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

2003 asp 13

PART 5

EMERGENCY DETENTION

Revocation of certificate

39 Approved medical practitioner's duty to revoke emergency detention certificate

[[F1]Where a medical examination has been carried out under section 38(2) of this Act and an approved medical practitioner**]** is not satisfied—

(a) that the conditions mentioned in section 36(4)(a) and (b) and (5)(b) of this Act continue to be met in respect of the patient; or

(b) that it continues to be necessary for the detention in hospital of the patient to be authorised by the certificate,

the approved medical practitioner shall revoke the certificate.

Textual Amendments

F1 Words in s. 39 substituted (27.9.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 1, **sch. 1 para. 32(3)**

Commencement Information

I1 S. 39 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)

40 Revocation of emergency detention certificate: notification

(1) Where an approved medical practitioner revokes a certificate under section 39 of this Act, the practitioner shall, as soon as practicable after doing so, inform—

(a) the patient; and

(b) the managers of the hospital in which the patient is detained,

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Revocation of certificate is up to date with all changes known to be in force on or before 02 July 2024. 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*

of the revocation.

(2) The managers of the hospital shall, as soon as practicable after being informed of the revocation, inform **[**[F2]the Commission and**]** the persons mentioned in section 38(4) and (5) of this Act of the revocation.

Textual Amendments

F2 Words in s. 40(2) inserted (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), **ss. 4(4)**, 61(2); S.S.I. 2017/197, art. 2, sch.

Commencement Information

I2 S. 40 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)