



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

2003 asp 13

PART 17

PATIENT REPRESENTATION ETC.

CHAPTER 1

NAMED PERSON

Meaning of “named person”

250 Nomination of named person

- (1) Where a person who has attained the age of 16 years (a “nominator”) nominates in accordance with subsection (2) below another person who has attained that age to be the nominator’s named person, that person is, subject to subsections [F¹(2A), (3) and (6)] below, the nominator’s named person.
- (2) A person is nominated in accordance with this subsection if—
 - (a) the nomination is signed by the nominator;
 - (b) the nominator’s signature is witnessed by a prescribed person;
 - (c) the prescribed person certifies that, in the opinion of the prescribed person, the nominator—
 - (i) understands the effect of nominating a person to be the nominator’s named person; and
 - (ii) has not been subjected to any undue influence in making the nomination.
- (2A) A nomination under subsection (1) above is valid only if—
 - (a) a docket to the nomination states that the person nominated has consented to the nomination,
 - (b) the docket is signed by the nominated person, F²...

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 250 is up to date with all changes known to be in force on or before 25 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*

^{F3}(c)

- (3) A nomination under subsection (1) above may be revoked by the nominator in accordance with subsection (4) below.
- (4) The nomination of a named person is revoked in accordance with this subsection if—
- (a) the revocation is signed by the nominator;
 - (b) the nominator’s signature is witnessed by a prescribed person;
 - (c) the prescribed person certifies that, in the opinion of the prescribed person, the nominator—
 - (i) understands the effect of revoking the appointment of a person as named person; and
 - (ii) has not been subjected to any undue influence in making the revocation.
- (5) The nomination of a named person shall be effective notwithstanding the nominator’s becoming, after making the nomination, incapable.
- (6) A person nominated under subsection (1) above [^{F4}ceases] to be the nominator’s named person by giving notice to—
- (a) the nominator; and
 - (b) the local authority for the area in which the nominator resides, to that effect.
- (7) In this section—
- “incapable” means incapable by reason of mental disorder or of inability to communicate because of physical disability; but a person shall not fall within this definition by reason only of a lack or deficiency in a faculty of communication if that lack or deficiency can be made good by human or mechanical aid (whether of an interpretative nature or otherwise); and
- “prescribed person” means a person of a class prescribed by regulations.

Textual Amendments

- F1** Words in s. 250(1) substituted (5.5.2017 for specified purposes, 30.6.2017 for specified purposes) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 23(2)(a)**, 61(2); S.S.I. 2017/126, art. 2, sch.; S.S.I. 2017/197, art. 2, sch. (with art. 16(a))
- F2** Word in s. 250(2A) repealed (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 37(2)(a)**, 59(1) (with s. 48(1)(c)(2)(c)(3)(b))
- F3** S. 250(2A)(c) repealed (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), **ss. 37(2)(b)**, 59(1) (with s. 48(1)(c)(2)(c)(3)(b))
- F4** Word in s. 250(6) substituted (5.5.2017 for specified purposes, 30.6.2017 for specified purposes) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 23(2)(c)**, 61(2); S.S.I. 2017/126, art. 2, sch.; S.S.I. 2017/197, art. 2, sch. (with art. 16(a))

Modifications etc. (not altering text)

- C1** S. 250(2)(3)-(5)(7) applied by S.S.I. 2008/356, reg. 8A(4) (as inserted (30.6.2017) by [The Mental Health \(Cross-border transfer patients subject to requirements other than detention\) \(Scotland\) Regulations 2017 \(S.S.I. 2017/232\)](#), regs. 2, 8)
- C2** S. 250(2)(3)-(5)(7) applied by S.S.I. 2005/467, reg. 13A(4) (as inserted (30.6.2017) by [The Mental Health \(Cross-border transfer patients subject to detention requirement or otherwise in hospital\) \(Scotland\) Amendment Regulations 2017 \(S.S.I. 2017/229\)](#), regs. 2, 16 (with reg. 4(1)))

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Commencement Information

- I1** S. 250 in force at 1.9.2004 for specified purposes by [S.S.I. 2004/367, art. 2, Sch. 1](#)
- I2** S. 250 in force at 4.10.2004 in so far as not already in force by [S.S.I. 2004/367, art. 3, Sch. 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\(3\)](#)