



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

2003 asp 13

PART 18

MISCELLANEOUS

Communications, security etc.

281 Correspondence of certain persons detained in hospital

- (1) A postal packet which is—
 - (a) addressed to any person by a specified person; and
 - (b) delivered by the specified person for dispatch,may, where subsection (2) or (3) below applies, be withheld from the relevant carrier by the managers of the hospital in which the specified person is detained.
- (2) This subsection applies if the person in question has requested that communications addressed to such person by the specified person should be withheld.
- (3) This subsection applies if—
 - (a) the postal packet is not addressed to a person mentioned in subsection (5) below; and
 - (b) the managers of the hospital consider that the postal packet is likely—
 - (i) to cause distress to the person in question or any other person who is not on the staff of the hospital; or
 - (ii) to cause danger to any person.
- (4) Any request for the purposes of subsection (2) above shall be made in writing to—
 - (a) the managers of the hospital concerned;
 - (b) the responsible medical officer; or
 - (c) the Scottish Ministers.
- (5) The persons referred to in subsection (3)(a) above are—
 - (a) any Minister of the Crown or the Scottish Ministers;

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- (b) any member of either House of Parliament or member of the Scottish Parliament, National Assembly for Wales or Northern Ireland Assembly;
 - (c) any member of the European Parliament elected for the United Kingdom;
 - (d) the Commission or any of its members;
 - (e) the Parliamentary Commissioner for Administration;
 - (f) the Scottish Public Services Ombudsman;
 - (g) a local authority;
 - (h) any judge or clerk of court;
 - (i) the Tribunal;
 - (j) the managers of the hospital in which the specified person is detained;
 - (k) a Health Board;
 - (l) a Special Health Board;
 - [^{F1}(la) Healthcare Improvement Scotland;]
 - (m) a National Health Service trust;
 - (n) any person who, to the knowledge of the managers of the hospital in which the specified person is detained, is providing independent advocacy services to the specified person under section 259 of this Act;
 - (o) any legally qualified person instructed by the specified person to act as the specified person’s legal adviser;
 - (p) the European Court of Human Rights; and
 - (q) such other persons as may be specified in regulations.
- (6) A postal packet which—
- (a) is addressed to a specified person; and
 - (b) is not sent by or on behalf of any person mentioned in subsection (5) above, may be withheld from the specified person by the managers of the hospital in which the specified person is detained if, in their opinion, it is necessary to do so in the interests of the health or safety of the specified person or for the protection of any other person.
- (7) The managers of a hospital may inspect and open any postal packet for the purposes of determining—
- (a) whether it is a postal packet to which subsection (1) or (6) above applies; and
 - (b) if it is, whether it should be withheld under the subsection in question.
- (8) The power to withhold a postal packet under subsection (1) or (6) above includes power to withhold anything contained in such packet.
- (9) In this section—
- “postal packet” has the meaning given by section 125 of the Postal Services Act 2000 (c. 26);
- “relevant carrier” means—
- (a) the postal operator (as defined in that section of that Act); or
 - (b) the person other than a person mentioned in paragraph (a) above,
- who is to receive or collect the postal packet for the purpose of its being conveyed and delivered; and
- “specified person” means a person who—
- (a) is detained in a hospital; and
 - (b) meets such other conditions, or in relation to whom such other conditions are met, as may be specified in regulations.

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Textual Amendments

- F1** S. 281(5)(la) inserted (1.4.2011) by [The Public Services Reform \(Scotland\) Act 2010 \(Consequential Modifications\) Order 2011 \(S.S.I. 2011/211\)](#), art. 1, **sch. 2 para. 8(3)**
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Commencement Information

- I1** S. 281 in force at 21.3.2005 for specified purposes by [S.S.I. 2005/161](#), art. 2, **Sch. 1**
- I2** S. 281 in force at 5.10.2005 in so far as not already in force 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)

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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\(3\)](#)