

# **MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 13 - Parts 8, 10 and 11: Suspension**

402. **Part 13** provides for the temporary release from detention of patients subject to assessment orders, treatment orders, interim compulsion orders, compulsion orders combined with restriction orders, hospital directions and transfer for treatment directions. Provision for patients subject to compulsion orders is made by section 179.

#### **Assessment orders**

##### ***Section 221: assessment order: suspension of measure authorising detention***

403. **Section 221** provides for the temporary suspension of the measure in an assessment order which authorises detention of the patient in hospital. The responsible medical officer may do so by granting a certificate for a period, provided that the consent of the Scottish Ministers is obtained.
404. The responsible medical officer may include conditions in the certificate. Those conditions can include a requirement that the patient be kept in the charge of a person duly authorised during the period of the certificate.

##### ***Section 222: certificate under section 221: revocation by responsible medical officer***

405. **Section 222** sets out the power of the responsible medical officer to revoke a certificate granted under section 221 where it is necessary in the interests of the patient or to protect any other person. As soon as practicable after revoking the certificate, the responsible medical officer must notify the patient, the Scottish Ministers and, where applicable, the person authorised for the purposes of section 221(6)(a) (in whose charge the patient is to be kept).

##### ***Section 223: certificate under section 221: revocation by Scottish Ministers***

406. **Section 223** sets out the power of the Scottish Ministers to revoke a certificate granted under section 221 and have the patient returned to hospital. This power mirrors that of the responsible medical officer under section 222. The section also provides for notification of the revocation to be made.

## **Certain other orders and directions**

### ***Section 224: patients subject to certain other orders and directions: suspension of measure authorising detention***

407. **Section 224** provides for the temporary suspension of the measure in certain orders and directions which authorises the detention of the patient in hospital. It applies to the following orders and directions-
- treatment orders;
  - interim compulsion orders;
  - compulsion orders combined with restriction orders;
  - hospital directions; and
  - transfer for treatment directions.
408. The patient's responsible medical officer may suspend the authorisation to detain, by granting a certificate specifying a period of up to 3 months. To do so requires the consent of the Scottish Ministers and the period granted must not take the total period granted by virtue of this and any other certificates over 9 months in any 12 month period. The certificate may also be issued for a period relating to a particular event or series of events.
409. The responsible medical officer may include conditions in the certificate. Those conditions can include a requirement that the patient be kept in the charge of a duly authorised person during the period of the certificate.
410. Where the responsible medical officer proposes to grant a certificate for a period of more than 28 days; or less than 28 days but for a period which, when added to any previous period granted during the last 12 months, takes the total over 28 days, the officer must notify the persons listed in subsection (9) before granting the certificate. Where a certificate is granted for a period of more than 28 days, the responsible medical officer must notify the Commission within 14 days.

### ***Section 225: certificate under section 224: revocation by responsible medical officer***

411. **Section 225** sets out the power of the responsible medical officer to revoke a certificate granted under section 224 and have the patient returned to hospital. The responsible medical officer can do this if it is necessary in the interests of the patient or to protect any other person. As soon as practicable after revoking the certificate, the responsible medical must notify the persons listed in subsection (3). Where the certificate was granted for a period of more than 28 days, the responsible medical officer must also notify the Commission within 14 days of the certificate being revoked.

### ***Section 226: certificate under section 224: revocation by Scottish Ministers***

412. **Section 226** sets out the power of the Scottish Ministers to revoke a certificate granted under section 224. This power mirrors that of the responsible medical officer under section 225.