



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

2003 asp 13

PART 7

COMPULSORY TREATMENT ORDERS

CHAPTER 1

APPLICATION FOR, AND MAKING OF, ORDERS

Pre-application procedures

57 Mental health officer's duty to apply for compulsory treatment order

- (1) Where subsections (2) to (5) below apply in relation to a patient, a mental health officer shall apply to the Tribunal under section 63 of this Act for a compulsory treatment order in respect of that patient.
- (2) This subsection applies where two medical practitioners carry out medical examinations of the patient in accordance with the requirements of section 58 of this Act.
- (3) This subsection applies where each of the medical practitioners who carries out a medical examination mentioned in subsection (2) above is satisfied—
 - (a) that the patient has a mental disorder;
 - (b) that medical treatment which would be likely to—
 - (i) prevent the mental disorder worsening; or
 - (ii) alleviate any of the symptoms, or effects, of the disorder,is available for the patient;
 - (c) that if the patient were not provided with such medical treatment 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;

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- (d) that because of the mental disorder the patient’s ability to make decisions about the provision of such medical treatment is significantly impaired; and
 - (e) that the making of a compulsory treatment order is necessary.
- (4) This subsection applies where each of the medical practitioners who carries out a medical examination mentioned in subsection (2) above submits to the mental health officer a report (any such report being referred to in this Act as a “mental health report”)—
- (a) stating that the medical practitioner submitting the report is satisfied that the conditions mentioned in paragraphs (a) to (e) of subsection (3) above are met in respect of the patient;
 - (b) stating, in relation to each of the conditions mentioned in paragraphs (b) to (e) of subsection (3) above, the medical practitioner’s reasons for believing the condition to be met in respect of the patient;
 - (c) specifying (by reference to the appropriate paragraph (or paragraphs) of the definition of “mental disorder” in section 328(1) of this Act) the type (or types) of mental disorder that the patient has;
 - (d) setting out a description of—
 - (i) the symptoms that the patient has of the mental disorder; and
 - (ii) the ways in which the patient is affected by the mental disorder;
 - (e) specifying the measures that should, in the medical practitioner’s opinion, be authorised by the compulsory treatment order;
 - (f) specifying the date or dates on which the medical practitioner carried out the medical examination mentioned in subsection (2) above; and
 - (g) setting out any other information that the medical practitioner considers to be relevant.
- (5) This subsection applies where—
- (a) for the purposes of subsection (4)(c) above each of the mental health reports specifies at least one type of mental disorder that is also specified in the other report;
 - (b) for the purposes of subsection (4)(e) above each of the mental health reports specifies the same measures; and
 - (c) one of the mental health reports (being a report by an approved medical practitioner) states the views of that medical practitioner as to—
 - (i) subject to subsection (6) below, whether notice should be given to the patient under section 60(1)(a) of this Act; and
 - (ii) whether the patient is capable of arranging for a person to represent the patient in connection with the application under section 63 of this Act.
- (6) A medical practitioner may state the view that notice should not be given under section 60(1)(a) of this Act only if, in the opinion of that medical practitioner, the giving of notice would be likely to cause significant harm to the patient or any other person.
- (7) Where a mental health officer is required by subsection (1) above to make an application for a compulsory treatment order, the mental health officer shall make the application before the expiry of the period of 14 days beginning with—

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- (a) in the case where each of the mental health reports specifies the same date (or dates) for the purposes of subsection (4)(f) above, that date (or the later, or latest, of those dates); or
- (b) in the case where each of those reports specifies for those purposes a different date (or different dates), the later (or latest) of those dates.

Commencement Information

II S. 57 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)

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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\(3\)](#)