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

2003 asp 13

PART 7

COMPULSORY TREATMENT ORDERS

CHAPTER 7

SUSPENSION

127 Suspension of measure authorising detention

(1) Where—

(a) a patient is subject to a compulsory treatment order that authorises the measure mentioned in section 66(1)(a) of this Act; and

(b) subject to subsection (2) below, the patient's responsible medical officer grants a certificate specifying a period [F1]... during which the order shall not authorise that measure,

the order does not authorise that measure during that period.

[[F2](1A) A certificate under subsection (1) above may specify—

(a) a single period not exceeding 200 days, or

(b) a series of more than one individual period falling within a particular 6 month period.**]**

[[F3](2) The total period that an order does not, by reason of certification under subsection (1) above, authorise the measure mentioned in section 66(1)(a) of this Act must not exceed 200 days within any period of 12 months (whenever counted from).**]**

[[F4](2A) For the purpose of subsection (2) above—

(a) a day does not count towards the total period if the measure is (by reason of such certification) not authorised for a period of 8 hours or less in that day,

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 127 is up to date with all changes known to be in force on or before 21 July 2024. 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*

(b) a single period (specified in such certification) of more than 8 hours and less than 24 hours, whether in one day or spanning two days, is to count as a whole day towards the total period.**]**

(3) Where—

(a) a patient is subject to**[**[F5]—

(i)**]** an interim compulsory treatment order that authorises the measure mentioned in section 66(1)(a) of this Act**[**[F6]; or

(ii) an interim order made under section 105 or 106 of this Act, extending, extending and varying or varying, as the case may be, a compulsory treatment order that authorises that measure;**]**; and

(b) the patient's responsible medical officer grants a certificate specifying a period during which the order shall not authorise that measure,

the order does not authorise that measure during that period.

[[F7](3A) A certificate under subsection (3) above may specify—

(a) a single period, or

(b) a series of more than one individual period.**]**

[F8](4) . . . . . .

[[F9](4A) The purpose for which a certificate under subsection (1) or (3) above is granted must be recorded in the certificate.**]**

(5) If the responsible medical officer considers that it is necessary—

(a) in the interests of the patient; or

(b) for the protection of any other person,

a certificate under subsection (1) or (3) above may include conditions such as are mentioned in subsection (6) below; and any such conditions shall have effect.

(6) Those conditions are—

(a) that, during the period specified in the certificate, the patient be kept in the charge of a person authorised in writing for the purpose by the patient's responsible medical officer; and

(b) such other conditions as may be specified by the patient's responsible medical officer.

(7) Where a patient's responsible medical officer proposes to grant a certificate under subsection (1) above specifying—

(a) a period of more than 28 days; or

(b) a period which, when taken together with the period specified in any other certificate granted under that subsection, would exceed 28 days,

the responsible medical officer shall, before granting such a certificate, give notice of the proposal to the persons mentioned in subsection (8) below.

(8) Those persons are—

(a) the patient;

(b) the patient's named person;

(c) the patient's general medical practitioner; and

(d) the mental health officer.

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(9) Where a certificate is granted under subsection (1) above specifying a period of more than 28 days, the patient's responsible medical officer shall, before the expiry of the period of 14 days beginning with the day on which the certificate is granted, give notice of it to the Commission.

Textual Amendments

F1 Words in s. 127(1) repealed (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), **ss. 9(2)(a)**, 61(2); S.S.I. 2017/197, art. 2, sch.

F2 S. 127(1A) inserted (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), **ss. 9(2)(b)**, 61(2); S.S.I. 2017/197, art. 2, sch.

F3 S. 127(2) substituted (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), **ss. 10(2)(a)**, 61(2); S.S.I. 2017/197, art. 2, sch. (with art. 9(a))

F4 S. 127(2A) inserted (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), **ss. 10(2)(b)**, 61(2); S.S.I. 2017/197, art. 2, sch. (with art. 9(a))

F5 In s. 127(3)(a) "- (i)" inserted (27.9.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 1, **sch. 1 para. 32(12)(a)**

F6 S. 127(3)(a)(ii) and word inserted (27.9.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (Modification of Enactments) Order 2005 (S.S.I. 2005/465), art. 1, **sch. 1 para. 32(12)(b)**

F7 S. 127(3A) inserted (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), **ss. 9(2)(c)**, 61(2); S.S.I. 2017/197, art. 2, sch.

F8 S. 127(4) repealed (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), **ss. 9(2)(d)**, 61(2); S.S.I. 2017/197, art. 2, sch.

F9 S. 127(4A) inserted (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), **ss. 9(2)(e)**, 61(2); S.S.I. 2017/197, art. 2, sch.

Modifications etc. (not altering text)

C1 S. 127(2) excluded (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, **6(1)**, 12(1)

Commencement Information

I1 S. 127 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, Section 127 is up to date with all changes known to be in force on or before 21 July 2024. 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)