



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

2003 asp 13

## PART 9

### COMPULSION ORDERS

#### CHAPTER 2

##### REVIEW OF COMPULSION ORDERS

###### *Extension and variation of order*

#### **154 Responsible medical officer's duty where extension and variation proposed**

- (1) This section applies where a patient's responsible medical officer is carrying out—
  - (a) the first review of the relevant compulsion order to which the patient is subject; or
  - (b) a further review of that order.
- (2) If, having regard to any views expressed by persons consulted under section 139(3)(c) of this Act for the purpose of the review being carried out, it appears to the responsible medical officer—
  - (a) that it will continue to be necessary for the patient to be subject to a compulsion order after the day on which the order will cease (unless extended) to authorise the measures specified in it; but
  - (b) that the compulsion order should be varied by modifying the measures specified in it,the responsible medical officer shall comply with the requirement in subsection (3) below.
- (3) The requirement is to give notice to the mental health officer—

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*Status: This is the original version (as it was originally enacted).*

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- (a) that the responsible medical officer is proposing to make an application to the Tribunal under section 158 of this Act for an order under section 167 of this Act—
    - (i) extending the compulsion order for the period mentioned in subsection (4) below; and
    - (ii) varying the order by modifying the measures specified in it; and
  - (b) of the modification of the measures specified in that order that the responsible medical officer is proposing.
- (4) The period referred to in subsection (3)(a)(i) above is—
- (a) where the application is made in respect of the first review, the period of 6 months beginning with the day on which the compulsion order will cease (unless extended) to authorise the measures specified in it;
  - (b) where the application is made in respect of the first further review, the period of 12 months beginning with the expiry of the period mentioned in paragraph (a) above;
  - (c) where the application is made in respect of a subsequent further review, the period of 12 months beginning with the expiry of the period of 12 months for which the order is extended as a result of the immediately preceding further review.

## **155 Mental health officer's duties: extension and variation of compulsion order**

- (1) The mental health officer shall, as soon as practicable after receiving notice under section 154(3) of this Act, comply with the requirements in subsection (2) below.
- (2) Those requirements are—
  - (a) subject to subsection (3) below, to interview the patient;
  - (b) to inform the patient of the matters mentioned in subsection (4) below;
  - (c) to inform the patient of the availability of independent advocacy services under section 259 of this Act;
  - (d) to take appropriate steps to ensure that the patient has the opportunity of making use of those services; and
  - (e) to inform the patient's responsible medical officer—
    - (i) of whether the mental health officer agrees, or disagrees, that the application that is proposed should be made;
    - (ii) if the mental health officer disagrees, of the reason why that is the case; and
    - (iii) of any other matters that the mental health officer considers relevant.
- (3) If it is impracticable for the mental health officer to comply with the requirement in subsection (2)(a) above, the mental health officer need not do so.
- (4) The matters referred to in subsection (2)(b) above are—
  - (a) that the patient's responsible medical officer is proposing to make an application to the Tribunal under section 158 of this Act for an order—
    - (i) extending the compulsion order to which the patient is subject for the period mentioned in section 154(4) of this Act that applies in the patient's case; and
    - (ii) varying the compulsion order by modifying the measures specified in it;

- (b) the modification of the measures specified in that order that the responsible medical officer is proposing; and
- (c) the patient's rights in relation to such an application.

**156 Responsible medical officer's duty to apply for extension and variation of compulsion order**

(1) If, having regard to—

- (a) any views expressed by persons consulted under section 139(3)(c) of this Act for the purpose of the review being carried out; and
- (b) any views expressed by the mental health officer under section 155(2)(e) of this Act for the purpose of that review,

the responsible medical officer is satisfied as to the matters mentioned in section 154(2)(a) and (b) of this Act, the responsible medical officer shall comply with the requirement in subsection (2) below.

(2) That requirement is to make an application to the Tribunal under section 158 of this Act for an order—

- (a) extending the compulsion order for the period mentioned in section 154(4) of this Act that applies in the patient's case; and
- (b) varying that order by modifying the measures specified in it.

**157 Application for extension and variation of compulsion order: notification**

Where, by virtue of section 156(1) of this Act, an application is to be made under section 158 of this Act, the patient's responsible medical officer shall, as soon as practicable after the duty to make the application arises (and, in any event, before making the application), give notice that the application is to be made to—

- (a) the patient;
- (b) the patient's named person;
- (c) any guardian of the patient;
- (d) any welfare attorney of the patient;
- (e) the mental health officer; and
- (f) the Commission.

**158 Application to Tribunal for extension and variation of compulsion order**

An application under this section to the Tribunal by a patient's responsible medical officer for an order extending and varying a compulsion order—

- (a) shall state—
  - (i) the name and address of the patient;
  - (ii) the name and address of the patient's named person;
  - (iii) the modification of the measures authorised by the compulsion order that is proposed by the responsible medical officer;
  - (iv) the reasons for seeking that modification; and
  - (v) whether the mental health officer agrees, or disagrees, that the application should be made, or has failed to comply with the duty imposed by section 155(2)(e)(i) of this Act; and
- (b) shall be accompanied by such documents as may be prescribed by regulations.