

MENTAL HEALTH (SCOTLAND) ACT 2015

EXPLANATORY NOTES

THE STRUCTURE & A SUMMARY OF THE ACT

Part One – the 2003 Act

Section 11: Specification for detention measures

Amendment of [section 36](#) and [44](#) and new section 71A

37. Section 36 of the 2003 Act allows a medical practitioner to grant an emergency detention certificate which authorises the removal of a patient to a hospital or different hospital, and the detention of the patient in hospital for a period of 72 hours.
38. Section 44 of the 2003 Act allows an approved medical practitioner to grant a short-term detention certificate which authorises the removal of a patient to a hospital or different hospital, the detention of the patient in hospital for a period of 28 days, and the giving to the patient of medical treatment in accordance with Part 16 of the Act.
39. Sections 62 to 68 of the 2003 Act relate to compulsory treatment orders and interim compulsory treatment orders.
40. Section 11 of the Act amends sections 36 (emergency detention in hospital) and 44 (short-term detention in hospital) of the 2003 Act and adds a new section 71A which relates to sections 62 to 68 (compulsory treatment orders). The amendments and new section provide that references in sections 36, 44, 46 to 49 and 62 to 68 to a ‘hospital’ may be read as references to a ‘hospital unit’. This allows emergency detention orders, short-term detention orders, interim compulsory treatment orders and compulsory treatment orders to authorise detention in a specified hospital unit. It also makes clear that a mental health officer’s proposed care plan under section 62 of the 2003 Act may propose that a patient is detained in a specified hospital unit. In addition, the amendments will enable the removal of patients who are subject to emergency or short-term detention certificates to a particular hospital unit or to a different unit within the same hospital (where the patient is in hospital at the time that the order is granted).