



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

2003 asp 13

PART 7

COMPULSORY TREATMENT ORDERS

CHAPTER 6

TRANSFERS

126 Transfer to state hospital: appeal to Tribunal

- (1) This section applies where a patient—
 - (a) receives notice under subsection (4), (6)(a) or (10)(b) of section 124 of this Act that it is proposed to transfer the patient; or
 - (b) is transferred under subsection (2) of that section, to a state hospital.
- (2) The patient, or the patient's named person, may, during the period mentioned in subsection (3) below, appeal to the Tribunal against the proposed transfer or, as the case may be, the transfer.
- (3) That period is—
 - (a) in the case of the patient—
 - (i) where notice is given to the patient before the proposed transfer, the period beginning with the day on which notice is given and ending 12 weeks after the transfer;
 - (ii) where notice is given to the patient on or after the transfer, the period beginning with the day on which the patient is transferred and ending 12 weeks after the day on which notice is given; or
 - (iii) where notice is not given to the patient, the period of 12 weeks beginning with the day on which the patient is transferred;
 - (b) in the case of the patient's named person—

Status: This is the original version (as it was originally enacted).

- (i) where notice is given to the patient's named person before the proposed transfer, the period beginning with the day on which notice is given and ending 12 weeks after the transfer; or
 - (ii) where notice is given to the patient's named person on or after the transfer, the period of 12 weeks beginning with the day on which notice is given.
- (4) If, when an appeal under subsection (2) above against a proposed transfer is made to the Tribunal, the proposed transfer has not taken place—
 - (a) the managers of the hospital shall not transfer the patient as proposed; but
 - (b) the Tribunal may, if satisfied that, pending determination of the appeal, the patient should be transferred as proposed, make an order that the patient be so transferred.
- (5) On an appeal under subsection (2) above, the Tribunal may, if not satisfied as to the matter mentioned in subsection (6) below, make an order that the proposed transfer not take place or, as the case may be, that the patient be returned to the hospital from which the patient was transferred.
- (6) That matter is—
 - (a) that the patient requires to be detained in hospital under conditions of special security; and
 - (b) that those conditions of special security can be provided only in a state hospital.