



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

2003 asp 13

PART 2

THE MENTAL WELFARE COMMISSION FOR SCOTLAND

Particular functions

13 Visits in relation to patients

- (1) The Commission shall secure that a person authorised by it visits, as often as the Commission considers it appropriate to do so, such patients who fall within the categories mentioned in subsection (2) below as it considers appropriate.
- (2) Those categories are—
 - (a) patients who are detained in hospital and whose detention is authorised by virtue of—
 - (i) this Act; or
 - (ii) the 1995 Act;
 - (b) patients who, though not detained in hospital, are subject to—
 - (i) a compulsory treatment order;
 - (ii) an interim compulsory treatment order;
 - (iii) an emergency detention certificate;
 - (iv) a short-term detention certificate;
 - (v) a compulsion order;
 - (vi) an interim compulsion order;
 - (vii) an assessment order;
 - (viii) a treatment order;
 - (ix) a hospital direction; or
 - (x) a transfer for treatment direction;
 - (c) patients who are subject to—

Status: This is the original version (as it was originally enacted).

- (i) an intervention order of which the Commission has been notified under section 53(10)(b) of the Adults with Incapacity (Scotland) Act 2000 (asp 4); or
 - (ii) a guardianship order of which the Commission has been notified under section 58(7)(d) of that Act;
 - (d) patients in respect of whom a person is a guardian by virtue of subparagraph (4), (5), (6) or (7) of paragraph 1 of schedule 4 to the Adults with Incapacity (Scotland) Act 2000 (asp 4); and
 - (e) patients who have granted, in accordance with section 16 of that Act, a welfare power of attorney, a copy of which has been sent to the Commission under section 19(2)(c) of that Act.
- (3) If it appears to the Commission that patients—
- (a) may be resident, or may be receiving medical treatment, in premises mentioned in subsection (4) below; or
 - (b) may use facilities provided in such premises,
- a person authorised by the Commission may visit such premises for either of the purposes mentioned in subsection (5) below.
- (4) Those premises are—
- (a) a health service hospital (as defined in section 108(1) of the National Health Service (Scotland) Act 1978 (c. 29));
 - (b) premises in which—
 - (i) an independent health care service is provided;
 - (ii) a care home service is provided; or
 - (iii) a secure accommodation service is provided;
 - (c) premises provided by a local authority for the purpose of their duty under section 26 of this Act;
 - (d) a prison; and
 - (e) a young offenders institution.
- (5) The purposes are—
- (a) to inspect such premises or the facilities available in such premises; and
 - (b) to provide an opportunity for any patients who may be present in the premises at the time when the visit takes place to meet representatives of the Commission and to discuss with such representatives any concerns that such patients may have.
- (6) A visit under subsection (1) or (3) above may be made with or without prior notification.
- (7) A person proposing to conduct a visit under subsection (1) or (3) above shall, if requested to do so, produce an authenticated document showing that the Commission has given the requisite authority for the visit.
- (8) In—
- (a) subsection (4)(b)(ii) above, “care home service” has the meaning given to that expression by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8); and
 - (b) subsection (4)(b)(iii) above, “secure accommodation service” has the meaning given to that expression by section 2(9) of that Act.