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

Determination of Appeal to Revoke or Vary

Short Term Detention, Extension Certificate, Section 114 / 115 Certificate, CTO, CO

REV4

This box is for the use of the Mental Health Tribunal for Scotland only

Instructions v7.2

The following form is to be used:

where the Mental Health Tribunal for Scotland receives an an application to revoke or vary a certificate / order

There is no statutory requirement that you use this form but you are strongly recommended to do so. This form draws attention to some procedural requirements under the Mental Health (Care and Treatment) (Scotland) Act 2003. Failure to observe procedural requirements may invalidate the record.

Where not completing this form electronically, to ensure accuracy of information, please observe the following conventions:

Write clearly within the boxes in BLOCK CAPITALS and in BLACK or BLUE ink

For example

2	5		M	A	R	K	E	T		S	T

Shade circles like this -> ●

Not like this -> ⊗ ✓

Where a text box has a reference number to the left, you can extend your response on plain paper where there is insufficient space in the box. Extension sheet(s) should be clearly labelled with Patient's name and CHI number, and each extended response should be labelled with the appropriate text box reference number.

Patient Details

CHI Number

Surname

First Name (s)

Other / Known As

'Other / Known As' could include any name / alias that the patient would prefer to be known as.

Title

DoB
dd / mm / yyyy

Gender

○ Male ○ Female ○ Prefers not to say ○ Not listed

If not listed, please specify

Patient's home address

Postcode

<< Please enter NF1 1AB if no fixed abode

Application Details

This is an application to:

- ○ revoke a short-term detention or extension certificate
- ○ revoke a certificate granted under section 114 or 115 of the Act
- ○ revoke a compulsory treatment order
- ○ vary a compulsory treatment order
- ○ revoke a compulsion order
- ○ vary a compulsion order

This application was made by:

- ○ the patient; or
- ○ the patient's named person;

or, where the patient is incapable of making a decision whether to apply and has no named person:

- ○ the patient's guardian
- ○ the patient's welfare attorney
- ○ the patient's primary carer
- ○ the patient's nearest relative

Note: An application to revoke or vary a compulsory treatment order (CTO) may not be made during the period of three months beginning with making of a: CTO, CTO extension or CTO extension and variation. (Section 100 (4) of the Act)

To be completed by Mental Health Tribunal for Scotland

Hearing Details

The Mental Health Tribunal for Scotland received the application on: Date / /

A hearing to consider the application was heard on: Date / /

Before the following Tribunal members -

Convenor

Medical

General

Address of Hearing

Postcode

Before determining the application, the Mental Health Tribunal for Scotland afforded the persons mentioned in section 102(3) of the Act the opportunity to: make representations (whether orally or in writing); and leading, or producing evidence. Please shade.

	Attended hearing	Gave evidence
Patient	○	○
Patient's Named Person	○	○
Guardian of the patient	○	○
Welfare Attorney of patient	○	○
Patient's MHO	○	○
Patient's RMO	○	○
Patient's primary carer	○	○
Curator Ad Litem	○	○

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

1	

Where the application is in respect of:

the revocation of a short term detention or extension certificate - ***complete Part 2***

the revocation of a section 114 or section 115 certificate - ***complete Part 3***

the revocation or variation of a compulsory treatment order - ***complete Part 4***

the revocation or variation of a compulsion order - ***complete Part 4***

PART 2 **To be completed by Mental Health Tribunal for Scotland**

DETERMINATION FOLLOWING APPLICATION TO REVOKE A SHORT-TERM DETENTION CERTIFICATE OR EXTENSION CERTIFICATE

Complete the appropriate section

complete if - Revoking the Short Term Detention Or Extension Certificate

The Mental Health Tribunal for Scotland revokes the short-term detention certificate or extension certificate because:

Complete A or B as appropriate

A ○ The Mental Health Tribunal for Scotland is NOT satisfied that all of the following conditions are met:

(i) that the patient has a mental disorder; and

(ii) that because of the mental disorder, the patient's ability to make decisions about the provision of medical treatment for that mental disorder is significantly impaired.

(iii) that if the patient were not detained in hospital there would be a significant risk-

- to the health, safety or welfare of the patient; or
- to the safety of any other person;

OR

B ○ The Mental Health Tribunal for Scotland is NOT satisfied that it continues to be necessary for the detention of the patient authorised by the certificate.

Now go to Part 7

complete if - Refusing the Application

The Mental Health Tribunal for Scotland is NOT revoking the short-term detention certificate or extension certificate because:

Complete A and B

A ○ The Mental Health Tribunal for Scotland IS satisfied that all of the following conditions are met:

(i) that the patient has a mental disorder; and

(ii) that because of the mental disorder, the patient's ability to make decisions about the provision of medical treatment for that mental disorder is significantly impaired.

(iii) that if the patient were not detained in hospital there would be a significant risk-

- to the health, safety or welfare of the patient; or
- to the safety of any other person;

AND

B ○ The Mental Health Tribunal for Scotland IS satisfied that it continues to be necessary for the detention of the patient authorised by the certificate.

Now go to Part 6

GUIDANCE FOR MEDICAL RECORDS ON THIS DETERMINATION

Certificate Revoked
The patient must be discharged from hospital, or arrangements made to treat the patient informally. A REV1 form should be completed.

Application Refused
The certificate will run until it expires.

PART 3 **To be completed by Mental Health Tribunal for Scotland**

DETERMINATION FOLLOWING APPLICATION TO REVOKE A CERTIFICATE UNDER SECTION 114 OR 115 OF THE ACT

Complete the appropriate section

complete if - Revoking the Section 114 / 115 Certificate

○ The Mental Health Tribunal for Scotland is NOT satisfied that if the patient does not continue to be detained in hospital it is reasonably likely that there will be a significant deterioration in the patient's mental health; and revokes the certificate granted under sections 114 or 115

Now go to Part 7

complete if - Refusing the Application

○ The Mental Health Tribunal for Scotland IS satisfied that it continues to be necessary for the detention of the patient authorised by the certificate, and refuses the application.

Now go to Part 6

GUIDANCE FOR MEDICAL RECORDS ON THIS DETERMINATION

Certificate Revoked
The patient must be discharged from hospital, though will still be subject to the compulsory measures authorised by their community based CTO or CO.

Application Refused
The certificate will run until it expires at which point the compulsory measures authorised by the community based CTO or CO will resume (unless an application to vary the CTO/CO is made and the Tribunal makes a determination varying the CTO/CO to a hospital based order).

PART 4 **To be completed by Mental Health Tribunal for Scotland**

DETERMINATION FOLLOWING AN APPLICATION TO REVOKE OR VARY A COMPULSORY TREATMENT ORDER OR COMPULSION ORDER

complete the appropriate section, then give reasons for determination

complete if - Revoking the CTO / CO

○ The Mental Health Tribunal for Scotland revokes the compulsory treatment order / compulsion order to which the application relates

Now go to Part 7

complete if - Varying the CTO / CO

○ The Mental Health Tribunal for Scotland varies the compulsory treatment order / compulsion order by modifying -

(i) the measures (detail measures subject to change following variation in Part 5a); or
(ii) any recorded matter specified in it, including, where appropriate, specifying a new recorded matter where none was previously specified. (Part 5b)

complete if - Refusing the Applicaton

○ The Mental Health Tribunal for Scotland refuses the application.

Reasons for Determination

Please detail reasons for the above determination

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WHERE THE DETERMINATION IS TO

VARY THE CTO/CO or
REFUSE THE APPLICATION

PLEASE COMPLETE PARTS 5A, 5B (CTO ONLY) AND 6

GUIDANCE FOR MEDICAL RECORDS ON THIS DETERMINATION

Order Revoked
The patient should be discharged as soon as practicable or arrangements made to treat the patient informally. A copy of the relevant revocation form (REV2) should be completed.

Variations
Variations take immediate effect from the date the Tribunal Convenor signs the determination.

Application Refused
The current order will continue.

PART 5 **To be completed by Mental Health Tribunal for Scotland**

Part 5a - Measures Authorised

Complete this side for ***all measures authorised*** before this Tribunal hearing

Complete this side for ***all measures authorised*** after this Tribunal hearing

○ (a) the patient's detention in the following specified: ○

hospital

hospital unit (if applicable)

○ (b) giving the patient medical treatment in accordance with Part 16 of the Act ○

○ (c) requiring the patient to attend on: specified or directed dates; or at specified or directed intervals, specified or directed places with a view to receiving medical treatment (including associated travel where appropriate), as detailed below. If the Tribunal specifies a matter then that matter should be inserted in the box below. If the Tribunal leaves that matter to be as directed by the RMO, then the box below should be left blank. ○

3	

○ (d) requiring the patient to attend: on specified or directed dates; or at specified or directed intervals, specified or directed places with a view to receiving community care services, relevant services or any treatment care or service (including associated travel where appropriate), as detailed below. If the Tribunal specifies a matter then that matter should be inserted in the box below. If the Tribunal leaves that matter to be as directed by the RMO, then the box below should be left blank. ○

4	

○ (e) requiring the patient to reside at a specified place, as detailed below. If this measure is authorised then the Tribunal **must** write in the box below the address of the specified place; that address cannot be as "directed by the RMO". ○

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○ (f) requiring the patient to allow any of the following parties to visit the patient in the place where the patient resides. Those parties are: ○

○ patient's MHO ○ patient's RMO ○ any person responsible for providing medical treatment, community care services, relevant services or any treatment, care or services to the patient who is authorised for this purpose by the patient's RMO.

○ (g) requiring the patient to obtain the approval of the MHO to any proposed change of address ○

○ (h) requiring the patient to inform the MHO of any change of address before the change of address takes effect ○

Where the order authorises measures other than the detention of the patient in hospital, the managers of the following hospital will have responsibility for appointing the patient's RMO.

Hospital

PART 5 (cont) **To be completed by Mental Health Tribunal for Scotland**

Part 5b - Recorded Matter (Compulsory Treatment Orders and Compulsion Orders only)

Complete A or B as appropriate

A ○ The Mental Health Tribunal for Scotland wishes to specify as recorded matters within this order the following medical treatment, community care services, relevant services, other treatment care or service.
(Note: this must include ALL recorded matters appropriate to the order , and not just those that have been varied):

6	

OR

B ○ The Tribunal does not specify any recorded matters in this order.

○ The above position (A or B) is a variation from any recorded matter(s) specified in the previous order. (This includes the situation of a new recorded matter being specified, including where none was previously specified.)

PART 6 **To be completed by Mental Health Tribunal for Scotland**

Part 6 - Advance Statement (only complete if the patient remains subject to the certificate/ order)

Complete A or B or C as appropriate

A ○ As far as is practicable to ascertain, the patient does not have an advance statement under S275 of the Act.

OR

B ○ As far as is practicable to ascertain: the patient has made and not withdrawn an advance statement under S275 of the Act; and the patient's current/proposed care and treatment are NOT in conflict with any wishes specified in that advance statement.

OR

C ○ 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 measures in this order. 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 receive, that they are not receiving, please provide details of this.
- Reasons for authorising measures that allow this treatment to be given/not given, despite the conflict with the advance statement, with reference to the Principles of the Act.

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Where the treatment is in conflict with the advance statement, a record of the above has been sent to:

○ the patient ○ the patient's welfare attorney

○ the patient's named person (if any) ○ the patient's guardian

○ the Mental Welfare Commission (a copy of this form and any other record which has been sent to the patient/ others)

PART 7: Signature / Date

Signed
by Convener

Date
dd / mm / yyyy ☐☐ / ☐☐ / ☐☐☐☐