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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 452**

**The Mental Health (Care and Treatment) (Scotland) Act  
2003 (Transitional and Savings Provisions) Order 2005**

**PART 2**

**PATIENTS DETAINED UNDER PART 5 OF THE 1984 ACT**

**Review, revocation and variation of deemed compulsory treatment order**

4.—(1) A 1984 Act patient shall be treated, for the purposes of section 100 of the 2003 Act as if the deemed compulsory treatment order to which that patient is subject had been made on the day when the patient was admitted to hospital in pursuance of an application for admission under Part 5 the 1984 Act.

(2) Where authority for the detention of a 1984 patient has, prior to 5th October 2005, been renewed under section 30 of the 1984 Act, that patient shall be treated—

- (a) where the authority for the detention has been renewed once, as if a determination under section 86 of the 2003 Act had been made in respect of the first review.
- (b) where the authority for the detention has been renewed more than once, as if such a determination had been made in respect of a subsequent further review.

(3) Where a 1984 Act patient has within a period of detention immediately preceding 5th October 2005 made an unsuccessful appeal to the sheriff to order discharge, that patient shall be treated as if an application under section 99 of the 2003 Act for revocation of a determination had been refused in respect of the deemed compulsory treatment order in that period.

(4) When a determination is made for the first time in respect of any 1984 Act patient under section 86 of the 2003 Act to extend a deemed compulsory treatment order, the responsible medical officer shall send a copy of the patient's care plan and the mental health officer's report mentioned in paragraph (7) to the Tribunal.

(5) At the same time as the patient's care plan and mental health officer's report are sent to the Tribunal, the responsible medical officer shall send a copy of them—

- (a) subject to paragraph (6), to the patient;
- (b) to the patient's named person;
- (c) to the mental health officer;
- (d) to the Commission.

(6) If the responsible medical officer considers that there would be a risk of significant harm to the patient, or to others, if a copy of either the care plan or mental health officer's report were sent to the patient, that officer need not send that copy to the patient.

(7) When the determination mentioned in paragraph 4 is made, the patient's mental health officer shall prepare a report setting out—

- (a) the views of the mental health officer on the determination and the reasons for those views;

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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- (b) if known to the mental health officer, the views of the patient and the patient's named person on the determination and the reasons for those views;
- (c) in so far as the mental health officer considers relevant for the purposes of the review, details of the personal circumstances of the patient;
- (d) if known to the mental health officer, details of any advance statement that the patient has made (and not withdrawn);
- (e) any other information which the mental health officer considers may assist the Tribunal in considering the determination; and
- (f) the social circumstances report, if available.