



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

2003 asp 13

PART 10

COMPULSION ORDERS AND RESTRICTION ORDERS

CHAPTER 2

REVIEW OF ORDERS

Effect of modification or revocation of orders

196 General effect of orders under section 193

- (1) Where the Tribunal makes an order under section 193 of this Act—
 - (a) revoking a compulsion order;
 - (b) revoking a restriction order;
 - (c) conditionally discharging a patient; or
 - (d) varying a compulsion order by modifying the measures specified in it,the order shall not have effect until the occurrence of the first to occur of the events mentioned in subsection (2) below.
- (2) Those events are—
 - (a) the expiry of the appeal period, no appeal having been lodged within that period; and
 - (b) where an appeal has been lodged within the appeal period—
 - (i) the receipt by both the Court of Session and the managers of the hospital specified in the compulsion order of notice from the Scottish Ministers that they do not intend to move the Court of Session to make an order under section 323 of this Act;
 - (ii) the refusal by the Court of Session to make such an order; and
 - (iii) the recall of any such order or the expiry of its effect.

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Effect of modification or revocation of orders is up to date with all changes known to be in force on or before 25 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) In subsection (2) above—

“appeal” means an appeal under section 322 of this Act; and

“appeal period” means, in relation to an appeal, the period, prescribed by regulations made under section 324(7) of this Act, within which the appeal has to be lodged in order to be competent.

Commencement Information

- I1** S. 196 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)

197 Effect of revocation of compulsion order

Where the Tribunal makes an order under section 193(3) or (4) of this Act revoking a compulsion order, the restriction order to which the patient is subject shall cease to have effect.

Commencement Information

- I2** S. 197 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)

198 Effect of revocation of restriction order

(1) This section applies where the Tribunal—

- (a) makes an order under subsection (5) of section 193 of this Act revoking the restriction order to which the patient is subject; but
- (b) does not make an order under subsection (3) or (4) of that section revoking the compulsion order to which the patient is subject.

(2) Part 9 of this Act shall apply to the patient as if the compulsion order to which the patient is subject were a relevant compulsion order made on the day on which the ^[F1]order revoking the restriction order has effect in accordance with section 196 of this Act].

(3) In this section, “relevant compulsion order” has the meaning given by section 137(1) of this Act.

Textual Amendments

- F1** Words in s. 198(2) substituted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\), ss. 52\(2\), 61\(2\); S.S.I. 2017/197, art. 2, sch. \(with art. 25\)](#)

Commencement Information

- I3** S. 198 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)

Changes to legislation:

Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Effect of modification or revocation of orders is up to date with all changes known to be in force on or before 25 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

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\(3\)](#)