



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

## 2003 asp 13

### PART 5

#### EMERGENCY DETENTION

##### *Suspension of authority to detain*

#### **41 Suspension of authority to detain**

(1) Where—

- (a) a patient is subject to an emergency detention certificate; and
- (b) the patient's responsible medical officer grants a certificate specifying a period during which the emergency detention certificate shall not authorise the measure mentioned in section 36(8)(b) of this Act,

the emergency detention certificate does not authorise that measure during that period.

(2) A period specified in a certificate granted under subsection (1) above may be expressed as—

- (a) the duration of—
  - (i) an event; or
  - (ii) a series of events; or
- (b) the duration of—
  - (i) an event; or
  - (ii) a series of events,

and any associated travel.

(3) If the responsible medical officer considers that it is necessary—

- (a) in the interests of the patient; or
- (b) for the protection of any other person,

a certificate granted under subsection (1) above may include conditions such as are mentioned in subsection (4) below; and any such conditions shall have effect.

**Changes to legislation:** Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Suspension of authority to detain 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) Those conditions are—
- (a) that, during the period specified in the certificate, the patient be kept in the charge of a person authorised in writing for the purpose by the responsible medical officer;
  - (b) such other conditions as may be specified by the responsible medical officer.

#### Commencement Information

- I1** S. 41 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)

## 42 Certificate under section 41: revocation

- (1) Subsection (2) below applies where a certificate is granted under section 41(1) of this Act in respect of a patient.
- (2) If the patient's responsible medical officer is satisfied that it is necessary—
  - (a) in the interests of the patient; or
  - (b) for the protection of any other person,
 that the certificate be revoked, the responsible medical officer may revoke the certificate.
- (3) Where a responsible medical officer revokes a certificate under subsection (2) above, the responsible medical officer shall, as soon as practicable after doing so, inform—
  - (a) the patient;
  - (b) if the certificate includes a condition such as is mentioned in section 41(4)(a) of this Act, any person authorised in accordance with that condition; and
  - (c) the managers of the hospital in which the patient is detained,
 of the revocation.
- (4) The managers of the hospital shall, as soon as practicable after being informed of the revocation, inform [<sup>F1</sup>the Commission and] the persons mentioned in section 38(4) and (5) of this Act of the revocation.

#### Textual Amendments

- F1** Words in s. 42(4) inserted (30.6.2017) by Mental Health (Scotland) Act 2015 (asp 9), ss. 4(5), 61(2); S.S.I. 2017/197, art. 2, sch.

#### Commencement Information

- I2** S. 42 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: Suspension of authority to detain 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.

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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\(3\)](#)