

MENTAL HEALTH (SCOTLAND) ACT 2015

EXPLANATORY NOTES

THE STRUCTURE & A SUMMARY OF THE ACT

Part One – the 2003 Act

Section 1: Measures until application determined

Amendment of sections 64 and 65

6. Compulsory treatments orders (CTO) are orders made by the Mental Health Tribunal for Scotland (the Tribunal). A CTO can authorise detention and/or medical treatment in hospital or it can impose compulsory measures in the community. The arrangements for the application for and making of CTOs are contained in Part 7 of the 2003 Act (sections 57 to 129). Section 64 of the 2003 Act sets out powers of the Tribunal when considering an application for a CTO under section 63 of the 2003 Act. If the Tribunal is satisfied that the conditions for a CTO are met, then it may authorise for a period of up to 6 months, measures listed in section 66 of the 2003 Act. Section 65 of the 2003 Act empowers the Tribunal to grant an interim compulsory treatment order where an application has been made for a CTO. A patient can be made subject to measures under an interim CTO for a total period of no more than 56 days.
7. Short term detention certificates (STDC) can be granted in certain circumstances to authorise the detention of a patient in hospital, for 28 days under section 44 of the 2003 Act and for a further 3 days if an extension certificate is granted under section 47.
8. For patients who are already subject to an STDC (or an extension certificate), section 68 provides that once an application for a CTO has been made under section 63, the patient's detention in hospital under authority of the certificate is automatically extended for a further five working days. This is to enable the Tribunal to have sufficient time to come to a decision on the application.
9. Section 1 of the Act provides that if the Tribunal is making a CTO under section 64 or an interim CTO under section 65 and the patient subject to the orders has been detained in hospital under a STDC or an extension certificate under section 44 or 47 of the 2003 Act, the 6 month period, in the case of section 64, or 56 days under section 65 must be reduced by the length of time the patient has been detained under section 47(4)(a) or 68(2)(a).