



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

## 2003 asp 13

### PART 17

#### PATIENT REPRESENTATION ETC.

### CHAPTER 2

#### ADVOCACY ETC.

#### *Information*

#### **260 Provision of information to patient**

- (1) This section applies where a patient—
- (a) is detained in hospital by virtue of—
    - (i) this Act; or
    - (ii) the 1995 Act; or
  - (b) though not detained in hospital, is subject to—
    - (i) an emergency detention certificate;
    - (ii) a short-term detention certificate;
    - (iii) a compulsory treatment order;
    - (iv) an interim compulsory treatment order;
    - (v) an assessment order;
    - (vi) a treatment order;
    - (vii) a hospital direction;
    - (viii) a transfer for treatment direction;
    - (ix) an interim compulsion order; or
    - (x) a compulsion order.
- (2) The appropriate person shall—
- (a) take all reasonable steps—

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*Status: This is the original version (as it was originally enacted).*

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- (i) to ensure that the patient understands the relevant matters at each of the times mentioned in subsection (3) below;
  - (ii) to ensure that the patient is supplied with material appropriate to the patient’s needs (and in a form that is appropriate to those needs and permanent) from which the patient may refresh the patient’s understanding of those matters; and
  - (iii) to inform the patient of the availability under section 259 of this Act of independent advocacy services at each of those times; and
- (b) take appropriate steps to ensure that the patient has the opportunity of making use of those services.
- (3) Those times are—
- (a) as soon as practicable after—
    - (i) where the patient is detained in hospital, the beginning of such detention; or
    - (ii) where the patient is not so detained, the making of the order;
  - (b) as soon as practicable after any occasion on which the patient reasonably requests to be informed of those matters; and
  - (c) such other times as may be prescribed by regulations.
- (4) Where material is supplied to the patient under subsection (2)(a)(ii) above, the appropriate person shall, as soon as practicable after such material is supplied, take all reasonable steps to ensure that the patient’s named person is supplied with a copy of such material in a form that is appropriate to the person’s needs.
- (5) In this section—
- “the appropriate person” means—
- (a) where the patient is detained in hospital, the managers of the hospital;
  - (b) where by virtue of a certificate granted under any provision of this Act, the authorisation to detain the patient in a hospital is suspended, the managers of the hospital in which, but for the certificate, the patient would be authorised to be detained;
  - (c) in any other case, the managers of the hospital specified in the order; and
- “the relevant matters” means—
- (a) the provision of this Act or the 1995 Act by virtue of which—
    - (i) the patient is being detained; or
    - (ii) the order has effect;
  - (b) the consequences of the operation of that provision;
  - (c) the powers that the patient’s responsible medical officer and the Tribunal each has in relation to revoking that provision;
  - (d) any right to make an application, or appeal, to the Tribunal that the patient has by virtue of that provision;
  - (e) the powers exercisable by the Tribunal in the event of any such right being exercised;
  - (f) how the patient may exercise any such right;
  - (g) the functions that the Commission has that appear to be relevant to the patient’s case;
  - (h) how the patient may obtain legal assistance as respects any such right.

## **261 Provision of assistance to patient with communication difficulties**

- (1) This section applies where—
- (a) a patient is detained in hospital by virtue of—
    - (i) this Act; or
    - (ii) the 1995 Act; or
  - (b) though not detained in hospital, a patient is subject to—
    - (i) an emergency detention certificate;
    - (ii) a short-term detention certificate;
    - (iii) a compulsory treatment order;
    - (iv) an interim compulsory treatment order;
    - (v) an assessment order;
    - (vi) a treatment order;
    - (vii) a hospital direction;
    - (viii) a transfer for treatment direction;
    - (ix) an interim compulsion order; or
    - (x) a compulsion order,and the patient has difficulty in communicating or generally communicates in a language other than English.
- (2) The appropriate person shall take all reasonable steps to secure that, for the purpose of enabling the patient to communicate during each of the events mentioned in subsection (3) below—
- (a) arrangements appropriate to the patient’s needs are made; or
  - (b) the patient is provided with assistance, or material, appropriate to the patient’s needs.
- (3) Those events are—
- (a) any medical examination of the patient carried out for the purpose of assessing the patient’s mental disorder;
  - (b) any review under this Act or the 1995 Act of the patient’s detention; or
  - (c) any proceedings before the Tribunal relating to the patient.
- (4) As soon as practicable after taking any steps under subsection (2) above, the appropriate person shall make a written record of the steps.
- (5) In this section “the appropriate person” has the meaning given by section 260(5) of this Act.