



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

2003 asp 13

PART 17

PATIENT REPRESENTATION ETC.

CHAPTER 2

ADVOCACY ETC.

Information

260 Provision of information to patient

- (1) This section applies where a patient—
- (a) is detained in hospital by virtue of—
 - (i) this Act; or
 - (ii) the 1995 Act; or
 - (b) though not detained in hospital, is subject to—
 - (i) an emergency detention certificate;
 - (ii) a short-term detention certificate;
 - (iii) a compulsory treatment order;
 - (iv) an interim compulsory treatment order;
 - (v) an assessment order;
 - (vi) a treatment order;
 - (vii) a hospital direction;
 - (viii) a transfer for treatment direction;
 - (ix) an interim compulsion order; or
 - (x) a compulsion order.
- (2) The appropriate person shall—
- (a) take all reasonable steps—

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- (i) to ensure that the patient understands the relevant matters at each of the times mentioned in subsection (3) below;
 - (ii) to ensure that the patient is supplied with material appropriate to the patient’s needs (and in a form that is appropriate to those needs and permanent) from which the patient may refresh the patient’s understanding of those matters; and
 - (iii) to inform the patient of the availability under section 259 of this Act of independent advocacy services at each of those times; and
 - (b) take appropriate steps to ensure that the patient has the opportunity of making use of those services.
- (3) Those times are—
- (a) as soon as practicable after—
 - (i) where the patient is detained in hospital, the beginning of such detention; or
 - (ii) where the patient is not so detained, the making of the order;
 - (b) as soon as practicable after any occasion on which the patient reasonably requests to be informed of those matters; and
 - (c) such other times as may be prescribed by regulations.
- (4) Where material is supplied to the patient under subsection (2)(a)(ii) above, the appropriate person shall, as soon as practicable after such material is supplied, take all reasonable steps to ensure that the patient’s named person is supplied with a copy of such material in a form that is appropriate to the person’s needs.
- (5) In this section—
- “the appropriate person” means—
- (a) where the patient is detained in hospital, the managers of the hospital;
 - (b) where by virtue of a certificate granted under any provision of this Act, the authorisation to detain the patient in a hospital is suspended, the managers of the hospital in which, but for the certificate, the patient would be authorised to be detained;
 - (c) in any other case, the managers of the hospital specified in the order; and
- “the relevant matters” means—
- (a) the provision of this Act or the 1995 Act by virtue of which—
 - (i) the patient is being detained; or
 - (ii) the order has effect;
 - (b) the consequences of the operation of that provision;
 - (c) the powers that the patient’s responsible medical officer and the Tribunal each has in relation to revoking that provision;
 - (d) any right to make an application, or appeal, to the Tribunal that the patient has by virtue of that provision;
 - (e) the powers exercisable by the Tribunal in the event of any such right being exercised;
 - (f) how the patient may exercise any such right;
 - (g) the functions that the Commission has that appear to be relevant to the patient’s case;
 - (h) how the patient may obtain legal assistance as respects any such right.

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Modifications etc. (not altering text)

- C1** S. 260 modified (5.10.2005) by [Mental Health \(Cross-border transfer; patients subject to detention requirement or otherwise in hospital\) \(Scotland\) Regulations 2005 \(S.S.I. 2005/467\)](#), regs. 1(1), **43** (with reg. 2)
- C2** S. 260 modified (3.11.2008) by [Mental Health \(England and Wales Cross-border transfer: patients subject to requirements other than detention\) \(Scotland\) Regulations 2008 \(S.S.I. 2008/356\)](#), regs. 1(1), **30** (with reg. 2)
- C3** S. 260(3) applied (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Transitional and Savings Provisions\) Order 2005 \(S.S.I. 2005/452\)](#), arts. 1, **40**

Commencement Information

- I1** S. 260 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), art. 2, **Sch. 1**
- I2** S. 260 in force at 5.10.2005 in so far as not already in force 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)

261 Provision of assistance to patient with communication difficulties

- (1) This section applies where—
- (a) a patient is detained in hospital by virtue of—
 - (i) this Act; or
 - (ii) the 1995 Act; or
 - (b) though not detained in hospital, a patient is subject to—
 - (i) an emergency detention certificate;
 - (ii) a short-term detention certificate;
 - (iii) a compulsory treatment order;
 - (iv) an interim compulsory treatment order;
 - (v) an assessment order;
 - (vi) a treatment order;
 - (vii) a hospital direction;
 - (viii) a transfer for treatment direction;
 - (ix) an interim compulsion order; or
 - (x) a compulsion order,
 and the patient has difficulty in communicating or generally communicates in a language other than English.
- (2) The appropriate person shall take all reasonable steps to secure that, for the purpose of enabling the patient to communicate during each of the events mentioned in subsection (3) below—
- (a) arrangements appropriate to the patient's needs are made; or
 - (b) the patient is provided with assistance, or material, appropriate to the patient's needs.
- (3) Those events are—
- (a) any medical examination of the patient carried out for the purpose of assessing the patient's mental disorder;
 - (b) any review under this Act or the 1995 Act of the patient's detention; or
 - (c) any proceedings before the Tribunal relating to the patient.

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- (4) As soon as practicable after taking any steps under subsection (2) above, the appropriate person shall make a written record of the steps.
- (5) In this section “the appropriate person” has the meaning given by section 260(5) of this Act.

Modifications etc. (not altering text)

- C4** S. 261 modified (5.10.2005) by [Mental Health \(Cross-border transfer; patients subject to detention requirement or otherwise in hospital\) \(Scotland\) Regulations 2005 \(S.S.I. 2005/467\)](#), regs. 1(1), **44** (with reg. 2)
- C5** S. 261 modified (3.11.2008) by [Mental Health \(England and Wales Cross-border transfer: patients subject to requirements other than detention\) \(Scotland\) Regulations 2008 \(S.S.I. 2008/356\)](#), regs. 1(1), **31** (with reg. 2)

Commencement Information

- I3** S. 261 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)

[^{F1}261A Help with communication at medical examination etc.

- (1) Subsection (2) below applies where—
- (a) a medical examination or interview referred to in subsection (4)(a) or (b) below is to be carried out, and
 - (b) the subject of it—
 - (i) has difficulty in communicating, or
 - (ii) generally communicates in a language other than English.
- (2) The appropriate person must take all reasonable steps to secure that, for the purpose of enabling the subject of the medical examination or interview to communicate during it—
- (a) arrangements appropriate to the subject's needs are made, or
 - (b) the subject is provided with assistance, or material, appropriate to those needs.
- (3) As soon as practicable after taking any steps under subsection (2) above, the appropriate person must make a written record of the steps.
- (4) This subsection refers to—
- (a) a medical examination by virtue of section 36(1)(a), 44(1)(a), 57(2) or 136(2) of this Act,
 - (b) an interview by virtue of—
 - (i) section 45(1)(a) or 61(2)(a) of this Act, or
 - (ii) section 57C(2)(a) or 59B(2)(a) of the 1995 Act.
- (5) In subsections (2) and (3) above, “the appropriate person” means—
- (a) in relation to a medical examination by virtue of section 136(2) of this Act, the Scottish Ministers,
 - (b) in relation to a medical examination by virtue of any of the other sections of this Act mentioned in subsection (4)(a) above—
 - (i) if it is to be carried out at a hospital, the managers of the hospital,

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- (ii) if it is to be carried out elsewhere, the medical practitioner carrying it out,
- (c) in relation to an interview referred to in subsection (4)(b) above—
 - (i) if it is to be carried out at a hospital, the managers of the hospital,
 - (ii) if it is to be carried out elsewhere, the mental health officer carrying it out.]

Textual Amendments

- F1** S. 261A inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), ss. **28(2)**, 61(2); S.S.I. 2017/197, art. 2, sch.

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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\(3\)](#)