



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

## 2003 asp 13

### PART 7

#### COMPULSORY TREATMENT ORDERS

#### CHAPTER 4

#### REVIEW OF ORDERS

#### *Review by Tribunal of determination extending order*

#### **101 Tribunal's duty to review determination under section 86**

- (1) This section applies where a patient's responsible medical officer makes a determination under section 86 of this Act.
- (2) If—
- (a) the record submitted to the Tribunal under section 87(2)(b) of this Act states—
    - (i) that there is a difference between the type (or types) of mental disorder that the patient has and the type (or types) of mental disorder recorded in the compulsory treatment order in respect of which the determination is made; or
    - (ii) that the mental health officer disagrees with the determination or has failed to comply with the duty imposed by section 85(2)(d)(i) of this Act; or
  - [<sup>F1</sup>(b) the conditions in subsection (3) are satisfied in relation to the compulsory treatment order to which the determination relates,]
- the Tribunal shall review the determination.
- [<sup>F2</sup>(3) The conditions mentioned in subsection (2)(b) above are—
- (a) that the order was made 2 or more years before the renewal day;

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**Changes to legislation:** *Mental Health (Care and Treatment) (Scotland) Act 2003, Cross Heading: Review by Tribunal of determination extending order 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*

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- (b) that this section did not require the Tribunal to review the previous determination made under section 86 of this Act in relation to the order; and
  - (c) that, in the period of 2 years ending with the day before the renewal day, no application has been [<sup>F3</sup>determined by] the Tribunal under section 92, 99, 95 or 100 in relation to the order.
- (4) In subsection (3) above, the renewal day is the first day on which the order, had it not been extended by the determination, would not authorise the measures specified in it.]

#### Textual Amendments

- F1** S. 101(2)(b) substituted (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\), ss. 68\(a\), 79\(3\)](#); [S.S.I. 2007/334, art. 2\(b\), sch. 2](#)
- F2** S. 101(3)(4) inserted (5.10.2007) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp 10\), ss. 68\(b\), 79\(3\)](#); [S.S.I. 2007/334, art. 2\(b\), sch. 2](#)
- F3** Words in s. 101(3)(c) substituted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\), ss. 21\(2\), 61\(2\)](#); [S.S.I. 2017/197, art. 2, sch. \(with art. 12\(a\)\)](#)

#### Commencement Information

- I1** S. 101(1) 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](#))
- I2** S. 101(2)(a) 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: Review by Tribunal of determination extending order 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\(3\)](#)