

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

# Reference by Scottish Ministers / Section 215 Order

HD2 Part B Determination

Hospital Directions and Transfer for Treatment Directions

This box is for the use of the Tribunal for Scotland only	ne Me	ental	Heal	lth																							
Instructions																											v7.1
The following form is to lead to record the determination person or a listed person.			-													icati	on n	nade	e by	the	pat	tient	/ pa	itien	ıt's ı	nam	ed
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○ the patient's guardian (application under section 214)														
○ the patient's welfare attorney (application under section 214)														
○ the patient's primary carer (application under section 214)														
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Hearing Details														
A hearing to consider the appeal was heard on	e above reference /	application	1	Date dd / mm /	уууу		]/[		]/[					
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## **Hearing Details (cont)**

Before determining the reference, the Mental Health Tribunal for Scotland afforded the persons mentioned in section 215(7) of the Act the opportunity to make representations (whether orally or in writing), and to lead or produce evidence. Please shade.

	Attended hearing	Gave evidence
Patient	0	0
Patient's Named Person	0	0
Guardian of the patient	0	0
Welfare Attorney of patient	<u> </u>	0
Patient's MHO	0	0
Patient's RMO	0	0
Patient's primary carer	0	0
Scottish Ministers	$\circ$	0
Curator Ad Litem	0	0

List below any other persons appearing to the Tribunal to have an interest and indicate if they attended the hearing and if they gave evidence

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#### **DETERMINATION**

To be completed by Mental Health Tribunal for Scotland

Shade appropriate option (A, B,C or D)

A: complete where – the Tribunal is satisfied that the test in section 215(2) is met and does NOT make a direction to the Scottish Ministers

- O The Tribunal is satisfied:
  - (a) that the patient has a mental disorder; and
  - (b) that, as a result of the patient's mental disorder, it is necessary, in order to protect any other person from serious harm, for the patient to be detained in hospital, whether or not for medical treatment,

and makes no direction to the Scottish Ministers.

#### B: complete where – the Tribunal makes a direction under section 215(3)

The Tribunal is NOT satisfied that the patient has a mental disorder; and makes a direction to the Scottish Ministers to revoke the direction to which the patient is subject.

### C: complete where – the Tribunal makes a direction under section 215(4)

- The Tribunal is satisfied that the patient has a mental disorder; but is NOT satisfied -
  - (i) that, as a result of the patient's mental disorder, it is necessary, in order to protect any other person from serious harm, for the patient to be detained in hospital, whether or not for medical treatment; and
  - (ii) either -
    - (A) that the conditions mentioned in paragraph (b) and (c) of section 206(4) of the Act continue to apply in respect of the patient; or
    - (B) that it continues to be necessary for the patient to be subject to the direction,

and makes a direction to the Scottish Ministers to revoke the direction to which the patient is subject.



to the Scottish Ministers	
○ The Tribunal:	
(i) is satisfied that the patient has a mental disorder;	
(ii) is NOT satisfied that, as a result of the patient's mental disorder, it is necessary, in order to prote- person from serious harm, for the patient to be detained in hospital, whether or not for medical treatn	
<ul> <li>(iii) is satisfied –</li> <li>(A) that the conditions mentioned in paragraph (b) and (c) of section 206(4) of the Act continue to respect of the patient; and</li> <li>(B) that it continues to be necessary for the patient to be subject to the direction,</li> </ul>	o apply in
and makes no direction to the Scottish Ministers.	
Advance Statement (only complete if the patient remains subject to the direction)	
Complete A, B or C as appropriate	
A S far as is practicable to ascertain, the patient does not have an advance statement under S275 of the Ac	t. 
OR	
As far as is practicable to ascertain: the patient has made and not withdrawn an advance statem of the Act; and the patient's current/proposed care and treatment are NOT in conflict with any wis that advance statement.	shes specified in
OR	
The patient has made and not withdrawn an advance statement under S275 of the Act. This advance statement IS in conflict with current/proposed care and treatment authorised by the direction to we patient is subject. Please record in the box below:  The date of the advance statement(s). Details of treatment that is in conflict with the advance statement and how. Where the conflict with the advance statement concerns treatment the patient specified wishes to record are not receiving, please provide details of this. Reasons for making no direction to the Scottish Ministers, thus allowing this treatment to be given/not the conflict with the advance statement, with reference to the Principles of the Act.	hich the
Where the treatment is in conflict with the advance statement, a record of the above has been sent to:  O the patient  O the patient's welfare attorney	
<ul> <li>○ the patient's named person (if any)</li> <li>○ the patient's guardian</li> </ul>	
<ul> <li>the patient's named person (if any)</li> <li>the patient's guardian</li> <li>the Mental Welfare Commission (a copy of this form and any other record which has been sent to the patient's guardian</li> </ul>	atient/ others)
Signature / Date	
Signed by Convenor	
Date dd / mm / yyyy	

D: complete where – the Tribunal finds that the test in section 215(2) is not met but does NOT make a direction

