



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 (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.
- (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;

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- (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 may decline 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.