



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

2003 asp 13

PART 18

MISCELLANEOUS

Advance statements

275 Advance statements: making and withdrawal

- (1) An “advance statement” is a statement complying with subsection (2) below and specifying—
 - (a) the ways the person making it wishes to be treated for mental disorder;
 - (b) the ways the person wishes not to be so treated,in the event of the person’s becoming mentally disordered and the person’s ability to make decisions about the matters referred to in paragraphs (a) and (b) above being, because of that, significantly impaired.
- (2) An advance statement complies with this subsection if—
 - (a) at the time of making it, the person has the capacity of properly intending the wishes specified in it;
 - (b) it is in writing;
 - (c) it is subscribed by the person making it;
 - (d) that person’s subscription of it is witnessed by a person (the “witness”) who is within the class of persons prescribed by regulations for the purposes of this paragraph and who signs the statement as a witness to that subscription; and
 - (e) the witness certifies in writing on the document which comprises the statement that, in the witness’s opinion, the person making the statement has the capacity referred to in paragraph (a) above.
- (3) An advance statement may be withdrawn by the person who made it by a withdrawal complying with this subsection; and a withdrawal so complies if—
 - (a) at the time of making it the person has the capacity properly to intend to withdraw the statement; and

Status: This is the original version (as it was originally enacted).

- (b) it is made by means of a document which, were it an advance statement, would comply with paragraphs (b) to (e) of subsection (2) above.