

MENTAL HEALTH (CARE AND TREATMENT) (SCOTLAND) ACT 2003

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 7 – Compulsory Treatment Orders

97. **Part 7** sets out the procedures for making and the effect of a compulsory treatment order. This is an order which is made by the Tribunal and which authorises detention in hospital and various other community-based measures. A compulsory treatment order lasts for 6 months unless revoked before then. However, it may be extended on the application of the patient's responsible medical officer for a further 6 month period and then for periods of 12 months at a time.
98. **Part 7** also provides for an interim compulsory treatment order which the Tribunal may grant while the application for the compulsory treatment order is being considered. An interim order lasts for up to 28 days and may not be extended, although the Tribunal may make more than one interim order provided that the total detention period authorised by those interim orders does not exceed 56 continuous days. The measures authorised by a compulsory treatment order and an interim compulsory treatment order are specified by the Tribunal but may be subsequently varied by the Tribunal. The responsible medical officer has power to suspend the effect of the order for temporary periods or to revoke it. The patient and the patient's named person also have the right to apply to the Tribunal for revocation or variation of the order.

Chapter 1: application for, and making of, orders

Pre-application procedures

Sections 57 and 58: medical examinations and mental health reports

99. Applications for compulsory treatment orders may be made only by a mental health officer. A mental health officer is under a duty to make such an application on receiving two mental health reports. One of these reports must be compiled by an approved medical practitioner while the other may be provided by an approved medical practitioner or the patient's general practitioner. The information which each practitioner must provide in the mental health report prepared by him or her is set out in subsection (4) of section 57.

Sections 59 to 62: duties and powers of mental health officer on receiving reports

100. On receipt of the mental health reports (defined in section 57(4)) produced by virtue of section 57, the mental health officer is required to interview the patient and comply with the other requirements in section 61(2); to take steps to identify the patient's named person (section 59); to co-ordinate the preparation of a proposed care plan in respect of the patient (section 62); and to prepare a report and application to the Tribunal (sections 61 and 63).

101. [Section 57\(7\)](#) requires the application for a compulsory treatment order to be submitted to the Tribunal within 14 days of the later of the two medical examinations.
102. Before making an application, the mental health officer must give notice to the persons listed in section 60(1) of the fact that an application is to be made. Notice need not be given to the patient if a mental health report provided by an approved medical practitioner has indicated that notice should not be given. However, the mental health officer may override the advice of the approved medical practitioner where he or she considers it appropriate and may give such notice all the same. This provision does not, however, relieve the mental health officer of the duty to inform the patient of the proposed application and of the availability of advocacy services at the point at which the mental health officer is preparing the report required under section 61.
103. [Section 61\(4\)](#) sets out the information which must be included in the mental health officer's report. The mental health officer is required by section 57 to submit an application whether or not that officer considers the powers sought are appropriate; but he or she may nonetheless express views on the mental health reports (section 61(4)(f)). Any difference in views between the mental health officer and the medical practitioners will be a matter for the Tribunal to consider. The report must also give details of any advance statement (see sections 275 and 276) which the patient has made and of which the mental health officer is aware.
104. [Section 62](#) requires that the proposed care plan be prepared by the mental health officer in consultation so far as practicable with the medical practitioners who produced the mental health reports and with other persons or agencies who will be providing services, treatment or care to the patient. The plan must contain the information set out in subsection (5).

Application for order

Sections 63, 64 and 67 to 69: consideration by the Tribunal

105. [Section 63](#) deals with the application for a compulsory treatment order. Subsection (2) sets out the matters that must be stated in the application and subsection (3) lists the documents that must accompany the application.
106. For patients who are already subject to a short-term detention certificate (or an extension certificate), section 68 provides that once an application under section 63 has been submitted to the Tribunal, the patient's detention in hospital under authority of the certificate is automatically extended for a further five working days. This is to enable the Tribunal to have sufficient time to come to a decision on the application. Section 69 requires the Tribunal either to make an interim compulsory treatment order or determine the application for the compulsory treatment order before the end of that extended period.
107. On receipt of an application for a compulsory treatment order, the Tribunal must make arrangements under section 64 to consider it. Subsections (2) and (3) require the Tribunal to afford various parties an opportunity to make representations. Tribunal rules made under schedule 2 to the Act will set out further procedural requirements.
108. [Section 64\(5\)](#) sets out the conditions which the Tribunal must be satisfied are met when deciding whether or not to make a compulsory treatment order. If so satisfied, the Tribunal must consider which of the measures from the list set out in section 66(1) are appropriate in the patient's case.

Outcome of application

Section 65: interim compulsory treatment order

109. Where an application for a compulsory treatment order has been made, the Tribunal has power to grant an interim compulsory treatment order. The Tribunal may do so at its own discretion or on the application of any party with an interest in the proceedings. An interim order may last for any period of up to 28 days. The Tribunal may grant more than one interim order in respect of a patient. In that case however, the total period authorised by the interim orders must not exceed 56 consecutive days.
110. [Section 65\(5\)](#) stipulates which persons must be afforded the opportunity to make representations to the Tribunal before an interim order can be granted.

Section 66: measures which may be authorised by a compulsory treatment order or an interim compulsory treatment order

111. A compulsory treatment order (or an interim compulsory treatment order) authorises the measures set out in it. The measures are drawn from the list in subsection (1) of section 66. The measures include detention of the patient in hospital and various measures which are delivered in the community. Whether or not the patient is in hospital, the compulsory treatment order may specify that the patient is to be given medical treatment in accordance with Part 16.

Sections 67, 70, 71, 75 and 76: actions following the making of a compulsory treatment order

112. Where a compulsory treatment order or an interim compulsory treatment order is made, the order will provide the authority for the patient to be removed to the hospital or other place specified in the order (section 67) within 7 days. Other duties which must be carried out once either of these orders has been made include:
- the appointment of a responsible medical officer by the hospital managers (if the patient does not already have a responsible medical officer) (section 230- see paragraphs 419 to 421 of these Notes)
 - the preparation of a social circumstances report by the mental health officer (except where this would serve little or no practical purpose) (section 231- see paragraph 422 of these Notes)
 - the preparation of a care plan by the patient's responsible medical officer. The responsible medical officer must ensure that this care plan is placed with the patient's medical records (section 76- see paragraph 119 of these Notes).
113. [Section 70](#) provides that where an interim compulsory treatment order or a compulsory treatment order is made while a patient is detained on short-term detention, the certificate which authorised the short-term detention is automatically revoked upon the making of the subsequent order. Similarly, section 75 provides that where a patient is made subject to a compulsory treatment order while already subject to an interim compulsory treatment order, that interim order shall be revoked on the making of the 'full' compulsory treatment order.
114. [Section 71](#) introduces schedule 3 and provides that Chapter 1 of Part 7 applies where a patient is subject to a hospital direction made under section 59A of the 1995 Act or a transfer for treatment direction made under section 136 of the 2003 Act subject to the modifications of that Chapter set out in schedule 3.

Chapter 2: interim compulsory treatment orders: review and revocation

Sections 72 to 75: revocation of interim compulsory treatment orders

115. Subsection (1) of section 72 imposes on the patient's responsible medical officer a duty to review the order from time to time to establish whether the matters mentioned in paragraphs (a) and (b) of that subsection apply. Following such a review, subsection (2) places that officer under a duty to revoke the order if not satisfied that either of the tests set out in that subsection is met.
116. **Section 73** confers power on the Commission to revoke an interim compulsory treatment order if it is satisfied that one of the tests in that section is met in the case of a particular patient.
117. If an order is revoked under section 72 or 73, the notification requirements in section 74 must be complied with as soon as possible after the revocation. Subsection (1) relates to revocations under section 72 and subsection (2) relates to revocations under section 73. In each case, the list of persons to be notified (set out in subsection (3)) is the same.
118. **Section 75** provides that where a compulsory treatment order is made in respect of a patient who is subject to an interim compulsory treatment order, that interim order is automatically revoked.

Chapter 3: compulsory treatment orders: care plan

119. Once appointed under section 230 subsequent to the making of the compulsory treatment order, the patient's responsible medical officer is required by section 76 to prepare a care plan for the patient setting out the information mentioned in subsection (2) of section 76. The care plan must be placed in the patient's medical records. It may be amended from time to time (subsection (3)) and the Scottish Ministers may make regulations requiring it to be amended in particular circumstances (subsection (4)). Regulations may also provide that certain information in the care plan may not be amended. Subsection (5) requires the patient's responsible medical officer to make sure that, if the care plan is amended, the amended care plan is placed in the patient's medical records.

Chapter 4: review of orders

Section 77: first mandatory review of compulsory treatment order

120. Subsections (1) and (2) of section 77 require the responsible medical officer of a patient who is subject to a compulsory treatment order to carry out an initial review. A compulsory treatment order lasts for six months and the first review must be carried out in the two months before the order is due to expire. The responsible medical officer must comply with the requirements of subsection (3).

Section 78: further mandatory reviews

121. **Section 78** provides for further mandatory reviews of compulsory treatment orders following the first review. The section applies to compulsory treatment orders which have been extended by one of the three types of determination set out in subsection (1) (a) (broadly, a determination on first review extending the order for six months; a determination on the first further review (i.e. at the end of that six month extension) extending the order for twelve months; and a determination on a second or later further review (extending the order for a further period of twelve months)). It also applies to orders which have been extended by the Tribunal under section 103.
122. Subsection (2) imposes a duty on the patient's responsible medical officer to carry out a review. He or she must comply with the requirements in section 77(3). As with the

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first review, the further review must take place within two months of the date on which the extended order would otherwise expire.

123. There are three possible outcomes of a review of an order. Each is considered in turn.

First possible outcome: revocation

124. The review may result in the order being revoked by the responsible medical officer (section 79). If (having regard to the views of those consulted under section 77(3)(c)) the responsible medical officer is not satisfied as to either of the matters mentioned in subsection (2) of section 79, that officer must make a determination revoking the order.
125. The responsible medical officer and the Commission can revoke an order if satisfied as to the matters specified in sections 80 and 81 respectively. In section 80 cases, the order must be revoked; in section 81 cases, it may be revoked.
126. If an order is revoked, notification must be made to those persons specified in section 82(4).

Second possible outcome: determination that order be extended for 6 months in same form

Section 83: further steps to be taken where order not revoked

127. If the order is not revoked, the responsible medical officer must take the further steps set out in section 83.

Sections 84 to 87: determination that order be extended in same form

128. [Section 84\(1\)](#) and (2) provide that if, after having complied with section 83, the responsible medical officer considers that the order should continue to apply in exactly the same form, that officer must give notice to the mental health officer that it is proposed to make a determination under section 86.
129. Subsection (1) of section 85 then requires the mental health officer, as soon as practicable after receiving that notice, to take the steps set out in subsection (2) of that section.
130. If the tests in subsection (1) of section 86 are met, the responsible medical officer must make a determination extending the order for a period of:
- in the case of a first review, six months,
 - in the case of the first further review, a further 12 months,
 - in the case of a subsequent further review, a further 12 months from the expiry of the last 12 month period for which the order was extended.
131. [Section 87](#) applies where a determination is made under section 86. Subsection (1) requires the responsible medical officer to comply with subsection (2) of that section. By compliance with that provision, the patient's case is again brought to the attention of the Tribunal.
132. Under section 99 the determination made under section 86 may be challenged by the patient or the patient's named person.

Sections 101 and 102: review of determination by Tribunal

133. Subsection (2) of section 101 then requires the Tribunal to review the determination if any of the conditions in that subsection is satisfied. Section 102(1) sets out the range of powers available to the Tribunal on such a review.

Third possible outcome: application to tribunal for extension and variation of order

Sections 83, 88 to 92, 103(1) and 105 to 110: application to Tribunal for extension and variation of order

134. Having taken the further steps in section 83, the patient's responsible medical officer may decide both that it will be necessary for the order to be extended for a further period, as specified in section 88(4), and that it should be varied for that extended period (section 88(2)). In such a case, the responsible medical officer must give notice to the mental health officer under section 88(3).
135. This route to extension and variation, is separate from the responsibility placed on the responsible medical officer by way of sections 93 to 95 to seek a variation of the order *at any time*, should he or she consider that its terms require amendment (see paragraphs 144 and 145 of these Notes).
136. Once the mental health officer has received notice under section 88(3), he or she must take the steps set out in section 89.
137. Subsections (1) and (2) of section 90 provide that if, after having regard to the views of the mental health officer as expressed under section 89(2)(e) and to the views of the persons listed at section 77(3)(c), the responsible medical officer is still satisfied that extension and variation of the compulsory treatment order is necessary, he or she must make an application to the Tribunal under section 92. The information to be submitted as part of such an application is set out in section 92. As soon as practicable after the duty to make an application under section 92 arises, the responsible medical officer must give notice of the application to the persons listed in section 91.
138. Subsection (1) of section 103 sets out the powers that the Tribunal has on an application under section 92.
139. In addition to the powers in section 103(1), the Tribunal has power under sections 105 and 106 to make interim orders.
140. If the Tribunal is satisfied that the tests in paragraphs (a) and (b) of subsection (2) of section 105 are met, it may make an interim order extending (with or without variation) the compulsory treatment order for a period of up to 28 days. The Tribunal may make an interim order at its own discretion or on the application of any person with an interest in the proceedings.
141. **Section 106** enables the Tribunal to make an interim order varying the compulsory treatment order for a period of up to 28 days. The test which must be satisfied is set out in subsection (2).
142. **Section 107** imposes a limit on the powers in sections 105 and 106. An order under either of those sections cannot be made if, when taken together with any other interim order(s) made under those sections, it would lead to such interim orders being in force for a continuous period of more than 56 days.
143. **Section 108** requires the Tribunal, when it makes an order under section 105 or 106 (or any of the other provisions referred to), to specify in the order the modifications made to the measures and any recorded matter.

Variation of order: application by responsible medical officer

Sections 93, 95, 96, 97, 104 and 106 to 108: recorded matters – reference to Tribunal by responsible medical officer

144. **Section 93** also imposes a duty on the patient's responsible medical officer which is additional to the duties imposed by sections 77 and 78. The responsible medical officer

must periodically consider whether a compulsory treatment order should be varied by modifying the measures or recorded matters specified. Subsection (4) details the steps which the officer must take and those who must be consulted. If the officer's views then remain that the order requires to be varied, he or she must apply to the Tribunal under section 95 for an appropriate order.

145. The section has been modified by the 2004 Order which adds to the required steps in the process which the mental health officer must take when notified that the responsible medical officer is proposing to apply to the Tribunal. These include interviewing the patient and giving the patient information about various matters, including the availability of advocacy services and how to access those, and the patient's rights in relation to an application to the Tribunal. There are corresponding amendments to section 95.
146. [Section 96](#) sets out the procedure to be followed by the responsible medical officer where he or she is satisfied that any recorded matter specified in the compulsory treatment order is not being provided. Where this happens, the responsible medical officer must make a reference to the Tribunal (subsection (3)) after having regard to the views of the mental health officer and any other persons he or she considers appropriate.
147. [Section 97](#) states which persons the responsible medical officer must notify once he is required to make a reference to the Tribunal under section 96(3).
148. [Section 104](#) sets out the powers of the Tribunal on a reference under section 96. In addition it may make an interim order under section 106, in which case sections 107 and 108 apply (see paragraphs 142 to 143 of these Notes).

Reference to Tribunal by Commission

Sections 98, 104 and 106 to 108: reference to Tribunal by Commission

149. [Section 98](#) confers on the Commission power to make a reference to the Tribunal with regard to a compulsory treatment order for any reason it considers appropriate. Where the Commission makes such a reference to the Tribunal, it must notify the persons listed in subsection (3) and include in that reference the details listed in subsection (4).
150. [Sections 104](#) and [106 to 108](#) are then applicable (see paragraph 148 above).

Applications by patients etc.

Sections 99, 100, 103(2) to (4) and 106 to 108: applications by patients etc for revocation of determination extending order and for revocation or variation of order

151. [Section 99](#) gives the patient or the patient's named person a right to apply to the Tribunal for an order under section 103 revoking the determination made by the responsible medical officer under section 86 to extend the compulsory treatment order.
152. [Section 100](#) confers on the patient or the patient's named person a right to make an application to the Tribunal for an order revoking the compulsory treatment order outright or varying it by modifying any of the measures or recorded matters specified in the order. Any such application may not be made within three months of the compulsory treatment order being made or within three months of any further order being made in respect of that compulsory treatment order under section 102 or 103. Subsection (6) provides that if an application under section 100 for revocation is refused or an application is made for variation, the individual who made that application is entitled to make no more than one further application in respect of that compulsory treatment order within the period mentioned in subsection (8). This means, for example, that one further application for revocation can be made either within the six month period following the day on which the order was made, or within the six month period following the first

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extension of the order, or within the 12 month period following the second extension of the order.

153. The powers of the Tribunal are set out in section 103. Subsection (2) deals with applications under section 99 and subsections (3) and (4) with applications under section 100.
154. [Sections 106 to 108](#) are then applicable (see paragraphs 141 to 143 above).

Ancillary powers of Tribunal

Sections 109 to 111

155. [Section 109](#) confers power on the Tribunal to require the patient's responsible medical officer or mental health officer to submit certain reports for the purpose of determining an application under section 92, 95, 99 or 100; a review under section 101; and a reference under section 96 or 98. The circumstances in which the Tribunal may require such reports will be set out in regulations made by the Scottish Ministers.

Interpretative provisions

156. [Sections 110](#) and [111](#) apply for the purposes of the Chapter. Section 110 sets out rules for the calculation of periods of time; and section 111 explains what "modify" means.

Chapter 5: breach of orders

Sections 112 to 123: non-compliance with compulsory treatment order or interim compulsory treatment order

Detention provisions

157. [Sections 112](#) and [113](#) relate to a patient who is subject to a compulsory treatment order or an interim compulsory treatment order which does not authorise that patient's detention in hospital; and make provision for breach of the order.
158. [Section 112](#) applies specifically to the patient's breach of a requirement in the order to attend a specified place with a view to receiving medical treatment (the "attendance requirement"). Where a patient has breached the attendance requirement, the responsible medical officer may, with the consent of a mental health officer, make arrangements for that patient to be admitted to hospital or to be taken to the place the patient is required to attend by the attendance requirement. The patient may be detained for no more than 6 hours from the point at which he or she arrives at the hospital or other place (section 112(4) and (5)).
159. [Section 113](#) applies to patients who fail to comply with any of the measures specified in a community-based compulsory treatment order or community-based interim compulsory treatment order. The patient may be taken into custody and conveyed to a hospital either by the responsible medical officer or by a person authorised for that purpose by the responsible medical officer. The patient may then be detained for a period of up to 72 hours. Before the responsible medical officer can exercise this power, however, he or she must be satisfied that subsection (2) or (3) applies in the patient's case.
160. [Section 113\(6\)](#) provides that as soon as reasonably practicable after the patient has been conveyed to hospital under section 113(5), a medical examination of the patient must be carried out by either the patient's responsible medical officer or an approved medical practitioner.
161. [Section 114](#) makes provision for the situation where a patient subject to a compulsory treatment order is detained in hospital under section 113(5) after a breach of the terms of the order. The patient's responsible medical officer may grant a certificate under

subsection (2) authorising the patient's continued detention in hospital for a further period of up to 28 days. Before granting such a certificate, however, the responsible medical officer must comply with the conditions listed at subsections (1), (3) and (4). Subsection (5) requires the responsible medical officer to list the reasons for believing that if the patient does not continue to be detained in hospital that it is reasonably likely that there will be a significant deterioration in the patient's mental health. It is also a requirement that the certificate be signed by the responsible medical officer.

162. **Section 115** makes provision for the situation where a patient subject to an interim compulsory treatment order is detained in hospital under section 113(5) after a breach of the terms of the order. Subsection (2) confers power on the responsible medical officer to grant a certificate authorising the patient's continued detention in hospital until the point at which the interim compulsory treatment order would have expired. A certificate may be granted only if the conditions in subsections (1), (3) and (4) are met.

Notification duties

163. **Section 116** lists the persons who must be notified by the managers of the hospital in which the patient is detained where a certificate is granted under either section 114(2) or section 115(2).

Revocation of detention certificates issued under sections 114(2) and 115(2)

164. **Sections 117** and **118** place a duty on the responsible medical officer who granted a certificate under section 114(2) or section 115(2) to revoke that certificate under certain circumstances.
165. **Section 117(1)** provides that where a certificate under section 114(2) was granted on the basis mentioned in section 114(1)(c)(i) and the responsible medical officer determines that the order should not be varied, that officer must revoke the certificate. Subsection (2) provides that where a certificate under section 114(2) was granted on the basis mentioned in section 114(1)(c)(ii) and the test in section 117(2)(b) is satisfied, the responsible medical officer must revoke the certificate.
166. **Section 118** provides that a certificate under section 115(2) must be revoked where the test in paragraph (b) is met.
167. **Section 119** sets out the persons the responsible medical officer must notify of any such revocation.
168. **Section 120** confers on the patient or the patient's named person the right to apply to the Tribunal for the revocation of a certificate issued under sections 114(2) or 115(2). Subsection (2) sets out the grounds on which the Tribunal will revoke the certificate.

Interaction of Chapter and orders

169. **Section 121(1)** provides that where a patient has breached the terms of a compulsory treatment order or an interim compulsory treatment order and is then detained in hospital under section 113(5), the measures originally authorised by the order are not authorised while the patient is detained under that section. The one exception to this rule relates to the giving of any medical treatment authorised by section 66(1)(b). Where such authorisation for medical treatment has been granted, that authorisation continues to apply during the period of hospital detention authorised by section 113(5).
170. **Sections 122** and **123** similarly provide that where a certificate has been granted under section 114(2) or 115(2), the measures authorised in the compulsory treatment order or interim compulsory treatment order do not apply while the certificate is in force. As with section 121, the one exception to this provision relates to the giving of any medical treatment authorised by section 66(1)(b) which may continue to be given while these certificates are in force.

Chapter 6: transfers

Sections 124 to 126: transfers between hospitals

171. This chapter sets out the procedures which must be followed when a patient, who is detained in hospital on the authority of a compulsory treatment order, is to be transferred to a hospital, including to a state hospital.
172. Subsection (2) of section 124 vests the power to transfer a patient in the managers of the hospital in which the patient is detained, but under subsection (3) the transfer to a different hospital may proceed only where the managers of the receiving hospital have consented to the transfer. Subsection (4) requires the managers of the hospital who propose to transfer the patient to give seven days' notice of the transfer to the persons listed in subsection (8) except where it is necessary to transfer the patient urgently (subsection (5)) and where the patient consents to the transfer (subsection (7)), no notice to that patient is required.
173. Subsection (9) of section 124 provides that where notice has been given of a proposed transfer under subsection (4) or (6)(a) but that transfer does not take place within three months of the notice being given, the transfer may only take place if the managers of the hospital comply with the conditions set out in subsection (10).
174. Subsection (12) of section 124 provides that where a patient is transferred the managers of the hospital from which the patient is transferred must notify the Commission of the matters specified in subsection (13) within 7 days of the transfer taking place.
175. **Section 125** makes provision for a patient or a patient's named person to appeal to the Tribunal against a transfer, or a proposed transfer, to a hospital other than a state hospital. Subsection (3) sets out the time limits within which appeals must be made. Where the patient has been given notice of the transfer before it takes place, he or she may appeal at any time between being given notice and 28 days after the transfer has occurred. Where the patient is given notice of the transfer only on or after the date of the transfer, the time limit for the appeal is 28 days from the point when notice was given. If the patient has not been given notice, the time limit is 28 days beginning with the day on which the patient is transferred. Similar time limits apply in the case of an appeal by the patient's named person.
176. Subsection (4) provides that if an appeal is made against a transfer, and if the transfer has not yet taken place, the transfer may not go ahead unless the Tribunal gives its approval in advance of the appeal being determined. Subsection (4)(b) provides that the Tribunal may make an order that the patient be transferred as proposed pending the determination of the appeal.
177. Subsection (5) makes provision for the Tribunal to make an order on an appeal made under subsection (2) that the transfer should not take place if it has not already taken place. Where the transfer has already taken place, the Tribunal may make an order that the patient should be returned to the hospital from which the patient was transferred.
178. Where a patient is transferred to a state hospital, or receives notice of a proposed transfer to a state hospital, the patient or the patient's named person may appeal to the Tribunal under section 126. Where the patient has been given notice of the transfer before it takes place, he or she may make an appeal at any time between being given notice and 12 weeks after the transfer has occurred. Where the patient is given notice of the transfer only on or after the date of the transfer, the time limit placed on the patient's right of appeal is 12 weeks from the point when notice was given. If the patient has not been given notice, the time limit is 12 weeks beginning with the day on which the patient is transferred. Again, similar time periods for appeal are allowed to the patient's named person.
179. Where the appeal is made before the transfer has taken place, the transfer should not then proceed unless the Tribunal makes an order that it should do so. If the transfer has

already taken place, the Tribunal may make an order that the patient be returned to the transferring hospital unless satisfied that the patient requires to be kept under conditions of special security that only the state hospital can provide

Chapter 7: suspension

Sections 127 to 129: suspension of order

180. This Chapter makes provision for the temporary suspension of measures authorised under a compulsory treatment order.
181. **Section 127** authorises the temporary lifting of a requirement for a patient to be detained in hospital. The responsible medical officer may suspend the detention requirement for a period of up to 6 months and may, under section 127(5), make the suspension subject to conditions where he or she considers it to be in the interests of the patient or to be necessary for the protection of others to do so. In the circumstances mentioned in subsection (7), the responsible medical officer must notify the persons listed in subsection (8). The responsible medical officer may grant a subsequent certificate but the total period specified in that certificate and any other certificate must not exceed 9 months in the period of 12 months ending with the expiry of the subsequent certificate (subsection (2)).
182. **Section 128** enables the responsible medical officer to issue a certificate which would suspend any provision of the order other than a detention requirement. A certificate granted under section 128 may suspend measures specified in the compulsory treatment order for a period of up to 3 months. Notice must be given by the responsible medical officer in accordance with subsections (3) and (5).
183. **Section 129** confers on the responsible medical officer power to revoke a certificate granted under section 127(1), 127(3) or 128(1) where he or she considers that revocation to be in the interests of the patient or to be necessary for the protection of any other person. The responsible medical officer must comply with the notification requirements in subsections (3) to (5).