



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

2003 asp 13

PART 7

COMPULSORY TREATMENT ORDERS

CHAPTER 5

BREACH OF ORDERS

Non-compliance generally with order

114 Compulsory treatment order: detention pending review or application for variation

- (1) Subsection (2) below applies where—
- (a) a patient who is subject to an order such as is mentioned in subsection (1)(a) (i) of section 113 of this Act is detained in hospital by virtue of subsection (5) of that section;
 - (b) the patient has been examined under subsection (6) of that section;
 - (c) the patient's responsible medical officer—
 - (i) is considering under subsection (2) of section 93 of this Act whether that order should be varied by modifying the measures specified in it; or
 - (ii) by virtue of subsection (5) of that section, is required to make an application to the Tribunal; and
 - (d) the patient's responsible medical officer considers that if the patient does not continue to be detained in hospital it is reasonably likely that there will be a significant deterioration in the patient's mental health.
- (2) Subject to subsections (3) and (4) below, the responsible medical officer may grant a certificate authorising the continued detention in hospital of the patient for the period of 28 days beginning with the granting of the certificate.

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 114 is up to date with all changes known to be in force on or before 10 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*

- (3) The power in subsection (2) above may be exercised only if—
- (a) the responsible medical officer has consulted the mental health officer; and
 - (b) the mental health officer consents to the power being exercised.
- (4) Before granting a certificate under subsection (2) above the responsible medical officer shall, if it is practicable to do so, consult the patient’s named person.
- (5) A certificate under subsection (2) above—
- (a) shall state the responsible medical officer’s reasons for believing that paragraph (d) of subsection (1) applies in the patient’s case; and
 - (b) shall be signed by the responsible medical officer.

Commencement Information

- II** [S. 114](#) 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)

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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\(3\)](#)