



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

2003 asp 13

PART 16

MEDICAL TREATMENT

Safeguards for certain surgical operations etc.

235 Treatment mentioned in section 234(2): patients capable of consenting

- (1) Medical treatment mentioned in section 234(2) of this Act is given to a patient in accordance with this section if the requirements set out in subsections (2) and (3) below are satisfied.
- (2) Subject to subsection (6) below, the first requirement is that a designated medical practitioner who is not the patient's responsible medical officer certifies in writing that—
 - (a) the patient is capable of consenting to the treatment;
 - (b) the patient consents in writing to the treatment; and
 - (c) having regard to the likelihood of its alleviating, or preventing a deterioration in, the patient's condition, it is in the patient's best interests that the treatment should be given to the patient.
- (3) The second requirement is that two other persons (not being medical practitioners) appointed by the Commission for the purposes of this subsection certify in writing that—
 - (a) the patient is capable of consenting to the treatment; and
 - (b) the patient consents in writing to the treatment.
- (4) A person appointed for the purposes of subsection (3) above may—
 - (a) interview the patient at any reasonable time; and
 - (b) require any such interview to be conducted in private.

Status: This is the original version (as it was originally enacted).

- (5) If the patient withdraws consent to the treatment (in writing or otherwise) at any time before its completion, this section shall then apply as if the remainder of the treatment were a separate treatment.
- (6) Where—
- (a) the patient is a child; and
 - (b) the patient’s responsible medical officer is not a child specialist,
- the first requirement is that the matters mentioned in paragraphs (a) to (c) of subsection (2) above are certified in writing by a designated medical practitioner who is a child specialist.
- (7) References in subsections (2) and (6)(b) above to a patient’s responsible medical officer include, in any case where a patient does not have a responsible medical officer, references to the medical practitioner primarily responsible for treating the patient.