



Mental Health Act 1983

1983 CHAPTER 20

PART X

MISCELLANEOUS AND SUPPLEMENTARY

Miscellaneous provisions

[^{F1}130C Section 130A: supplemental

(1) This section applies for the purposes of section 130A above.

[^{F2}(2) A patient is a qualifying patient if he is—

- (a) liable to be detained under this Act (otherwise than by virtue of section 4 or 5(2) or (4) above or section 135 or 136 below) and the hospital or registered establishment in which he is liable to be detained is situated in England;
- (b) subject to guardianship under this Act and the area of the responsible local social services authority within the meaning of section 34(3) above is situated in England;
- (c) a community patient and the responsible hospital is situated in England.]

(3) A patient is also a qualifying patient if [^{F3}the patient is to be regarded as being in England for the purposes of this subsection and]—

- (a) not being a qualifying patient falling within subsection (2) above, he discusses with a registered medical practitioner or approved clinician the possibility of being given a form of treatment to which section 57 above applies; or
- (b) not having attained the age of 18 years and not being a qualifying patient falling within subsection (2) above, he discusses with a registered medical practitioner or approved clinician the possibility of being given a form of treatment to which section 58A above applies.

[For the purposes of subsection (3), a patient is to be regarded as being in England if ^{F4}(3A) that has been determined in accordance with arrangements made for the purposes of that subsection and section 130I(4), and published, by the Secretary of State and the Welsh Ministers.]

Changes to legislation: Mental Health Act 1983, Section 130C is up to date with all changes known to be in force on or before 08 January 2024. 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

- (4) Where a patient who is a qualifying patient falling within subsection (3) above is informed that the treatment concerned is proposed in his case, he remains a qualifying patient falling within that subsection until—
- (a) the proposal is withdrawn; or
 - (b) the treatment is completed or discontinued.
- [A local social services authority is responsible for a qualifying patient if—
- ^{F5}(4A) (a) in the case of a qualifying patient falling within subsection (2)(a) above, the hospital or registered establishment in which he is liable to be detained is situated in that authority's area;
- (b) in the case of a qualifying patient falling within subsection (2)(b) above, that authority is the responsible local social services authority within the meaning of section 34(3) above;
- (c) in the case of a qualifying patient falling within subsection (2)(c), the responsible hospital is situated in that authority's area;
- (d) in the case of a qualifying patient falling within subsection (3)—
- (i) in a case where the patient has capacity or is competent to do so, he nominates that authority as responsible for him for the purposes of section 130A above, or
 - (ii) in any other case, a donee or deputy or the Court of Protection, or a person engaged in caring for the patient or interested in his welfare, nominates that authority on his behalf as responsible for him for the purposes of that section.
- (4B) In subsection (4A)(d) above—
- (a) the reference to a patient who has capacity is to be read in accordance with the Mental Capacity Act 2005;
 - (b) the reference to a donee is to a donee of a lasting power of attorney (within the meaning of section 9 of that Act) created by the patient, where the donee is acting within the scope of his authority and in accordance with that Act;
 - (c) the reference to a deputy is to a deputy appointed for the patient by the Court of Protection under section 16 of that Act, where the deputy is acting within the scope of his authority and in accordance with that Act.]

^{F6}(5)

^{F6}(6)]

Textual Amendments

- F1** Ss. 130A-130D inserted (1.4.2008 for ss. 130A, 130C for certain purposes, otherwise 3.11.2008 for W. and 1.4.2009 for E.) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 30(2)**, 56 (with Sch. 10); S.I. 2008/745, **arts. 2(b)(i)**, **3(d)**; S.I. 2008/2561, **art. 2(c)** (with art. 3, Sch.); S.I. 2009/139, **art. 2(a)**
- F2** S. 130C(2) substituted (3.1.2012 for specified purposes, otherwise 2.4.2012) by [Mental Health \(Wales\) Measure 2010 \(nawm 7\)](#), s. 55(3), **Sch. 1 para. 4**; S.I. 2011/3046, **art. 2(k)**, 3(j) (with art. 5)
- F3** Words in s. 130C(3) inserted (3.1.2012 for specified purposes, otherwise 2.4.2012) by [Mental Health \(Wales\) Measure 2010 \(nawm 7\)](#), s. 55(3), **Sch. 1 para. 5**; S.I. 2011/3046, **art. 2(k)**, 3(j) (with art. 5)
- F4** S. 130C(3A) inserted (3.1.2012 for specified purposes, otherwise 2.4.2012) by [Mental Health \(Wales\) Measure 2010 \(nawm 7\)](#), s. 55(3), **Sch. 1 para. 6**; S.I. 2011/3046, **arts. 2(k)**, 3(j) (with art. 5)
- F5** S. 130C(4A)(4B) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 43(3)**, 306(4); S.I. 2013/160, **art. 2(2)** (with arts. 7-9)

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F6 S. 130C(5)(6) repealed (3.1.2012 for specified purposes, otherwise 2.4.2012) by [Mental Health \(Wales\) Measure 2010 \(nawm 7\)](#), s. 55(3), Sch. 1 para. 7, [Sch. 2](#); S.I. 2011/3046, arts. 2(k), 3(j) (with art. 5)

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View outstanding changes

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\(3\)](#)