



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

2003 asp 13

PART 6

SHORT-TERM DETENTION

Revocation of certificates

50 Patient's right to apply for revocation of short-term detention certificate or extension certificate etc.

- (1) Where a patient is in hospital under authority of a short-term detention certificate or an extension certificate—
 - (a) the patient; or
 - (b) the patient's named person,may apply to the Tribunal for revocation of the certificate.
- (2) Before determining an application under subsection (1) above, the Tribunal shall afford the persons mentioned in subsection (3) below the opportunity—
 - (a) of making representations (whether orally or in writing); and
 - (b) of leading, or producing, evidence.
- (3) Those persons are—
 - (a) the patient;
 - (b) the patient's named person;
 - (c) any guardian of the patient;
 - (d) any welfare attorney of the patient;
 - (e) the approved medical practitioner who granted the short-term detention certificate;
 - (f) the mental health officer who was consulted under section 44(3)(c) of this Act;
 - (g) if the patient has a responsible medical officer, that responsible medical officer;
 - (h) any curator *ad litem* appointed in respect of the patient by the Tribunal; and

- (i) any other person appearing to the Tribunal to have an interest in the application.
- (4) On an application under subsection (1) above, the Tribunal shall, if not satisfied—
 - (a) that the conditions mentioned in paragraphs (a), (b) and (d) of section 44(4) of this Act continue to be met in respect of the patient; or
 - (b) that it continues to be necessary for the detention in hospital of the patient to be authorised by the certificate,revoke the certificate.
- (5) Where, before a short-term detention certificate is revoked under subsection (4) above an extension certificate has been granted in respect of the patient, the revocation of the short-term detention certificate shall have the effect of revoking the extension certificate, notwithstanding that there has been no application under subsection (1) above in relation to the extension certificate.