



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

## 2003 asp 13

### PART 9

#### COMPULSION ORDERS

#### CHAPTER 2

##### REVIEW OF COMPULSION ORDERS

##### *Applications to Tribunal by patient etc.*

#### **163      Application to Tribunal by patient etc. for revocation of determination extending compulsion order**

- (1) Subject to subsection (2) below, where a patient's responsible medical officer makes a determination under section 152 of this Act—
- (a) the patient; or
  - (b) the patient's named person,
- may make an application under this section to the Tribunal for an order under section 167 of this Act revoking the determination.
- (2) Subsection (1) above does not apply where the Tribunal is required, by virtue of section 165 of this Act, to review the determination.

#### **Commencement Information**

- II** S. 163 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 to Tribunal 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*

---

## 164 Application to Tribunal by patient etc. for revocation or variation of compulsion order

- (1) This section applies where a patient is subject to a relevant compulsion order.
- (2) Either of the persons mentioned in subsection (3) below may, subject to subsections (4) to (6) below, make an application under this section to the Tribunal for an order under section 167 of this Act—
  - (a) revoking the compulsion order; or
  - (b) varying that order by modifying the measures specified in it.
- (3) The persons referred to in subsection (2) above are—
  - (a) the patient; and
  - (b) the patient's named person.
- (4) An application under this section may not be made—
  - (a) in respect of a compulsion order that has not been extended;
  - (b) during the period of 3 months beginning with the making of—
    - (i) an order in respect of the compulsion order made under section 166 of this Act; or
    - (ii) an order in respect of the compulsion order made, by virtue of section 149 or 158 of this Act, under section 167 of this Act.
- (5) If—
  - (a) an application under this section for revocation of a compulsion order is refused; or
  - (b) an application is made under this section for variation of a compulsion 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 compulsion order during the period mentioned in subsection (7) below.
- (6) If an application under section 163 of this Act for revocation of a determination under section 152 of this Act is refused, the person who made that application shall not be entitled to make more than one application under this section in respect of the compulsion order which is the subject of the determination during the period mentioned in subsection (7) below.
- (7) The period referred to in subsections (5) and (6) above is—
  - (a) where the application is made during the period of 6 months beginning with the expiry of the initial period, that period of 6 months; or
  - (b) any subsequent period of 12 months that begins with, or with an anniversary of, the expiry of the period of 6 months mentioned in paragraph (a) above.
- (8) In subsection (7)(a) above, “initial period” means the period of 6 months beginning with the day on which the compulsion order is made.

### Modifications etc. (not altering text)

- |           |  |
|-----------|--|
| <b>C1</b> | S. 164 modified (5.10.2005) by <a href="#">Mental Health (Care and Treatment) (Scotland) Act 2003 (Transitional and Savings Provisions) Order 2005 (S.S.I. 2005/452)</a> , arts. 1, <b>17(2)</b> |
| <b>C2</b> | S. 164 modified (5.10.2005) by <a href="#">Mental Health (Care and Treatment) (Scotland) Act 2003 (Transitional and Savings Provisions) Order 2005 (S.S.I. 2005/452)</a> , arts. 1, <b>10(1)</b> |

---

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

---

#### Commencement Information

- I2** S. 164 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)

### [<sup>F1</sup>164A Application to end disclosure period for compulsion order

- (1) This section applies where a patient is subject to a relevant compulsion order.
- (2) Either of the persons mentioned in subsection (3) may make an application under this section to the Tribunal for a determination under section 167A that the disclosure period applicable to the compulsion order is to come to an end.
- (3) The persons referred to in subsection (2) are—
  - (a) the patient, and
  - (b) the patient's named person.
- (4) An application under this section may not be made until the expiry of the period of 12 months beginning with the day on which the order is made (or is deemed under section 198(2) to be made).
- (5) Where an application under this section relating to a compulsion order has already been refused by the Tribunal, a further such application relating to the order may not be made until the expiry of the period of 12 months beginning with the date of such refusal (or, where applicable, the date of the most recent such refusal).
- (6) An application under this section must be accompanied by such documents as may be prescribed by regulations.]

#### Textual Amendments

- F1** S. 164A inserted (30.11.2020) by [Management of Offenders \(Scotland\) Act 2019](#) (asp 14), [ss. 26\(4\), 63\(2\)](#); [S.S.I. 2020/245](#), [reg. 2](#), [sch.](#) (with [reg. 3](#))

**Changes to legislation:**

Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Applications to Tribunal 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.

[View outstanding changes](#)

**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\(3\)](#)