



Mental Health (Scotland) Act 2015

2015 asp 9

PART 1

THE 2003 ACT

Emergency, short-term and temporary steps

4 Emergency detention in hospital

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- (2) In subsection (2) of section 36 (emergency detention in hospital), after paragraph (d) there is inserted—
 - “(da) section 113(5) of this Act;”.
- (3) In section 38 (duties on hospital managers: examination, notification etc.)—
 - (a) in paragraph (b)(i) of subsection (3), for the words “persons mentioned in subsection (4) below” there is substituted “Commission of the granting of the certificate and”,
 - (b) after subsection (3) there is inserted—
 - “(3A) The managers of the hospital may, so far as they consider it appropriate, give notice of the matters notified to them under section 37 of this Act to the persons mentioned in subsection (4) below.”,
 - (c) in subsection (4)—
 - (i) in the text preceding paragraph (a), for the words “subsection (3)(a) and (b)(i)” there is substituted “subsections (3)(a) and (3A)”,
 - (ii) after paragraph (c) there is inserted—
 - “(ca) if known to the managers and not falling within paragraph (a) or (b) above—
 - (i) any guardian of the patient; and
 - (ii) any welfare attorney of the patient.”,
 - (iii) paragraph (d) is repealed together with the word “and” immediately preceding it.

- (4) In subsection (2) of section 40 (revocation of emergency detention certificate: notification), after the word “inform” there is inserted “the Commission and”.
- (5) In subsection (4) of section 42 (certificate under section 41: revocation), after the word “inform” there is inserted “the Commission and”.

5 Short-term detention in hospital

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- (2) In subsection (2) of section 44 (short-term detention in hospital), after paragraph (c) there is inserted—
 - “(ca) section 113(5) of this Act;”.
- (3) In section 46 (hospital managers’ duties: notification)—
 - (a) in subsection (3), the words “, and send a copy of it,” are repealed,
 - (b) after subsection (3) there is inserted—
 - “(4) When giving notice under subsection (2) or (3) above, the managers of the hospital are to send a copy of the certificate to each recipient of the notice.”.

6 Meaning of temporary compulsion

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- (2) In section 230 (appointment of patient’s responsible medical officer), in paragraph (c) of the definition of “appropriate act” in subsection (4), the words “under section 54(1)(c) of the 1995 Act” are repealed.
- (3) In section 329 (interpretation), at the appropriate alphabetical place in subsection (1) there is inserted—
 - ““temporary compulsion order” means an order made under section 54(1)(c) of the 1995 Act;”.