



Mental Health Act 1983

1983 CHAPTER 20

PART X

MISCELLANEOUS AND SUPPLEMENTARY

Miscellaneous provisions

134 Correspondence of patients.

- (1) A postal packet addressed to any person by a patient detained in a hospital under this Act and delivered by the patient for dispatch may be withheld from [^{F1}the postal operator concerned]—
- (a) if that person has requested that communications addressed to him by the patient should be withheld; or
 - (b) subject to subsection (3) below, if the hospital is [^{F2}one at which high security psychiatric services are provided] 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) above shall be made by a notice in writing given to the managers of the hospital, [^{F3}or] the [^{F4}approved clinician with overall responsibility for the patient's case]^{F5}... .
- (2) Subject to subsection (3) below, a postal packet addressed to a patient detained [^{F6}under this Act in a hospital at which high security psychiatric services are provided] 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) above do not apply to any postal packet addressed by a patient to, or sent to a patient by or on behalf of—

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- (a) any Minister of the Crown [^{F7}or the Scottish Ministers] or Member of either House of Parliament [^{F7}or member of the Scottish Parliament][^{F8}or of the Northern Ireland Assembly];
- [^{F9}(aa) any of the Welsh Ministers, the Counsel General to the Welsh Assembly Government or a member of the National Assembly for Wales;]
- [^{F10}(b) any judge or officer of the Court of Protection, any of the Court of Protection Visitors or any person asked by that Court for a report under section 49 of the Mental Capacity Act 2005 concerning the patient;]
- (c) the Parliamentary Commissioner for Administration, [^{F11}the Scottish Public Services Ombudsman,][^{F12}the Public Services Ombudsman for Wales] the Health Service Commissioner for England, ^{F13} . . . or a Local Commissioner within the meaning of Part III of the ^{M1}Local Government Act 1974;
- [^{F14}(ca) the Care Quality Commission;]
- [^{F15}(cb) the Citizen Voice Body for Health and Social Care, Wales;]
- (d) [^{F16}the First-tier Tribunal or the Mental Health Review Tribunal for Wales];
- (e) [^{F17}NHS England][^{F18}, an integrated care board,] a ^{F19}... [^{F20}Local Health Board][^{F21}or Special Health Authority]^{F22}..., a local social services authority ^{F23} ... ^{F24}... [^{F25}, a][^{F26}local probation board established under section 4 of the Criminal Justice and Court Services Act 2000)][^{F27}or a provider of probation services];
- [^{F28}(ea) a provider of a patient advocacy and liaison service for the assistance of patients at the hospital and their families and carers;
- (eb) a provider of independent advocacy services for the patient;]
- (f) the managers of the hospital in which the patient is detained;
- (g) any legally qualified person instructed by the patient to act as his legal adviser; or
- (h) the European Commission of Human Rights or the European Court of Human Rights.

[^{F29} and for the purposes of paragraph (d) above the reference to the First-tier Tribunal is a reference to that tribunal so far as it is acting for the purposes of any proceedings under this Act or paragraph 5(2) of the Schedule to the Repatriation of Prisoners Act 1984^{F30}.]

[^{F31}(3A) In subsection (3) above—

- (a) “patient advocacy and liaison service” means a service of a description prescribed by regulations made by the Secretary of State, and

“independent advocacy services” means services provided under arrangements under [^{F32} section 248 of the National Health Service Act 2006 or section 187 of the National Health Service (Wales) Act 2006].]

- [^{F33}(b) “independent advocacy services” means services provided under—
 - (i) arrangements under section 130A [^{F34}or section 130E] above;
 - (ii) arrangements under [^{F35}section 223A of the Local Government and Public Involvement in Health Act 2007] or section 187 of the National Health Service (Wales) Act 2006; or
 - (iii) arrangements of a description prescribed as mentioned in paragraph (a) above.]

(4) The managers of a hospital may inspect and open any postal packet for the purposes of determining—

- (a) whether it is one to which subsection (1) or (2) applies, and

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- (b) in the case of a postal packet to which subsection (1) or (2) above applies, 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) above the managers of the hospital shall record that fact in writing.
- (6) Where a postal packet or anything contained in it is withheld under subsection (1)(b) or (2) above the managers of the hospital shall within seven days give notice of that fact to the patient and, in the case of a packet withheld under subsection (2) above, to the person (if known) by whom the postal packet was sent; and any such notice shall be given in writing and shall contain a statement of the effect of [F36 section 134A(1) to (4)].
- (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 [F37 and section 134A] “hospital” has the same meaning as in Part II of this Act [F38 and “postal operator” and], “postal packet” [F39] have] the same meaning as in [F40 Part 3 of the Postal Services Act 2011 (see section 27)]

Textual Amendments

- F1** Words in s. 134(1) substituted (26.3.2001) by 2000 c. 26, s. 127(4), **Sch. 8 Pt. II para. 19(2)**; S.I. 2001/1148, **art. 2, Sch.** (with **art. 34**)
- F2** Words in s. 134(1)(b) substituted (1.4.2000) by 1999 c. 8, s. 65(1), **Sch. 4 para. 68**; S.I. 1999/2793, **art. 2(3)(a), Sch. 3**
- F3** Word in s. 134(1) inserted (1.7.2012) by Health and Social Care Act 2012 (c. 7), **ss. 44(1)(a)**, 306(4) (with **s. 44(2)**); S.I. 2012/1319, **art. 2(3)**
- F4** Words in s. 134(1) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 14(4)**, 56 (with **Sch. 10**); S.I. 2008/1900, **art. 2(b)** (with **art. 3, Sch.**)
- F5** Words in s. 134(1) omitted (1.7.2012) by virtue of Health and Social Care Act 2012 (c. 7), **ss. 44(1)(b)**, 306(4) (with **s. 44(2)**); S.I. 2012/1319, **art. 2(3)**
- F6** Words in s. 134(2) substituted (1.4.2000) by 1999 c. 8, s. 65(1), **Sch. 4 para. 68**; S.I. 1999/2793, **art. 2(3)(a), Sch. 3**
- F7** Words in s. 134(3)(a) inserted (1.7.1999) by S.I. 1999/1820, **art 4, Sch. 2 Pt. I**, para. 71 (with **art. 5**); S.I. 1998/3178, **art. 2**
- F8** Words in s. 134(3)(a) inserted (2.12.1999) by 1998 c. 47, s. 99, **Sch. 13**, para. 5(2); S.I. 1999/3209, **art. 2, Sch.**
- F9** S. 134(3)(aa) inserted by The Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), **art. 3, Sch. 1 para. 18** (the amendment comming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with **art. 1(2)(3)** of the amending S.I. and see **ss. 46, 161(5)** of Government of Wales Act 2006 (c. 32))
- F10** S. 134(3)(b) substituted (1.10.2007) by Mental Capacity Act 2005 (c. 9), **ss. 67(1), 68(1)-(3), Sch. 6 para. 29(2)** (with **ss. 27, 28, 29, 62**); S.I. 2007/1897, **art. 2(1)(d)**
- F11** Words in s. 134(3)(c) inserted (14.7.2004) by The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), **art. 9**

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- F12** Words in s. 134(3)(c) substituted (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), ss. 39, 40, **Sch. 6 para. 21(a)**; S.I. 2005/2800, **art. 5(1)** (with art. 5(2))
- F13** Words in s. 134(3)(c) repealed (1.4.2006) by Public Services Ombudsman (Wales) Act 2005 (c. 10), ss. 39, 40, Sch. 6 para. 21(b), **Sch. 7**; S.I. 2005/2800, **art. 5(1)** (with art. 5(2))
- F14** S. 134(3)(ca) inserted (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 52, 170, **Sch. 3 para. 11(2)**; S.I. 2009/462, **arts. 1(1)(b)**, 2, Sch. 1 para. 33
- F15** S. 134(3)(cb) inserted (1.4.2023) by Health and Social Care (Quality and Engagement) (Wales) Act 2020 (asc 1), s. 29(2), **Sch. 3 para. 6(a)**; S.I. 2023/370, art. 3(1)(t)
- F16** Words in s. 134(3)(d) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 6, **Sch. 3 para. 65(a)**
- F17** Words in s. 134 substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F18** Words in s. 134(3)(e) substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 17**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F19** Words in s. 134(3)(e) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 29(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F20** Words in s. 134(3)(e) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, **Sch. para. 13(10)**
- F21** Words in s. 134(3)(e) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 29(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F22** Words in s. 134(3)(e) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 29(d)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F23** Words in s. 134(3)(e) omitted (1.4.2023) by virtue of Health and Social Care (Quality and Engagement) (Wales) Act 2020 (asc 1), s. 29(2), **Sch. 3 para. 6(b)**; S.I. 2023/370, art. 3(1)(t)
- F24** Words in s. 134(3)(e) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 241, 245, **Sch. 18 Pt. 18**; S.I. 2008/461, **art. 2(3)**, Sch.
- F25** Words in s. 134(3)(e) substituted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), arts. 1, 3, **Sch. 1 para. 7(2)**
- F26** Words in s. 134(3)(e) substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 Pt. II para. 74**; S.I. 2001/919, **art. 2(f)**
- F27** Words in s. 134(3)(e) inserted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), arts. 1, 3, **Sch. 1 para. 7(2)**
- F28** S. 134(3)(ea)(eb) inserted (1.7.2002 for W. and 1.9.2003 for E.) by 2001 c. 15, ss. 67(1), 70(2), Sch. 5 para. 6(2) (with ss. 64(9), 65(4)); S.I. 2002/1475, art. 2(1), Sch. Pt. 2; S.I. 2003/2245, **art. 2(b)**
- F29** Words in s. 134(3) inserted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 6, **Sch. 3 para. 65(b)**
- F30** 1984 c.47.
- F31** S. 134(3A) inserted (1.7.2002 for W. and 1.9.2003 for E.) by 2001 c. 15, ss. 67(1), 70(2), Sch. 5 para. 6(2) (with ss. 64(9), 65(4)); S.I. 2002/1475, art. 2(1), Sch. Pt. 2; S.I. 2003/2245, **art. 2(b)**
- F32** Words in s. 134(3A) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s.2, **Sch. 1 para. 68** (with Sch. 3 Pt. 1)
- F33** S. 134(3A)(b) substituted (1.4.2008 for certain purposes, 3.11.2008 for further purposes and otherwise 1.4.2009) by Mental Health Act 2007 (c. 12), **ss. 30(3)**, 56 (with Sch. 10); S.I. 2008/745, **art. 2(b)(ii)**; S.I. 2008/2561, **art. 2(c)** (with art. 3, Sch.); S.I. 2009/139, **art. 2(a)** (with Sch. paras. 3, 4)
- F34** Words in s. 134(3A)(b)(i) inserted (3.1.2012 for specified purposes, 2.4.2012 in so far as not already in force) by Mental Health (Wales) Measure 2010 (nawm 7), s. 55(3), **Sch. 1 para. 8**; S.I. 2011/3046, arts. 2(k), 3(j) (with art. 5)
- F35** Words in s. 134(3A)(b)(ii) substituted (27.3.2012 for specified purposes, otherwise 1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 185(3)**, 306(1)(d), (4); S.I. 2013/106, art. 2 (with arts. 7-9)
- F36** Words in s. 134(6) substituted (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 52, 170, **Sch. 3 para. 11(3)**; S.I. 2009/462, **arts. 1(1)(b)**, 2, Sch. 1 para. 33
- F37** Words in s. 134(9) inserted (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 52, 170, **Sch. 3 para. 11(4)**; S.I. 2009/462, **arts. 1(1)(b)**, 2, Sch. 1 para. 33

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- F38** Words in s. 134(9) inserted (26.3.2001) by 2000 c. 26, s. 127(4), **Sch. 8 Pt. II para. 19(3)(a)**; S.I. 2001/1148, art. 2, **Sch.** (with art. 34)
- F39** Words in s. 134(9) substituted (26.3.2001) by 2000 c. 26, s. 127(4), **Sch. 8 Pt. II para. 19(3)(b)**; S.I. 2001/1148, art. 2, **Sch.** (with art. 34)
- F40** Words in s. 134(9) substituted (1.10.2011) by Postal Services Act 2011 (c. 5), s. 93(2)(3), **Sch. 12 para. 115**; S.I. 2011/2329, art. 3

Modifications etc. (not altering text)

- C1** S. 134(3)(c) extended in part (1.7.1999) by S.I. 1999/1351, **art. 17(2)(b)** (with art. 18); S.I. 1998/3178, **art. 2**

Marginal Citations

- M1** 1974 c. 7.

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

- Act applied by [1996 c. 46 Sch. 2 para. 9](#)(replacing [1968 c 20 s. 23](#)) (Act applied (prosp.) by [1968 c. 20, s. 23\(4\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 9](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing [1957 c 53 s. 63](#)) (Act applied (prosp.) by [1957 c. 53, s. 63C\(6\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 4](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 19 s. 116](#)) (Act applied (prosp.) by [1955 c. 19, s. 116C\(6\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2 para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)](#))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 18 s 116](#)) (Act applied (prosp.) by [1955 c. 18, s. 116C\(6\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2 para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act power to applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing [1957 c 53 s. 63](#)) (Act: Power to apply conferred (prosp.) by [1957 c. 53, s. 63B\(4\)\(c\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 4](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act power to applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 19 s. 116](#)) (Act: Power to apply conferred (prosp.) by [1955 c. 19, s. 116B\(4\)\(c\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act power to applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 18 s 116](#)) (Act: Power to apply conferred (prosp.) by [1955 c. 18, s. 116B\(4\)\(c\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2 para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))

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

- s. 74(8) inserted by [2015 c. 2 Sch. 3 para. 3\(3\)](#)