



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

2003 asp 13

PART 7

COMPULSORY TREATMENT ORDERS

CHAPTER 4

REVIEW OF ORDERS

Applications by patient etc.

99 Application by patient etc. for revocation of determination extending order

- (1) Where a patient's responsible medical officer makes a determination under section 86 of this Act, subject to subsection (3) below, either of the persons mentioned in subsection (2) below may make an application under this section to the Tribunal for an order under section 103 of this Act revoking the determination.
- (2) Those persons are—
 - (a) the patient;
 - (b) the patient's named person.
- (3) Subsection (1) above does not apply where the Tribunal is required, by virtue of section 101 of this Act, to review the determination.

Commencement Information

- II** S. 99 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:*

Applications by patient etc. 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

100 Application by patient etc. for revocation or variation of order

- (1) This section applies where a patient is subject to a compulsory treatment order.
- (2) Either of the persons mentioned in subsection (3) below may, subject to subsections (4) and (6) below, make an application under this section to the Tribunal for an order under section 103 of this Act—
 - (a) revoking the compulsory treatment order; or
 - (b) varying that order by modifying—
 - (i) the measures; or
 - (ii) any recorded matter, specified in it.
- (3) Those persons are—
 - (a) the patient;
 - (b) the patient’s named person.
- (4) An application under this section may not be made during the period of 3 months beginning with the making of any of the orders mentioned in subsection (5) below.
- (5) Those orders are—
 - (a) the compulsory treatment order;
 - (b) an order in respect of the compulsory treatment order made under section 102 of this Act;
 - (c) an order in respect of the compulsory treatment order made, by virtue of section 92 of this Act, under section 103 of this Act.
- (6) If—
 - (a) an application under this section for revocation of a compulsory treatment order is refused; or
 - (b) an application is made under this section for variation of a compulsory treatment order,

the person who made the application shall not be entitled to make more than one further application under this section in respect of the compulsory treatment order during the period mentioned in subsection (8) below.
- (7) If an application under section 99 of this Act for revocation of a determination under section 86 of this Act is refused, the person who made the application shall not be entitled to make more than one application under this section in respect of the compulsory treatment order which is the subject of the determination during the period mentioned in subsection (8) below.
- (8) The period referred to in subsections (6) and (7) above is—
 - (a) where the application mentioned in subsection (6)(a) or (b) or (7) above is made before the expiry of the period of 6 months beginning with the day on which the compulsory treatment order was made, that period of 6 months; or
 - (b) where that application is made before the expiry of—
 - (i) the period of 6 months beginning with the expiry of the period mentioned in paragraph (a) above, that period of 6 months; or
 - (ii) any subsequent period of 12 months that begins with, or with an anniversary of, the expiry of the period of 6 months mentioned in subparagraph (i) above, that subsequent period of 12 months.

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

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Modifications etc. (not altering text)

- C1** S. 100 modified (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Transitional and Savings Provisions\) Order 2005 \(S.S.I. 2005/452\)](#), arts. 1, **4(1)**
- C2** S. 100 modified (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Transitional and Savings Provisions\) Order 2005 \(S.S.I. 2005/452\)](#), arts. 1, **15(2)**
- C3** S. 100 applied by S.S.I. 2005/467, reg. 33(2) (as inserted (30.6.2017) by [The Mental Health \(Cross-border transfer patients subject to detention requirement or otherwise in hospital\) \(Scotland\) Amendment Regulations 2017 \(S.S.I. 2017/229\)](#), regs. 2, **24(3)**)
- C4** S. 100 applied by S.S.I. 2008/356, reg. 20(2) (as inserted (30.6.2017) by [The Mental Health \(Cross-border transfer patients subject to requirements other than detention\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/232\)](#), regs. 2, **13(3)**)

Commencement Information

- I2** S. 100 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: Applications by patient etc. 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.

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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\(3\)](#)