



# Mental Health (Scotland) Act 1984

## 1984 CHAPTER 36

### PART XI

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous provisions*

#### **115 Correspondence of patients**

- (1) Any postal packet addressed to any person by a patient detained in a hospital under this Act and delivered by him for dispatch may be withheld from the Post Office—
  - (a) if that person has requested that communications addressed to him by the patient should be withheld ; or
  - (b) subject to subsection (3) of this section, if the hospital is a State hospital and the managers of the hospital consider that the postal packet is likely—
    - (i) to cause distress to the person to whom it is addressed or to any other person (not being a person on the staff of the hospital); or
    - (ii) to cause danger to any person,and any request for the purposes of paragraph (a) of this subsection shall be made by a notice in writing given to the managers of the hospital, the responsible medical officer or the Secretary of State.
- (2) Subject to subsection (3) of this section a postal packet addressed to a patient detained in a State hospital under this Act may be withheld from the patient if, in the opinion of the managers of the hospital, it is necessary to do so in the interests of the safety of the patient or for the protection of other persons.
- (3) Subsections (1)(b) and (2) of this section do not apply to any postal packet addressed by a patient to, or sent to a patient by or on behalf of—
  - (a) any Minister of the Crown or member of either House of Parliament;
  - (b) the Mental Welfare Commission, any Commissioner thereof or any person appointed by them under section 3(9)(b) of this Act;

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*Status: This is the original version (as it was originally enacted).*

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- (c) the Parliamentary Commissioner for Administration, the Health Service Commissioner for Scotland, or the Commissioner for Local Administration in Scotland ;
  - (d) any judge or clerk of court;
  - (e) a Health Board, the Common Services Agency for the Scottish Health Service or a local council established under section 7 of the National Health Service (Scotland) Act 1978;
  - (f) a local authority within the meaning of section 235 of the Local Government (Scotland) Act 1973 ;
  - (g) the managers of the hospital in which the patient is detained;
  - (h) any legally qualified person instructed by the patient to act as his legal advisor ; or
  - (i) the European Commission on Human Rights or the European Court of Human Rights.
- (4) The managers of the hospital may open and inspect any postal packet for the purpose of determining whether it is one to which subsection (1) or (2) of this section applies and, if so, whether or not it should be withheld under that subsection ; and the power to withhold a postal packet under either of those subsections includes power to withhold anything contained in it.
- (5) Where a postal packet or anything contained in it is withheld under subsection (1) or (2) of this section the managers of the hospital shall record that fact in writing and shall, within 7 days of the date on which they withheld the postal packet or anything contained in it, notify the Mental Welfare Commission of—
- (a) the name of the patient concerned; and
  - (b) the nature of the postal packet or contents withheld; and
  - (c) the reason for withholding the postal packet or contents.
- (6) Where a postal packet or anything contained in it is withheld under subsection (1)(b) or (2) of this section the managers of the hospital shall within 7 days give notice of that fact to the patient and, in a case under subsection (2) of this section, to the person (if known) by whom the postal packet was sent; and any such notice shall be in writing and shall contain a statement of the effect of section 116 of this Act.
- (7) The functions of the managers of a hospital under this section shall be discharged on their behalf by a person on the staff of the hospital appointed by them for that purpose, and different persons may be appointed to discharge different functions.
- (8) The Secretary of State may make regulations with respect to the exercise of the powers conferred by this section.
- (9) In this section and in section 116 of this Act "postal packet" has the same meaning as in the Post Office Act 1953 ; and the provisions of this section and section 116 of this Act shall have effect notwithstanding anything in section 56 of that Act.