

MENTAL HEALTH (SCOTLAND) ACT 2015

EXPLANATORY NOTES

THE STRUCTURE & A SUMMARY OF THE ACT

Part One – the 2003 Act

Section 9: Suspension of detention for certain purposes

28. Section 221 of the 2003 Act makes provision for the suspension of detention for patients subject to an assessment order (AO) made under the 1995 Act. At present, the consent of the Scottish Ministers is required for suspending the AO for any period of time. Section 9(3) of the Act provides that consent of the Scottish Ministers will no longer be required if the suspension of detention is required to enable the patient to attend either a hearing in criminal proceedings against the patient or a medical or dental appointment.
29. Section 224 of the 2003 Act makes provision for the suspension of detention for patients subject to a treatment order, interim compulsion order, compulsion order and a restriction order, hospital direction or transfer for treatment direction. The consent of the Scottish Ministers is required for any period of suspension. Section 9(4) of the Act amends section 224 to provide that the consent of the Scottish Ministers will no longer be required when suspension of detention is necessary for such patients to attend either a hearing in criminal proceedings against the patient, or a medical or dental appointment.
30. Section 127 of the 2003 Act makes provision for the suspension of detention for patients who are subject to a CTO or interim CTO. That section also applies in relation to patients who are subject to relevant compulsion orders, by virtue of section 179 of the Act. Sections 127, 221 and 224 of the 2003 Act are also amended by section 9 of the Act to provide that a certificate suspending detention must record the purpose for which the certificate has been granted. Sections 127, 221 and 224 are also amended to make clear that a certificate granted under these sections can specify either a single period of suspension of detention, or a series of more than one individual period.
31. Section 127(1) of the 2003 Act provides that in relation to a CTO a certificate granted under this section must not exceed 6 months. Section 9(2) of the Act amends that provision so that the certificate can specify a single period of suspension of detention not exceeding 200 days, or a series of more than one individual period within an overall 6 month period.
32. Section 224 of the 2003 Act provides that a certificate granted under this section must not exceed 3 months. Section 9 of the Act amends section 224 so that the certificate can specify a single period of suspension of detention not exceeding 90 days, or a series of more than one individual period within an overall 3 month period.