



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

2003 asp 13

PART 19

ENTRY, REMOVAL AND DETENTION POWERS

Entry to premises

292 Warrant to enter premises for purposes of taking patient

- (1) If a sheriff or a justice of the peace is satisfied by an authorised person's evidence on oath as to the matters mentioned in subsection (2) below, the sheriff or, as the case may be, justice of the peace may grant a warrant under this subsection.
- (2) Those matters are—
 - (a) that for the purposes for which the authorised person is authorised it is necessary to enter premises; and
 - (b) that the authorised person—
 - (i) is unable to obtain entry to those premises; or
 - (ii) reasonably apprehends that the authorised person will be unable to obtain entry to those premises.
- (3) A warrant under subsection (1) above is a warrant—
 - (a) authorising—
 - (i) the authorised person;
 - (ii) any mental health officer appointed by the local authority for the area in which the premises are situated; and[^{F1}(iii) any constable of the Police Service of Scotland,]
to enter the premises specified in the warrant; and
 - (b) authorising any constable [^{F2}of the Police Service of Scotland], for the purpose of exercising the power mentioned in paragraph (a) above, to open lockfast places on premises so specified.

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading:*
Entry to premises 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

- (4) In the execution of a warrant granted under subsection (1) above, the persons authorised for the purpose of subsection (3)(a) above may be accompanied by—
- (a) a medical practitioner;
 - (b) any other authorised person.
- (5) In this section, references to an authorised person are to a person who, in relation to a patient, is authorised by virtue of this Act—
- (a) to take the patient to any place; or
 - (b) to take (or retake) into custody the patient where the patient is liable to be taken (or retaken).

Textual Amendments

- F1** S. 292(3)(a)(iiia) substituted for s. 292(3)(a)(iii) (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012](#) (asp 8), s. 129(2), [sch. 7 para. 23\(5\)\(a\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)
- F2** Words in s. 292(3)(b) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012](#) (asp 8), s. 129(2), [sch. 7 para. 23\(5\)\(b\)](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

Commencement Information

- I1** S. 292 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:

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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\(3\)](#)