



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

2003 asp 13

PART 6

SHORT-TERM DETENTION

Short-term detention certificate

44 Short-term detention in hospital

(1) Where—

- (a) an approved medical practitioner carries out a medical examination of a patient;
- (b) the patient does not fall within subsection (2) below; and
- (c) subsection (3) below applies,

the approved medical practitioner may, before the expiry of the period of 3 days beginning with the completion of the medical examination, grant a short-term detention certificate authorising, if the condition mentioned in subsection (6) below is satisfied, the measures mentioned in subsection (5) below.

(2) The patient falls within this subsection if, immediately before the medical examination mentioned in subsection (1)(a) above is carried out, the patient is [^{F1}subject to]—

- (a) a short-term detention certificate;
- (b) an extension certificate;
- (c) section 68 of this Act; or
- (d) a certificate granted under section 114(2) or 115(2) of this Act.

(3) This subsection applies where—

- (a) there is no conflict of interest in relation to the medical examination;
- (b) the approved medical practitioner considers that it is likely that the conditions mentioned in subsection (4) below are met in respect of the patient;
- (c) the approved medical practitioner consults a mental health officer; and

Status: Point in time view as at 27/09/2005. This version of this provision has been superseded.

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 44 is up to date with all changes known to be in force on or before 21 March 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)

- (d) the mental health officer consents to the grant of a short-term detention certificate.
- (4) The conditions referred to subsection (3)(b) above are—
- (a) that the patient has a mental disorder;
 - (b) that, because of the mental disorder, the patient’s ability to make decisions about the provision of medical treatment is significantly impaired;
 - (c) that it is necessary to detain the patient in hospital for the purpose of—
 - (i) determining what medical treatment should be given to the patient; or
 - (ii) giving medical treatment to the patient;
 - (d) that if the patient were not detained in hospital there would be a significant risk—
 - (i) to the health, safety or welfare of the patient; or
 - (ii) to the safety of any other person; and
 - (e) that the granting of a short-term detention certificate is necessary.
- (5) The measures referred to in subsection (1) above are—
- (a) the removal, before the expiry of the period of 3 days beginning with the granting of the short-term detention certificate, of the patient to a hospital or to a different hospital;
 - (b) the detention of the patient in hospital for the period of 28 days beginning with—
 - (i) if, immediately before the certificate is granted, the patient is not in hospital, the beginning of the day on which admission under authority of the certificate of the patient to hospital first takes place;
 - (ii) if, immediately before the certificate is granted, the patient is in hospital, the beginning of the day on which the certificate is granted;
 - (c) the giving to the patient, in accordance with Part 16 of this Act, of medical treatment.
- (6) The condition referred to in subsection (1) above is that the measure mentioned in subsection (5)(b)(i) above is authorised by the certificate only if, before the patient is admitted to hospital under authority of the certificate, the certificate is given to the managers of that hospital.
- (7) If an approved medical practitioner grants a short-term detention certificate in respect of a patient who, immediately before the certificate is granted, is in hospital, the approved medical practitioner shall, as soon as practicable after granting the certificate, give the certificate to the managers of that hospital.
- (8) Regulations may specify—
- (a) the circumstances in which there is to be taken to be; and
 - (b) the circumstances in which there is not to be taken to be, a conflict of interest in relation to the medical examination.
- (9) The short-term detention certificate—
- (a) shall state the approved medical practitioner’s reasons for believing the conditions mentioned in subsection (4) above to be met in respect of the patient; and
 - (b) shall be signed by the approved medical practitioner.

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(10) Before granting the short-term detention certificate, the approved medical practitioner shall, subject to subsection (11) below, consult the patient’s named person about the proposed grant of the certificate; and the approved medical practitioner shall have regard to any views expressed by the named person.

(11) The approved medical practitioner need not consult a named person as mentioned in subsection (10) above in any case where it is impracticable to do so.

Textual Amendments

F1 Words in s. 44(2) substituted (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(4)**

Commencement Information

I1 S. 44 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), art. 2, **Sch. 1**

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