



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

## 2003 asp 13

### PART 9

#### COMPULSION ORDERS

#### CHAPTER 2

##### REVIEW OF COMPULSION ORDERS

##### *Extension of order following first review*

#### **146 First review: responsible medical officer's duty where extension proposed**

- (1) This section applies where a patient's responsible medical officer is carrying out the first review of the relevant compulsion order to which the patient is subject.
- (2) If, having regard to any views expressed by persons consulted under section 139(3)(c) of this Act, it appears to the responsible medical officer—
  - (a) that it will continue to be necessary for the patient to be subject to a compulsion order after the day on which the order will cease (unless extended) to authorise the measures specified in it; and
  - (b) that the compulsion order should not be varied by modifying the measures specified in it,

the responsible medical officer shall give notice to the mental health officer that the responsible medical officer is proposing to make an application under section 149 of this Act for an order under section 167 extending the compulsion order for the period of 6 months beginning with the day on which the compulsion order will cease (unless extended) to authorise the measures specified in it.

**Changes to legislation:** Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Extension of order following first review 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

- II** S. 146 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)

### 147 Proposed extension on first review: mental health officer's duties

- (1) The mental health officer shall, as soon as practicable after receiving notice under section 146(2) of this Act, comply with the requirements in subsection (2) below.
- (2) Those requirements are—
  - (a) subject to subsection (3) below, to interview the patient;
  - (b) to inform the patient—
    - (i) that the patient's responsible medical officer is proposing to make an application under section 149 of this Act for an order under section 167 of this Act;
    - (ii) of the patient's rights in relation to such an application; and
    - (iii) of the availability of independent advocacy services under section 259 of this Act;
  - (c) to take appropriate steps to ensure that the patient has the opportunity of making use of those services; and
  - (d) to inform the patient's responsible medical officer—
    - (i) as to whether the mental health officer agrees, or disagrees, that the proposed application should be made;
    - (ii) if the mental health officer disagrees, of the reason why that is the case; and
    - (iii) of any other matters that the mental health officer considers relevant.
- (3) If it is impracticable for the mental health officer to comply with the requirement in subsection (2)(a) above, the mental health officer need not do so.

#### Commencement Information

- I2** S. 147 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)

### 148 First review: responsible medical officer's duty to apply for extension of compulsion order

- (1) This section applies where a patient's responsible medical officer is carrying out the first review of the relevant compulsion order to which the patient is subject.
- (2) If, having regard to—
  - (a) any views expressed by persons consulted under section 139(3)(c) of this Act; and
  - (b) any views expressed by the mental health officer under section 147(2)(d) of this Act,

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the responsible medical officer is satisfied as to the matters mentioned in section 146(2)(a) and (b) of this Act, the responsible medical officer shall comply with the requirement mentioned in subsection (3) below.

- (3) The requirement referred to in subsection (2) above is to make an application to the Tribunal under section 149 of this Act for an order extending the compulsion order for the period of 6 months beginning with the day on which the order to which the patient is subject will cease (unless extended) to authorise the measures specified in it.

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**Commencement Information**

- I3** S. 148 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)

**149 Application to Tribunal for extension of order following first review**

An application under this section to the Tribunal by a patient's responsible medical officer—

- (a) shall state—
- (i) the name and address of the patient;
  - (ii) the name and address of the patient's named person; and
  - (iii) whether the mental health officer agrees, or disagrees, that the application should be made, or has failed to comply with the duty imposed by section 147(2)(d)(i) of this Act; and
- (b) shall be accompanied by such documents as may be prescribed by regulations.

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**Commencement Information**

- I4** S. 149 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), **art. 2**, **Sch. 1**
- I5** S. 149 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: Extension of order following first review 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\(3\)](#)