



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

2003 asp 13

PART 19

ENTRY, REMOVAL AND DETENTION POWERS

Removal to place of safety

295 Recall or variation of removal order

- (1) A person who is the subject of a removal order, or any person claiming an interest in the welfare of that person, may apply to the sheriff for an order under this section—
 - (a) recalling the removal order; or
 - (b) varying that order by—
 - (i) specifying a different place of safety;
 - (ii) authorising, before the expiry of the period mentioned in subsection (2) below, the removal of the person who is the subject of the removal order to that place of safety; and
 - (iii) authorising the detention of the person who is the subject of the removal order in that place of safety for the remainder of such period as may have been specified, by virtue of section 293(3)(c)(ii) of this Act, in the removal order.
- (2) The period referred to in subsection (1)(b)(ii) above is the period of 72 hours beginning with the granting of the order varying the removal order.
- (3) An application under section (1) above shall be made to the sheriff of the sheriffdom in which the premises to which the application for a removal order related are situated.
- (4) Before determining an application under subsection (1) above, the sheriff shall afford the persons mentioned in subsection (5) below the opportunity—
 - (a) of making representations (whether orally or in writing); and
 - (b) of leading, or producing, evidence.
- (5) Those persons are—

Changes to legislation: *Mental Health (Care and Treatment) (Scotland) Act 2003, Section 295 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*

- (a) the person who is the subject of the removal order to which the application relates; and
 - (b) such persons as may be prescribed by regulations.
- (6) Where a sheriff makes an order under this section recalling a removal order, the sheriff may, in addition, make such order as the sheriff thinks fit for the person who was the subject of the removal order—
- (a) to be returned to the premises from which that person was, by virtue of the removal order, removed; or
 - (b) to be taken to some appropriate place chosen by that person.

Commencement Information

- I1** S. 295 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), art. 2, [Sch. 1](#)
- I2** S. 295 in force at 5.10.2005 in so far as not already in force 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\(3\)](#)