

MENTAL HEALTH (SCOTLAND) ACT 2015

EXPLANATORY NOTES

THE STRUCTURE & A SUMMARY OF THE ACT

Part One – the 2003 Act

Section 5: Short term detention in hospital

Amendment of [sections 44](#) and [46](#)

20. Periods of short term detention in hospital are provided for in section 44 of the 2003 Act. In a similar way to section 36(2) of the 2003 Act, section 44(2) lists certain orders, which if in place in respect of a patient, mean that a short term detention certificate (STDC) cannot be granted in respect of the patient. Section 5(2) of the Act adds a detention under section 113(5) of the 2003 Act to the list of orders in section 44(2) of the 2003 Act.
21. Section 46 of the 2003 Act provides that hospital managers must send a copy of a STDC to the Tribunal and the Commission. Section 5(3) of the Act amends section 46 to provide that a copy of the certificate must now be sent to all those who are required to be notified of its granting (i.e. the patient, the patient's named person and any guardian or welfare attorney of the patient). It also provides that the Tribunal and Commission are no longer to receive a copy of the STDC but are still to be given notice of it being granted.