



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

61 Mental health officer's duty to prepare report

- (1) This section applies where a mental health officer is required by section 57(1) of this Act to make an application under section 63 of this Act in respect of a patient.
- (2) The mental health officer shall, before the date on which, by virtue of section 57(7) of this Act, the application is to be made—
 - (a) subject to subsection (3) below, interview the patient;
 - (b) if the patient has not been given notice under section 60(1)(a) of this Act, inform the patient that the application is to be made;
 - (c) inform the patient of—
 - (i) the patient's rights in relation to the application; and
 - (ii) the availability of independent advocacy services under section 259 of this Act;
 - (d) take appropriate steps to ensure that the patient has the opportunity of making use of those services; and
 - (e) prepare in relation to the patient a report in accordance with subsection (4) below.
- (3) If it is impracticable for the mental health officer to comply with the requirement in subsection (2)(a) above, the mental health officer need not do so.

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 61 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) The report shall state—
- (a) the name and address of the patient;
 - (b) if known by the mental health officer, the name and address of—
 - (i) the patient’s named person; and
 - (ii) the patient’s primary carer;
 - (c) the steps that the mental health officer has taken in pursuance of the requirements imposed by subsection (2) above;
 - (d) if it was impracticable for the mental health officer to comply with the requirement in subsection (2)(a) above, the reason for that being the case;
 - (e) in so far as relevant for the purposes of the application, details of the personal circumstances of the patient;
 - (f) the mental health officer’s views on the mental health reports relating to the patient;
 - (g) if known by the mental health officer, details of any advance statement that the patient has made (and not withdrawn); and
 - (h) any other information that the mental health officer considers relevant to the determination by the Tribunal of the application.

Commencement Information

- II** S. 61 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\(3\)](#)