



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

2003 asp 13

PART 17

PATIENT REPRESENTATION ETC.

CHAPTER 3

DETENTION IN CONDITIONS OF EXCESSIVE SECURITY

[^{F1}Process for orders: further provision

[^{F1}271A Regulation-making powers

- (1) A hospital is a “qualifying hospital” for the purposes of sections 268 to 271 of this Act if—
 - (a) it is not a state hospital, and
 - (b) it is specified, or is of a description specified, in regulations.
- (2) Regulations may specify the test for the purposes of sections 268(2), 269(3) and 271(2) (a) of this Act.
- (3) Regulations under subsection (2) above specifying the test—
 - (a) must include as a requirement for the test to be met in relation to a patient that the Tribunal be satisfied that detention of the patient in the hospital in which the patient is being detained involves the patient being subject to a level of security that is excessive in the patient's case, and
 - (b) may include further requirements for the test to be met in relation to a patient.
- (4) Regulations may make provision about when, for the purposes of—
 - (a) any regulations made under subsection (2) above, and
 - (b) sections 268 to 271 of this Act,

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 271A is up to date with all changes known to be in force on or before 20 June 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*

a patient's detention in a hospital is to be taken to involve the patient being subject to a level of security that is excessive in the patient's case.

- (5) Regulations may modify sections 264 and 268 of this Act so as to provide that a person must meet criteria besides being a medical practitioner in order to prepare a report for the purpose of subsection (7A) in each of those sections.]

Textual Amendments

- F1** S. 271A and cross-heading inserted (16.11.2015) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 16(5)**, 61(2); S.S.I. 2015/361, art. 2

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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\(3\)](#)