



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

2003 asp 13

PART 17

PATIENT REPRESENTATION ETC.

CHAPTER 3

DETENTION IN CONDITIONS OF EXCESSIVE SECURITY

Other hospitals

271 [^{F1}Order under section 268 or 269: recall]

- (1) This section applies where an order is made under section 268(2) [^{F2}or 269(3)] of this Act in respect of a ^{F3}... patient.
- (2) On the application of any of the persons mentioned in subsection (4) below, the Tribunal—
 - (a) shall, if satisfied that [^{F4}the test specified in regulations made under section 271A(2) of this Act is not met in relation to the patient], recall the order;
 - (b) may, on any other grounds, recall the order.
- (3) Where the order is recalled, the relevant Health Board ceases to be subject to the duties under section 268(3) to (5) [^{F5}or 269(4) to (6)] to which it became subject by virtue of the making of the order.
- (4) The persons referred to in subsection (2) above are—
 - (a) the relevant Health Board;
 - (b) in the case of a relevant patient, the Scottish Ministers;
 - (c) in the case of a patient who is not a relevant patient, the patient's responsible medical officer.

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 271 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*

- (5) Before determining an application under subsection (2) above, the Tribunal shall—
- (a) afford the persons mentioned in section 268(10) of this Act the opportunity—
 - (i) of making representations (whether orally or in writing); and
 - (ii) of leading, or producing, evidence; and
 - (b) whether or not any such representations are made, hold a hearing.

Textual Amendments

- F1** S. 271 title substituted (16.11.2015) by virtue of [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 15(7)**, [61\(2\)](#); [S.S.I. 2015/361](#), [art. 2](#) (with arts. 4-6)
- F2** Words in s. 271(1) substituted (16.11.2015) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 15(6)(a)**, [61\(2\)](#); [S.S.I. 2015/361](#), [art. 2](#) (with arts. 4-6)
- F3** Word in s. 271(1) repealed (16.11.2015) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 16(4)(a)**, [61\(2\)](#); [S.S.I. 2015/361](#), [art. 2](#)
- F4** Words in s. 271(2)(a) substituted (16.11.2015) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 16(4)(b)**, [61\(2\)](#); [S.S.I. 2015/361](#), [art. 2](#)
- F5** Words in s. 271(3) substituted (16.11.2015) by [Mental Health \(Scotland\) Act 2015 \(asp 9\)](#), **ss. 15(6)(b)**, [61\(2\)](#); [S.S.I. 2015/361](#), [art. 2](#) (with arts. 4-6)

Commencement Information

- I1** Part 17 Chapter 3 (ss. 264 - 273) in force 1.5.2006 or such earlier day as the Scottish Ministers may by order appoint, see s. 333(2)
- I2** S. 271 in force at 1.5.2006 or such earlier day as the Scottish Ministers may by order appoint, see s. 333(2)

Changes to legislation:

Mental Health (Care and Treatment) (Scotland) Act 2003, Section 271 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.

[View outstanding changes](#)

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\(3\)](#)