



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

2003 asp 13

PART 16

MEDICAL TREATMENT

Safeguards for other medical treatment

- 241 Treatment mentioned in section 240(3): patients refusing consent or incapable of consenting**
- (1) Subject to subsections (3) and (4) below, medical treatment mentioned in section 240(3) of this Act is given in accordance with this section if a designated medical practitioner who is not the patient's responsible medical officer certifies in writing that—
- (a) the patient—
 - (i) does not consent to the treatment; or
 - (ii) is incapable of consenting to the treatment;
 - (b) the giving of medical treatment to the patient is authorised by virtue of this Act or the 1995 Act; 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.
- (2) If the condition mentioned in subsection (1)(a)(i) above applies, the designated medical practitioner shall—
- (a) if the reason for refusal of consent is known, have regard to the reason for the refusal; and
 - (b) if the designated medical practitioner is of the opinion that the treatment should be given, include in any certificate under subsection (1) above a statement of the reason for that opinion.
- (3) Where the patient is a child, the certification of the matters mentioned in paragraphs (a) to (c) of subsection (1) above is effective only if done—

Status: This is the original version (as it was originally enacted).

- (a) where the patient's responsible medical officer is a child specialist, by a medical practitioner approved for the purposes of this subsection by the Commission;
 - (b) where the patient's responsible medical officer is not a child specialist, by a child specialist who is on the list maintained under section 233(1) of this Act.
- (4) Where the patient is not in hospital, subsection (1) above does not authorise the giving of medical treatment by force to the patient.