Mental Health (Care and Treatment) (Scotland) Act 2003
2003 asp 13

PART 2

THE MENTAL WELFARE COMMISSION FOR SCOTLAND

Particular functions

8   Duty to bring specific matters to attention of Scottish Ministers and others etc.

(1) If it appears to the Commission that a relevant person has, or may have, powers or duties, the exercise or performance of which might prevent or remedy or assist in preventing or remedying, as respects a person who has a mental disorder, any of the circumstances mentioned in subsection (2) below, the Commission shall—

  (a)   bring the facts of the person's case to the attention of the relevant person; and

  (b)   if it considers it appropriate to do so, make recommendations as respects the case to the relevant person.

(2) Those circumstances are—

  (a)   the circumstances mentioned in section 11(2)(a), (d), (e) or (f) of this Act;

  (b)   that—

      (i) the patient is detained in hospital and the detention is authorised by virtue of this Act or the 1995 Act; and

      (ii) there may be some impropriety in relation to that detention.

(3) For the purposes of subsection (1) above, "relevant person" means—

  (a)   the Scottish Ministers;

  (b)   the Public Guardian;

  (c)   a local authority;

  (d)   a Health Board;

  (e)   a Special Health Board;

  (f)   a National Health Service trust;

  (g)   a mental health officer;

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Section 8 is up
to date with all changes known to be in force on or before 18 July 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

    (h)   a responsible medical officer;

    (i)   the managers of a registered care service;

    (j)   the managers of—

       (i) a prison; or

       (ii) a young offenders institution;

    [**F1**(ja)   Healthcare Improvement Scotland;]

    [**F2**(k)   Social Care and Social Work Improvement Scotland;]

    [**F3**(la)   the Police Service of Scotland;]

    (m)   such other person, or group of persons, as the Commission considers appropriate.

(4) In subsection (3)(i) above, "registered care service" means a care service registered under [**F4**Part 5 of the Public Services Reform (Scotland) Act 2010] (asp 8).

Textual Amendments

F1   S. 8(3)(ja) inserted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 17 para. 29**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.

F2   S. 8(3)(k) substituted (1.10.2010 for specified purposes, 1.4.2011 in so far as not already in force) by Public Services Reform (Scotland) Act 2010 (asp 8), s. 134(7), **sch. 14 para. 15**; S.S.I. 2010/321, art. 3, sch.; S.S.I. 2011/122, art. 2, sch.

F3   S. 8(3)(la) substituted for s. 8(3)(l) (1.4.2013) by Police and Fire Reform (Scotland) Act 2012 (asp 8), s. 129(2), **sch. 7 para. 23(2)**; S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

F4   Words in s. 8(4) substituted (1.4.2011) by The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2011 (S.S.I. 2011/211), art. 1, **sch. 1 para. 13(2)**

Commencement Information

I1   S. 8 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 8 is up to date with all changes known to be in force on or before 18 July 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)