



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

2003 asp 13

## PART 17

### PATIENT REPRESENTATION ETC.

#### CHAPTER 1

##### NAMED PERSON

###### *Mental health officer's duties etc.*

#### **255      Named person: mental health officer's duties etc.**

- (1) Subsection (2) below applies where—
  - (a) a mental health officer is discharging any function by virtue of this Act or the 1995 Act in relation to a patient; and
  - (b) it is necessary for the purposes of the discharge of the function to establish whether the patient has a named person.
- (2) The mental health officer shall take such steps as are reasonably practicable—
  - (a) to establish whether the patient has a named person; and
  - (b) if so, to ascertain who that person is.
- (3) Subsection (4) below applies where the mental health officer—
  - (a) establishes that the patient does not have a named person; or
  - (b) is unable to establish whether the patient has a named person.
- (4) The mental health officer—
  - (a) shall make a record of the steps taken under subsection (2)(a) above; and
  - (b) may apply to the Tribunal for an order under section 257 of this Act.
- (5) Where the mental health officer makes a record under subsection (4)(a) above, the mental health officer shall, as soon as practicable, give a copy of the record to—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the Tribunal; and
- (b) the Commission.

(6) Where by virtue of subsection (2) above—

- (a) the mental health officer—
  - (i) establishes that the patient has a named person; and
  - (ii) ascertains the name of that person (“the apparent named person”); but
- (b) the mental health officer considers that it is inappropriate for the apparent named person to be the patient’s named person,

the mental health officer shall apply to the Tribunal for an order under section 257 of this Act.

(7) Where—

- (a) a mental health officer is discharging any function by virtue of this Act in relation to a patient; and
- (b) it appears to the mental health officer—
  - (i) that the patient does not have a named person; or
  - (ii) that the patient has a named person (“the apparent named person”) but the mental health officer considers that it is inappropriate for the apparent named person to be the patient’s named person,

the mental health officer may apply to the Tribunal for an order under section 257 of this Act.