



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

## 2003 asp 13

### PART 17

#### PATIENT REPRESENTATION ETC.

### CHAPTER 2

#### ADVOCACY ETC.

##### *Access to medical practitioner*

#### **262 Access to medical practitioner for purposes of medical examination**

- (1) This section applies where a patient is detained in hospital by virtue of—
  - (a) this Act; or
  - (b) the 1995 Act.
- (2) A duly authorised medical practitioner may, for any of the purposes mentioned in subsection (3) below, visit the patient at any reasonable hour and carry out a medical examination of the patient in private.
- (3) Those purposes are—
  - (a) advising the patient or, as the case may be, the patient's named person about the making of applications to the Tribunal in respect of the patient under this Act; and
  - (b) providing to the patient or, as the case may be, the patient's named person information as respects the condition of the patient for the purpose of—
    - (i) any such application (or proposed application); or
    - (ii) any other proceedings before the Tribunal in respect of the patient in which the patient or, as the case may be, the patient's named person is taking part (or considering whether to take part).

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*Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Access to medical practitioner 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*

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- (4) For the purposes of subsection (2) above and subject to subsection (5) below, a medical practitioner is duly authorised if authorised for the purposes of this section by—
- (a) the patient; or
  - (b) the patient’s named person.
- (5) Authorisation given for the purposes of this section by the patient’s named person may be rescinded by the patient at any time when the patient is not incapable.
- (6) In subsection (5) above, “incapable” has the same meaning as in section 250(7) of this Act.

#### Commencement Information

- II** S. 262 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)

### 263 Inspection of records by medical practitioner

- (1) A duly authorised medical practitioner may, for any of the purposes mentioned in subsection (3) below, require any person holding records relating to—
- (a) the detention of; or
  - (b) medical treatment given at any time to,
- a patient whose detention in hospital is authorised by virtue of this Act or the 1995 Act to produce them for inspection by the medical practitioner.
- (2) A duly authorised medical practitioner may, for any of the purposes mentioned in subsection (3) below, require any person holding records relating to medical treatment given at any time to a patient who is subject to—
- (a) a compulsory treatment order; or
  - (b) a compulsion order,
- that does not authorise the detention of the patient in hospital to produce them for inspection by the medical practitioner.
- (3) Those purposes are—
- (a) advising the patient or, as the case may be, the patient’s named person about the making of applications to the Tribunal in respect of the patient under this Act;
  - (b) providing to the patient or, as the case may be, the patient’s named person information as respects the condition of the patient for the purpose of—
    - (i) any such application (or proposed application); or
    - (ii) any other proceedings before the Tribunal in respect of the patient in which the patient or, as the case may be, the patient’s named person is taking part (or considering whether to take part).
- (4) For the purposes of subsections (1) and (2) above and subject to subsection (5) below, a medical practitioner is duly authorised if authorised for the purposes of this section by—
- (a) the patient; or
  - (b) the patient’s named person.

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**Changes to legislation:** *Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Access to medical practitioner 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*

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- (5) Authorisation given for the purposes of this section by the patient’s named person may be rescinded by the patient at any time when the patient is not incapable.
- (6) In subsection (5) above, “incapable” has the same meaning as in section 250(7) of this Act.

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**Commencement Information**

**I2** [S. 263](#) 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\(3\)](#)