



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

2003 asp 13

PART 20

ABSCONDING

Absconding by certain other patients

310 Regulations as to absconding by other patients

- (1) Regulations may provide as to—
- (a) the circumstances in which patients—
 - (i) who are subject to any of the orders or directions mentioned in subsection (3) below; and
 - (ii) who abscond or fail to comply with requirements imposed on them by virtue of the orders or directions to which they are subject or otherwise by virtue of this Act or the 1995 Act,are to be liable to be taken into custody by specified persons;
 - (b) the steps which may be taken by those persons upon their taking those patients into custody; and
 - (c) the effect (whether upon the orders or directions to which those patients are subject or otherwise) of such absconding or failure.
- (2) Regulations under subsection (1) above may include provision—
- (a) requiring patients' responsible medical officers to notify—
 - (i) specified courts;
 - (ai) [^{F1}specified prosecutors;]
 - (ii) the Commission;
 - (iii) the Scottish Ministers,of such absconding or failure;
 - (b) authorising the use of reasonable force in the exercise of the powers conferred by virtue of subsection (1) above to take patients into custody and to take the steps referred to in that subsection;

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Absconding by certain other patients is up to date with all changes known to be in force on or before 12 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*

- (c) for—
 - (i) the review of those orders and directions; and
 - (ii) the authorisation of measures additional to or different from those authorised by them,
 in consequence of such absconding or failure;
- (d) corresponding to section 309 of this Act and any regulations which may be made under that section.

(3) The orders referred to in subsection (1) above are—

- (a) assessment orders;
- (b) treatment orders;
- (c) temporary compulsion orders made under section 54(1)(c) of the 1995 Act;
- (d) interim compulsion orders; and
- (e) compulsion orders,

and the directions there referred to are hospital directions and transfer for treatment directions.

[^{F2}(3A) In making provision as described in paragraphs (a) and (b) of subsection (1) above, regulations under that subsection may specify persons who are authorised by patients' responsible medical officers.]

(4) In this section, “specified” means specified in the regulations.

Textual Amendments

- F1** S. 310(2)(a)(ia) inserted (2.12.2004) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 Modification Order 2004 \(S.S.I. 2004/533\)](#), arts. 1, **2(11)**
- F2** S. 310(3A) inserted (5.5.2017 for specified purposes, 30.6.2017 in so far as not already in force) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), ss. **33(4)**, 61(2); S.S.I. 2017/126, art. 2, sch.; S.S.I. 2017/197, art. 2, sch.

Commencement Information

- I1** S. 310 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), art. 2, **Sch. 1**
- I2** S. 310 in force at 5.10.2005 in so far as not already in force 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: Absconding by certain other patients is up to date with all changes known to be in force on or before 12 May 2023.

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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\(3\)](#)