



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

2003 asp 13

PART 17

PATIENT REPRESENTATION ETC.

CHAPTER 1

NAMED PERSON

Meaning of “named person”

252 Named person in relation to child

- (1) The named person of a person who has not attained the age of 16 years (“the child”) shall be—
- (a) subject to subsection (2) below, in a case where [^{F1}a relevant person] has parental rights and parental responsibilities in relation to the child, that person;
 - (b) in a case where the child is in the care of a local authority by virtue of a care order made under section 31 of the Children Act 1989 (c. 41), that authority; or
 - (c) in any other case, where the child’s primary carer has attained the age of 16 years, that person.
- (2) Subject to subsection (3) below, where two or more [^{F2}relevant persons] have parental rights and parental responsibilities in relation to the child, the named person of the child shall be—
- (a) if those persons agree that one of them is to be the named person of the child, that person; or
 - (b) if those persons do not so agree, the one of them—
 - (i) who provides, on a regular basis, all, or most, of the care for, and support to, the child;

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 252 is up to date with all changes known to be in force on or before 20 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*

(ii) in a case where the child is in hospital, who provided all, or most, of that care for, and support to, the child before the child was admitted to hospital.

(3) If—

- (a) one of the^{F3} relevant persons who has parental rights and parental responsibilities in relation to the child is a local authority; and
- (b) the local authority has those rights and responsibilities by virtue of an order under section 86(1) of the Children (Scotland) Act 1995 (c. 36) (orders transferring parental rights and parental responsibilities),

the local authority shall be the child's named person.

(4) In this section—

“parental responsibilities”, in relation to a child, has the meaning given by section 1(3) of the Children (Scotland) Act 1995 (c. 36);^{F4} ...

“parental rights”, in relation to a child, has the meaning given by section 2(4) of that Act.

^{F5}; and

“relevant person” means—

- (a) a local authority; or
- (b) a person who has attained the age of 16 years.]

Textual Amendments

- F1** Words in s. 252(1)(a) substituted (27.9.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, **sch. 1 para. 32(20)(a)**
- F2** Words in s. 252(2) substituted (27.9.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, **sch. 1 para. 32(20)(b)**
- F3** Word in s. 252(3) inserted (27.9.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, **sch. 1 para. 32(20)(c)**
- F4** Word in s. 252(4) omitted (27.9.2005) by virtue of [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, **sch. 1 para. 32(20)(d)(i)**
- F5** Words in s. 252(4) inserted (27.9.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005 \(S.S.I. 2005/465\)](#), art. 1, **Sch. 1 para. 32(20)(d)(ii)**

Commencement Information

- I1** S. 252 in force at 5.10.2005 by [S.S.I. 2005/161](#), **art. 3** (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 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\(3\)](#)