



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

2003 asp 13

PART 7

COMPULSORY TREATMENT ORDERS

CHAPTER 6

TRANSFERS

124 Transfer to other hospital

- (1) This section applies where the detention of a patient in hospital is authorised [^{F1}by—
 - (a) a compulsory treatment order, or
 - (b) an interim compulsory treatment order.]
- (2) The managers of the hospital in which the patient is detained may, where the condition mentioned in subsection (3) below is satisfied, transfer the patient to another hospital.
- (3) The condition is that the managers of the hospital to which it is proposed to transfer the patient consent to the transfer.
- (4) Where the managers of a hospital propose to transfer the patient under subsection (2) above, they shall, subject to subsections (5) and (7) below, give the persons mentioned in subsection (8) below at least 7 days' notice of the transfer.
- (5) The managers of a hospital need not give notice under subsection (4) above where it is necessary that the patient be transferred urgently.
- (6) Where, by virtue of subsection (5) above, notice is not given under subsection (4) above, the managers of the hospital shall, subject to subsection (7) below, give the persons mentioned in subsection (8) below notice—
 - (a) where the proposed transfer has not taken place, of the proposed transfer; or
 - (b) where the transfer has taken place, of the transfer,as soon as practicable before, on or, as the case may be, after the transfer.

Changes to legislation: Mental Health (Care and Treatment) (Scotland) Act 2003, Section 124 is up to date with all changes known to be in force on or before 17 August 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (7) The managers of the hospital need not give notice to the patient under subsection (4) or, as the case may be, (6) above where the patient consents to the transfer.
- (8) The persons referred to in subsections (4) and (6) above are—
- (a) the patient;
 - (b) the patient's named person; and
 - (c) the patient's primary carer.
- (9) Where—
- (a) notice is given under subsection (4) or (6)(a) above of a proposed transfer under subsection (2) above; and
 - (b) the proposed transfer does not take place before the end of the period of 3 months beginning with the day on which notice is given,
- the managers of the hospital may transfer the patient as proposed only if subsection (10) below applies.
- (10) This subsection applies where—
- (a) the condition mentioned in subsection (3) above continues to be satisfied; and
 - (b) the persons mentioned in subsection (8) above are given at least 7 days' notice of the proposed transfer.
- (11) Subsections (5) to (7) above shall apply to the giving of notice under subsection (10) (b) above as they apply to the giving of notice under subsection (4) above.
- (12) Where the patient is transferred under subsection (2) above, the managers of the hospital from which the patient is transferred shall, before the expiry of the period of 7 days beginning with the transfer, give notice to the Commission of the matters mentioned in subsection (13) below.
- (13) Those matters are—
- (a) the date on which the patient was transferred;
 - (b) the hospital to which the patient was transferred;
 - (c) that—
 - (i) notice was given under subsection (4) above; or
 - (ii) if no such notice was given, the reasons why it was necessary that the patient be transferred urgently; and
 - (d) whether notice was given under subsection (6) or (10)(b) above.
- (14) Where the patient is transferred under subsection (2) above, the [F2order in question] shall, for the purposes of this Act (other than sections 125 and 126), be taken to specify the hospital to which the patient is transferred.

Textual Amendments

- F1** Words in s. 124(1) substituted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\), ss. 3\(2\)\(a\), 61\(2\); S.S.I. 2017/197, art. 2, sch.](#)
- F2** Words in s. 124(14) substituted (30.6.2017) by [Mental Health \(Scotland\) Act 2015 \(asp 9\), ss. 3\(2\)\(b\), 61\(2\); S.S.I. 2017/197, art. 2, sch.](#)

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Commencement Information

- II** S. 124 in force at 5.10.2005 by [S.S.I. 2005/161](#), **art. 3** (as substituted (1.7.2005) by [S.S.I. 2005/375](#), art. 2 and as amended (22.9.2005) by [S.S.I. 2005/459](#), art. 2)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 64(8A)(8B) inserted by [2015 asp 9 s. 1\(2\)](#)
- s. 65(7) inserted by [2015 asp 9 s. 1\(3\)](#)