



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

2003 asp 13

PART 17

PATIENT REPRESENTATION ETC.

CHAPTER 1

NAMED PERSON

Tribunal's powers

257 Named person: Tribunal's powers

^{F1}(1)

(2) Where—

- (a) an application is made under section 255(6) or (7)(b)(ii) or 256(1)(b) of this Act; and
- (b) the Tribunal is satisfied that it is inappropriate for the named person (“the acting named person”) to be the patient’s named person,

the Tribunal may, subject to subsection (4) below, make an order [^{F2}as allowed by subsection (3A)].

(3) Where an application is made under section 256(1)(c) of this Act, the Tribunal may, subject to subsection (4) [^{F3}or (5)] below, make such order as it thinks fit.

[^{F4}(3A) For the purpose of subsection (2), this subsection allows an order—

- (a) in any case, to declare that the acting named person is not the named person,
- (b) if the patient has not attained the age of 16 years, to appoint the person specified in the order to be the patient's named person in place of the acting named person.]

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Section 257 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

- (4) It shall not be competent for the Tribunal to make an order under this section appointing a person who has not attained the age of 16 years to be a patient's named person.
- [^{F5}(5) An order under this section appointing a person to be a patient's named person may be made only if—
- (a) a document, signed by the person, states that the person has consented to being the patient's named person, and
 - (b) the person's signature is witnessed by someone.
- (6) A person appointed by an order under this section to be a patient's named person ceases to be the patient's named person by giving notice to that effect to—
- (a) the Tribunal,
 - (b) the patient, and
 - (c) the local authority for the area in which the patient resides.]

Textual Amendments

- F1** S. 257(1) repealed (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 24(4)(a)**, 61(2); [S.S.I. 2017/197](#), art. 2, sch.
- F2** Words in s. 257(2) substituted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 24(4)(b)**, 61(2); [S.S.I. 2017/197](#), art. 2, sch.
- F3** Words in s. 257(3) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 23(3)(a)**, 61(2); [S.S.I. 2017/197](#), art. 2, sch. (with art. 16(b))
- F4** S. 257(3A) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 24(4)(c)**, 61(2); [S.S.I. 2017/197](#), art. 2, sch.
- F5** S. 257(5)(6) inserted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 23(3)(b)**, 61(2); [S.S.I. 2017/197](#), art. 2, sch. (with art. 16(b))
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Commencement Information

- I1** S. 257 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)

Changes to legislation:

Mental Health (Care and Treatment) (Scotland) Act 2003, Section 257 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.

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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\(3\)](#)