
Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Paragraph 12 is up to date with all changes known to be in force on or before 26 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

SCHEDULE 2 THE MENTAL HEALTH TRIBUNAL FOR SCOTLAND

PART 3

TRIBUNAL PROCEDURE

Evidence

- 12 (1) The Tribunal may by citation require any person to attend, at such time and place as is specified in the citation, for the purpose of—
- (a) giving evidence; or
 - (b) producing any document in the custody, or under the control, of such person which the Tribunal considers it necessary to examine.
- (2) In relation to persons giving evidence the Tribunal may administer oaths and take affirmations.
- (3) A person who is cited to attend the Tribunal and—
- (a) refuses or fails—
 - (i) to attend; or
 - (ii) to give evidence; or
 - (b) alters, conceals or destroys, or refuses to produce, a document which such person may be required to produce for the purposes of proceedings before the Tribunal,
- shall, subject to sub-paragraph (4) below, be guilty of an offence.
- (4) A person need not give evidence or produce any document if, were it evidence which might be given or a document that might be produced in any court in Scotland, the person having that evidence or document could not be compelled to give or produce it in such proceedings.
- (5) It shall be a defence for a person charged with contravening sub-paragraph (3) above to show that the person has a reasonable excuse for such contravention.
- (6) A person guilty of an offence under sub-paragraph (3)(a) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (7) A person guilty of an offence under sub-paragraph (3)(b) above shall be liable—
- (a) on summary conviction to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine or both.

Commencement Information

II Sch. 2 para. 12 in force at 3.5.2004 by [S.S.I. 2004/153](#), [art. 3](#), [Sch. 2](#)

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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\(3\)](#)