



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

2003 asp 13

PART 2

THE MENTAL WELFARE COMMISSION FOR SCOTLAND

Particular functions

11 Investigations

- (1) If it appears to [^{F1}a Commission Visitor] that any of the circumstances mentioned in subsection (2) below apply in respect of a patient, the Commission [^{F2}Visitor] may—
- carry out such investigation as [^{F3}the Commission Visitor] considers appropriate into the patient's case; and
 - make such recommendations as [^{F4}the Commission Visitor] considers appropriate as respects the case.

[^{F5}(1A) Where it is brought to the attention of the Commission that any of the circumstances mentioned in subsection (2) below may apply in respect of a patient, the Commission may—

- direct a Commission Visitor to carry out such investigation as the Commission considers appropriate into the patient's case; and
- having consulted the Visitor after the investigation, make such recommendations as it considers appropriate as respects the case.]

(2) Those circumstances are—

- that the patient may be unlawfully detained in hospital;
- that the patient is detained in hospital and the detention is authorised by virtue of—
 - this Act; or
 - the 1995 Act;
- that the patient, though not detained in hospital, is subject to—
 - a compulsory treatment order;
 - an interim compulsory treatment order;

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Section 11 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

- (iii) an emergency detention certificate;
- (iv) a short-term detention certificate;
- (v) a compulsion order;
- (vi) an interim compulsion order;
- (vii) an assessment order;
- (viii) a treatment order;
- (ix) a hospital direction; or
- (x) a transfer for treatment direction;
- (d) that the patient may be, or may have been, subject, or exposed, to—
 - (i) ill-treatment;
 - (ii) neglect; or
 - (iii) some other deficiency in care or treatment;
- (e) that, because of the mental disorder, the patient’s property—
 - (i) may be suffering, or may have suffered, loss or damage; or
 - (ii) may be, or may have been, at risk of suffering loss or damage;
- (f) that the patient may be—
 - (i) living alone or without care; and
 - (ii) unable to look after himself or his property or financial affairs.

Textual Amendments

- F1** Words in s. 11(1) substituted (1.8.2010 for specified purposes, 1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), **ss. 111(8)(a)(i)**, 134(7); S.S.I. 2010/221, art. 3(2)(3), sch.; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F2** Word in s. 11(1) inserted (1.8.2010 for specified purposes, 1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), **ss. 111(8)(a)(ii)**, 134(7); S.S.I. 2010/221, art. 3(2)(3), sch.; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F3** Words in s. 11(1)(a) substituted (1.8.2010 for specified purposes, 1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), **ss. 111(8)(a)(iii)**, 134(7); S.S.I. 2010/221, art. 3(2)(3), sch.; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F4** Words in s. 11(1)(b) substituted (1.8.2010 for specified purposes, 1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), **ss. 111(8)(a)(iv)**, 134(7); S.S.I. 2010/221, art. 3(2)(3), sch.; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.
- F5** S. 11(1A) inserted (1.8.2010 for specified purposes, 1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by [Public Services Reform \(Scotland\) Act 2010 \(asp 8\)](#), **ss. 111(8)(b)**, 134(7); S.S.I. 2010/221, art. 3(2)(3), sch.; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.

Commencement Information

- I1** S. 11 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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[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\(3\)](#)