



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

2003 asp 13

PART 19

ENTRY, REMOVAL AND DETENTION POWERS

Detention pending medical examination

299 Nurse's power to detain pending medical examination

(1) This section applies where—

- (a) by virtue of an order under section 228(1) of the 1995 Act which includes—
 - (i) by virtue of subsections (1) and (2)(a) of section 230 of that Act, a requirement that the patient submit to treatment as a resident patient in a hospital; or
 - (ii) by virtue of subsections (1) and (2)(b) of that section, a requirement that the patient submit to treatment as a non-resident patient at an institution or place specified in the order,a patient is in hospital and being given medical treatment; or
- (b) otherwise than by virtue of—
 - (i) an order such as is mentioned in paragraph (a) above;
 - (ii) any other provision of the 1995 Act; or
 - (iii) this Act,a patient is in hospital and being given medical treatment.

(2) Where—

- (a) a nurse of such class as may be prescribed by regulations considers that it is likely that the conditions mentioned in subsection (3) below are met in respect of the patient; and
- (b) it is not practicable to secure the immediate medical examination of the patient by a medical practitioner,

Status: Point in time view as at 01/04/2011. This version of this provision has been superseded.

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Section 299 is up to date with all changes known to be in force on or before 02 June 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)

the patient may, subject to subsection (4) below, be detained in hospital for a period of 2 hours (the “holding period”) for the purpose of enabling arrangements to be made for a medical examination of the patient to be carried out.

- (3) The conditions referred to in subsection (2)(a) above are—
- (a) that the patient has a mental disorder;
 - (b) that it is necessary for the protection of—
 - (i) the health, safety or welfare of the patient; or
 - (ii) the safety of any other person,
 that the patient be immediately restrained from leaving the hospital; and
 - (c) that it is necessary to carry out a medical examination of the patient for the purpose of determining whether the granting of—
 - (i) an emergency detention certificate; or
 - (ii) a short-term detention certificate,
 is warranted.
- (4) If the medical practitioner who first arrives to carry out a medical examination of the patient within the holding period arrives after the expiry of the first hour of the holding period, the period for which the patient may be held shall be the period beginning with the commencement of the patient’s detention under subsection (2) above and ending one hour after the arrival of the medical practitioner.
- (5) Where the patient is detained under subsection (2) above the nurse shall, as soon as practicable after the holding period begins, take all reasonable steps to inform a mental health officer of the detention.
- (6) Where the patient is detained under subsection (2) above, the nurse shall, as soon as practicable after the holding period begins, record in writing—
- (a) the fact that the patient has been detained;
 - (b) the time at which the holding period began; and
 - (c) the nurse’s reasons for believing that it is likely that the conditions mentioned in paragraphs (a) to (c) of subsection (3) are met in respect of the patient.
- (7) A record made under subsection (6) above shall, as soon as practicable after it is made, be delivered to the managers of the hospital in which the patient is detained by—
- (a) the nurse; or
 - (b) a person authorised for the purpose by the nurse.
- (8) Where the managers of a hospital receive a record by virtue of subsection (7) above, they shall, before the expiry of the period of 14 days beginning with the day on which they receive it, send a copy of it to the Commission.
- (9) Any subordinate legislation made under section 25 of the Mental Health (Scotland) Act 1984 (c. 36) (detention of patients already in hospital) shall, if in force immediately before the day on which this section comes into force, have effect on and after that day as if made under this section.

Commencement Information

- I1** S. 299 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), art. 2, [Sch. 1](#)
- I2** S. 299 in force at 5.10.2005 in so far as not already in force 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)

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