



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

2003 asp 13

PART 17

PATIENT REPRESENTATION ETC.

CHAPTER 1

NAMED PERSON

Mental health officer's duties etc.

255 Named person: mental health officer's duties etc.

- (1) Subsection (2) below applies where—
- (a) a mental health officer is discharging any function by virtue of this Act or the 1995 Act in relation to a patient; and
 - (b) it is necessary for the purposes of the discharge of the function to establish whether the patient has a named person.

- (2) The mental health officer shall take such steps as are reasonably practicable—
- (a) to establish whether the patient has a named person; and
 - (b) if so, to ascertain who that person is.

^{F1}(3)

^{F1}(4)

^{F1}(5)

- (6) Where by virtue of subsection (2) above—
- (a) the mental health officer—
 - (i) establishes that the patient has a named person; and
 - (ii) ascertains the name of that person (“the apparent named person”); but

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Mental health officer's duties etc. is up to date with all changes known to be in force on or before 13 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*

(b) the mental health officer considers that it is inappropriate for the apparent named person to be the patient's named person,
the mental health officer shall apply to the Tribunal for an order under section 257 of this Act.

(7) Where—

(a) a mental health officer is discharging any function by virtue of this Act in relation to a patient; and

(b) it appears to the mental health officer—

^{F2}(i)

(ii) that the patient has a named person (“the apparent named person”) but the mental health officer considers that it is inappropriate for the apparent named person to be the patient's named person,

the mental health officer may apply to the Tribunal for an order under section 257 of this Act.

Textual Amendments

F1 S. 255(3)-(5) repealed (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 24(2)(a)**, 61(2); S.S.I. 2017/197, art. 2, sch.

F2 S. 255(7)(b)(i) repealed (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 24(2)(b)**, 61(2); S.S.I. 2017/197, art. 2, sch.

Commencement Information

I1 S. 255 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:

Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Mental health officer's duties etc. is up to date with all changes known to be in force on or before 13 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\(3\)](#)