. 2](#), [sch.](#)
- F12** S. 224(5A) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 9(4)(f)**, 61(2); [S.S.I. 2017/197](#), [art. 2](#), [sch.](#)
- F13** S. 224(6A) inserted (30.9.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 60(4)**, 61(2); [S.S.I. 2017/234](#), [art. 2\(2\)\(c\)](#)

#### Modifications etc. (not altering text)

- C1** S. 224(4) excluded (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Transitional and Savings Provisions\) Order 2005 \(S.S.I. 2005/452\)](#), [arts. 1](#), **21(1)**, 26(1)

#### Commencement Information

- I4** S. 224 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](#))

## 225 Certificate under section 224: revocation by responsible medical officer **S**

- (1) Subsection (2) below applies where a certificate is granted under 224(2) of this Act.
- (2) If the patient's responsible medical officer is satisfied that it is necessary—
- in the interests of the patient; or
  - for the protection of any other person,
- that the certificate be revoked, the responsible medical officer may revoke the certificate.
- (3) Where, under subsection (2) above, the responsible medical officer revokes a certificate, the responsible medical officer shall, as soon as practicable after the revocation, give notice of it to—
- the patient;
  - the patient's named person;
  - in a case where the certificate specified a period of more than 28 days, the patient's general medical practitioner;
  - where a person is authorised for the purposes of section 224(7)(a) of this Act, that person;

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- (e) the mental health officer; and
  - (f) the Scottish Ministers.
- (4) Where, under subsection (2) above, the responsible medical officer revokes a certificate granted under section 224(2) of this Act that specified a period of more than 28 days, the responsible medical officer shall, before the expiry of the period of 14 days beginning with the day on which the certificate is revoked, give notice of the revocation to the Commission.

**Commencement Information**

**I5** S. 225 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)

**226 Certificate under section 224: revocation by Scottish Ministers** S

- (1) Subsection (2) below applies where a certificate is granted under section 224(2) of this Act.
- (2) If the Scottish Ministers are satisfied that it is necessary—
- (a) in the interests of the patient; or
  - (b) for the protection of any other person,
- that the certificate be revoked, the Scottish Ministers may revoke the certificate.
- (3) Where, under subsection (2) above, the Scottish Ministers revoke a certificate, they shall, as soon as practicable after the revocation, give notice of it to—
- (a) the patient;
  - (b) the patient's named person;
  - (c) in a case where the certificate specified a period of more than 28 days, the patient's general medical practitioner;
  - (d) the patient's responsible medical officer;
  - (e) the mental health officer; and
  - (f) where a person is authorised for the purposes of section 224(7)(a) of this Act, that person.
- (4) Where, under subsection (2) above, the Scottish Ministers revoke a certificate granted under section 224(2) of this Act that specified a period of more than 28 days, they shall, before the expiry of the period of 14 days beginning with the day on which the certificate is revoked, give notice of the revocation to the Commission.

**Commencement Information**

**I6** S. 226 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)

**Changes to legislation:**

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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\(3\)](#)