



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

## 2003 asp 13

### PART 14

#### ASSESSMENT OF NEEDS

#### 227 Assessment of needs for community care services etc.

(1) Where—

- (a) a patient is a person for whom a local authority are under a duty or have a power to provide, or secure the provision of, community care services;
- (b) it appears to the mental health officer that, for the purposes of this Act or the 1995 Act, the patient should be assessed under subsection (1)(a) of section 12A of the Social Work (Scotland) Act 1968 (c. 49); and
- (c) the mental health officer notifies the local authority that the patient may be in need of community care services,

the patient shall for the purposes of that section be deemed to appear to the local authority to be a person who may be in need of any such services.

(2) In section 23(3) of the Children (Scotland) Act 1995 (c. 36) (local authority's duty to carry out, in response to request by parent or guardian, assessment of needs of child)—

- (a) after “by”, where it first occurs, there shall be inserted “—  
(a) ”; and
- (b) after “guardian”, there shall be inserted “; or  
(b) a mental health officer (as defined in section 329 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)) who—
  - (i) has responsibility under that Act or the Criminal Procedure (Scotland) Act 1995 (c. 46) for a child's case; and
  - (ii) makes the request for the purposes of either of those Acts,”.

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*Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Part 14 is up to date with all changes known to be in force on or before 02 June 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*

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### Commencement Information

- II** S. 227 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)

## 228 Request for assessment of needs: duty on local authorities and Health Boards

- (1) Where—
- (a) a—
    - (i) local authority receive a request in writing for the needs of a person to be assessed under section 12A(1)(a) of the Social Work (Scotland) Act 1968 (c. 49); or
    - (ii) Health Board receives a request in writing for the needs of a person for services which are provided by Health Boards in respect of mentally disordered persons to be assessed; and
  - (b) any of the circumstances mentioned in paragraphs (a) to (c) of subsection (2) below apply,
- the authority or, as the case may be, the Board shall comply with the requirement in subsection (3) below.
- (2) The circumstances referred to in subsection (1)(b) above are—
- (a) that the request bears—
    - (i) to be made by a mentally disordered person; and
    - (ii) to be a request for the needs of that person to be assessed;
  - (b) that the request bears—
    - (i) to be made by the primary carer, or named person, of a mentally disordered person; and
    - (ii) to be a request for the needs of the mentally disordered person to be assessed; and
  - (c) though the request does not bear to be made as mentioned in paragraph (a) or (b) above, it appears to the local authority or, as the case may be, the Health Board that the request—
    - (i) is a request for the needs of a mentally disordered person to be assessed; and
    - (ii) is made by that person, or by that person's primary carer or named person.
- (3) The requirement referred to in subsection (1) above is to give notice, before the expiry of the period of 14 days beginning with the day on which the request is received, to the person who made the request—
- (a) of whether—
    - (i) the local authority intend; or
    - (ii) the Health Board intends,
 to undertake the assessment; and
  - (b) if the intention is not to undertake the assessment, of the reason why that is the case.

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**Changes to legislation:** Mental Health (Care and Treatment) (Scotland) Act 2003, Part 14 is up to date with all changes known to be in force on or before 02 June 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](#)

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#### **Commencement Information**

**I2** [S. 228](#) 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, Part 14 is up to date with all changes known to be in force on or before 02 June 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.

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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\(3\)](#)