



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

2003 asp 13

PART 20

ABSCONDING

Absconding

302 Absconding etc. by other patients

- (1) Subsection (2) below applies to a patient—
- (a) who is subject to—
 - (i) an interim compulsory treatment order authorising detention;
 - (ii) a short-term detention certificate; or
 - (iii) a certificate under section 114(2) or 115(2) of this Act authorising continued detention;
 - (b) who is being detained in pursuance of an extension certificate or under the power conferred by section 68 of this Act;
 - (c) to whom an emergency detention certificate applies; or
 - (d) who is being detained in hospital under the power conferred by section 113(5) or 299 of this Act.
- (2) A patient to whom this subsection applies and who absconds from—
- (a) any place where the patient is kept pending removal to hospital under the order or certificate; or
 - (b) the hospital in which, under the order, certificate or, as the case may be, power, the patient is detained,
- is liable to be taken into custody and dealt with in accordance with section 303 of this Act.
- (3) A patient who is subject to an interim compulsory treatment order imposing a requirement that the patient reside continuously or for or at specified times at a specified place and who fails to comply with that requirement is liable to be taken into custody and dealt with in accordance with section 303 of this Act.

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Section 302 is up to date with all changes known to be in force on or before 25 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

(4) A patient who is subject to an interim compulsory treatment order authorising detention and in respect of whom—

- (a) a certificate under section 127(3) of this Act has effect; and
- (b) a condition under subsection (6) of that section requires—
 - (i) that the patient be kept in the charge of an authorised person or reside continuously or for or at specified times at a specified place; or
 - (ii) that the patient, on being recalled or on the expiry of a specified period or on or after the occurrence of a specified event, return to the hospital in which the patient was detained under the order or go to such other place as may be specified,

and who absconds from the charge of that authorised person or otherwise fails to comply with any such condition is liable to be taken into custody and dealt with in accordance with section 303 of this Act.

(5) A patient who is subject to a short-term detention certificate in respect of whom—

- (a) a certificate under section 53(1) of this Act has effect; and
- (b) a condition under subsection (4) of that section requires—
 - (i) that the patient be kept in the charge of an authorised person or reside continuously or for or at specified times at a specified place; or
 - (ii) that the patient, on being recalled or on the expiry of a specified period or on or after the occurrence of a specified event, return to the hospital in which the patient was detained under the certificate or go to such other place as may be specified,

and who absconds from the charge of that authorised person or otherwise fails to comply with any such condition is liable to be taken into custody and dealt with in accordance with section 303 of this Act.

(6) A patient who is subject to an emergency detention certificate in respect of whom—

- (a) a certificate under section 41(1) of this Act has effect; and
- (b) a condition under subsection (4) of that section requires—
 - (i) that the patient be kept in the charge of an authorised person or reside continuously or for or at specified times at a specified place; or
 - (ii) that the patient, on being recalled or on the expiry of a specified period or on or after the occurrence of a specified event, return to the hospital in which the patient was detained under the certificate or go to such other place as may be specified,

and who absconds from the charge of that authorised person or otherwise fails to comply with any such condition is liable to be taken into custody and dealt with in accordance with section 303 of this Act.

Modifications etc. (not altering text)

- C1 Ss. 301-303 applied (with modifications) (5.10.2005) by [Mental Health \(Cross-border transfer; patients subject to detention requirement or otherwise in hospital\) \(Scotland\) Regulations 2005 \(S.S.I. 2005/467\)](#), regs. 1(1), **22** (with reg. 2)
- C2 S. 302 applied (with modifications) (7.5.2008) by [Mental Health \(Cross-border Visits\) \(Scotland\) Regulations 2008 \(S.S.I. 2008/181\)](#), regs. 1(1), **2(1)(b)**
- C3 S. 302 applied (with modifications) (2.10.2008) by [Mental Health \(Absconding Patients from Other Jurisdictions\) \(Scotland\) Regulations 2008 \(S.S.I. 2008/333\)](#), regs. 1(1), **4, 5**

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 302 is up to date with all changes known to be in force on or before 25 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*

Commencement Information

- II** [S. 302](#) 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 302 is up to date with all changes known to be in force on or before 25 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.

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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\(3\)](#)