



Mental Health (Scotland) Act 2015

2015 asp 9

PART 1

THE 2003 ACT

Advance statements and patients' rights

28 Communication at medical examination etc.

- (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 is amended as follows.
- (2) After section 261 there is inserted—

“261A Help with communication at medical examination etc.

- (1) Subsection (2) below applies where—
 - (a) a medical examination or interview referred to in subsection (4)(a) or (b) below is to be carried out, and
 - (b) the subject of it—
 - (i) has difficulty in communicating, or
 - (ii) generally communicates in a language other than English.
- (2) The appropriate person must take all reasonable steps to secure that, for the purpose of enabling the subject of the medical examination or interview to communicate during it—
 - (a) arrangements appropriate to the subject's needs are made, or
 - (b) the subject is provided with assistance, or material, appropriate to those needs.
- (3) As soon as practicable after taking any steps under subsection (2) above, the appropriate person must make a written record of the steps.
- (4) This subsection refers to—
 - (a) a medical examination by virtue of section 36(1)(a), 44(1)(a), 57(2) or 136(2) of this Act,
 - (b) an interview by virtue of—

Status: This is the original version (as it was originally enacted).

- (i) section 45(1)(a) or 61(2)(a) of this Act, or
 - (ii) section 57C(2)(a) or 59B(2)(a) of the 1995 Act.
- (5) In subsections (2) and (3) above, “the appropriate person” means—
- (a) in relation to a medical examination by virtue of section 136(2) of this Act, the Scottish Ministers,
 - (b) in relation to a medical examination by virtue of any of the other sections of this Act mentioned in subsection (4)(a) above—
 - (i) if it is to be carried out at a hospital, the managers of the hospital,
 - (ii) if it is to be carried out elsewhere, the medical practitioner carrying it out,
 - (c) in relation to an interview referred to in subsection (4)(b) above—
 - (i) if it is to be carried out at a hospital, the managers of the hospital,
 - (ii) if it is to be carried out elsewhere, the mental health officer carrying it out.”.