



Mental Health (Care and Treatment) (Scotland) Act 2003

2003 asp 13

PART 10

COMPULSION ORDERS AND RESTRICTION ORDERS

CHAPTER 2

REVIEW OF ORDERS

Responsible medical officer's duty to keep orders under review

184 Responsible medical officer's duty to keep compulsion order and restriction order under review

- (1) This section applies where a patient is subject to a compulsion order and a restriction order.
- (2) Without prejudice to the duty imposed on the patient's responsible medical officer by section 182(2) of this Act, the responsible medical officer shall from time to time consider—
 - (a) whether the conditions mentioned in section 182(4) of this Act continue to apply in respect of the patient;
 - (b) whether, as a result of the patient's mental disorder, it is necessary, in order to protect any other person from serious harm, for the patient to be detained in hospital, whether or not for medical treatment;
 - (c) whether it continues to be necessary for the patient to be subject to the compulsion order; and
 - (d) whether it continues to be necessary for the patient to be subject to the restriction order.
- (3) If, having considered the matters mentioned in paragraphs (a) to (d) of subsection (2) above, the responsible medical officer is not satisfied that the patient has a mental disorder, the responsible medical officer shall, as soon as practicable after

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considering those matters, submit to the Scottish Ministers a report complying with the requirements set out in section 183(3) of this Act and including a recommendation that the compulsion order be revoked.

(4) If, having considered the matters mentioned in paragraphs (a) to (d) of subsection (2) above, the responsible medical officer—

(a) is satisfied that the patient has a mental disorder; but

(b) is not satisfied—

(i) that, as a result of the patient’s mental disorder, it is necessary, in order to protect any other person from serious harm, for the patient to be detained in hospital, whether or not for medical treatment; and

[^{F1}(ii) either—

(A) that the conditions mentioned in paragraphs (b) and (c) of section 182(4) of this Act continue to apply in respect of the patient; or

(B) that it continues to be necessary for the patient to be subject to the compulsion order,]

the responsible medical officer shall, as soon as practicable after considering those matters, submit to the Scottish Ministers a report complying with the requirements set out in section 183(3) of this Act and including a recommendation that the compulsion order be revoked.

(5) If, having considered the matters mentioned in paragraphs (a) to (d) of subsection (2) above, the responsible medical officer—

(a) is satisfied—

(i) that the conditions mentioned in section 182(4) of this Act continue to apply in respect of the patient; and

(ii) that it continues to be necessary for the patient to be subject to the compulsion order; but

(b) is not satisfied that—

(i) that, as a result of the patient’s mental disorder, it is necessary, in order to protect any other person from serious harm, for the patient to be detained in hospital, whether or not for medical treatment; and

(ii) that it continues to be necessary for the patient to be subject to the restriction order,

the responsible medical officer shall, as soon as practicable after considering those matters, submit to the Scottish Ministers a report complying with the requirements set out in section 183(3) of this Act and including a recommendation that the restriction order be revoked.

(6) If, having considered the matters mentioned in paragraphs (a) to (d) of subsection (2) above, the responsible medical officer—

(a) is satisfied—

(i) that the conditions mentioned in section 182(4) of this Act continue to apply in respect of the patient; and

(ii) that it continues to be necessary for the patient to be subject to the compulsion order and the restriction order; but

(b) is not satisfied that, as a result of the patient’s mental disorder, it is necessary, in order to protect any other person from serious harm, for the patient to be detained in hospital, whether or not for medical treatment,

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the responsible medical officer may submit to the Scottish Ministers a report complying with the requirements set out in section 183(3) of this Act and including a recommendation that the patient be conditionally discharged.

- (7) Where the responsible medical officer—
- (a) submits a report under subsection (5) above; and
 - (b) is satisfied that the compulsion order should be varied by modifying the measures specified in it,

the responsible medical officer shall include in the report a recommendation that the compulsion order be varied in that way.

Textual Amendments

- F1** S. 184(4)(b)(ii) substituted (22.3.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\)](#), ss. [69\(2\)](#), [79\(2\)](#)
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Commencement Information

- I1** S. 184 in force at 5.10.2005 by [S.S.I. 2005/161](#), [art. 3](#) (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 64(8A)(8B) inserted by [2015 asp 9 s. 1\(2\)](#)
- s. 65(7) inserted by [2015 asp 9 s. 1\(3\)](#)