Suspending the compulsory measures specified in a CTO or an ICTO (sections 127 to 129)

1 The patient's RMO can suspend any of the compulsory measures specified in a CTO. He/she can also suspend the hospital detention requirement specified in an ICTO. Section 127 of the Act and paragraphs 28 to 58 of this chapter deal with the suspension of the requirement to detain the patient in hospital. Section 128 and paragraphs 59 to 64 of this chapter examine the suspension of any of the other compulsory measures specified in a CTO. Finally, paragraphs 65 to 69 examine the issue of revoking a suspension certificate which is addressed in the Act at section 129.

Suspension of hospital detention requirement where a patient is subject to a CTO or an ICTO (section 127)

2 Where a patient is subject to a CTO or an ICTO which specifies that the patient be detained in hospital, it is possible to suspend that hospital detention requirement for a limited period of time (and thereby suspend the patient's detention in hospital) without revoking the order in its entirety. Under such circumstances, section 127(1) of the Act allows for a "suspension certificate" to be granted. Such a certificate can only be granted by the patient's RMO. The certificate must record the purpose for which it has been granted.

How long does a suspension certificate last?

3 In terms of section 127(1) of the Act, for a patient subject to a CTO, the suspension certificate can last for any period of time as long as this period is not greater than either

- 200 days where the authorised period is a single period or
- up to a six month period, if the certificate is authorising a series of individual periods.

4 A suspension certificate should not be issued that could allow for suspension of detention that could breach any of the limits to suspension of detention described in this chapter, even if it is not certain that all the suspension of detention will occur.

5 Where the patient is subject to an ICTO, the suspension certificate can last for any period of time, in terms of section 127(3), as amended, of the Act. In both cases, the expiry date of the suspension certificate must not go beyond the last date on which the CTO or ICTO would currently authorise compulsion if not revoked. The period of suspension can include any associated travel.

6 There are additional considerations with respect to timescales where a patient is subject to a CTO. The RMO may not grant a suspension certificate if the period authorised in that suspension certificate, when taken together with any other suspension certificate granted in respect of that patient, would be greater than 200 days in a rolling 12 month period. However, any period of suspension which lasts 8 hours or less does

not count towards the total. This is likely to include escorted and unescorted daytime visits or placements. Periods of more than 8 hours but less than 24 hours count as a day toward the 200 day total.

7 The latter provisions are demonstrated through the following calculation examples:

- A period of suspension begins at 09:30 and ends at 16:30 on the same day. This is less than 8 hours and does not count towards the 200 day total.
- A period of suspension begins at 08:30 and ends at 17:30 on the same day. This is more than 8 hours but less than 24 hours and counts as 1 day towards the 200 day total.
- A period of suspension begins at 17:30 on Monday and ends at 08:30 on Tuesday. Although it spans more than one calendar day, the period is more than 8 hours but less than 24 hours and counts as 1 day towards the 200 day total. It does not matter if either of the periods (i.e. between 17:30 and midnight or midnight and 08:30) in the individual calendar days are 8 hours or more; what is calculated is that the overall period is between 8 and 24 hours in duration.
- A period of suspension begins at 09:30 on Monday and ends at 16:30 on Tuesday. This counts as 1 day towards the 200 day total. This is because it contains a whole day and a further 7 hours. The further time is less than 8 hours and therefore does not count as a day.
- A period of suspension begins at 15:30 on Monday and ends at 10:30 on Wednesday. This counts as 2 days towards the 200 day total. This is because it contains a whole day and a further 19 hours. As the further time is between 8 hours and 24 hours, this counts as a day.

8 The maximum period of 200 days relates to the actual time that detention is suspended, not that specified or suggested on the certificate. It would be best practice therefore to keep accurate documentation of when the patient left and returned to hospital. As noted above, further certificates must not authorise any suspension of detention that could potentially breach these limits, even if that suspension is not ultimately taken.

9 The purpose of the overall maximum limit is to prevent a patient being subject to suspension certificates for unnecessarily long periods of time. Suspension of detention should be used for a clear and specific purpose and should not be used as an alternative to a community-based CTO.

Can conditions be attached to the suspension certificate?

10 Yes. The patient's RMO may by virtue of section 127(5) and (6) of the Act attach certain conditions to the certificate irrespective of whether the patient is subject to a hospital-based CTO or ICTO. These conditions are:

- that the patient be kept in the charge of a person authorised in writing for that purpose by the patient's RMO; and

- any other conditions as may be specified by the patient's RMO.

11 The reasons which must motivate the attaching of conditions to a suspension certificate are set out in section 127(5) of the Act. They are that:

- it is necessary in the interests of the patient to do so; or
- it is necessary for the protection of any other person to do so.

12 It should be noted that the RMO's giving of authority to another person to keep a patient in his/her charge can only be done in writing.

13 Examples of conditions which could be attached to a suspension certificate include that the patient live in a specified place under the care of a specified person; be kept in the charge of an escorting nurse; or that the patient accept visits from a medical practitioner or an MHO. It would be best practice for the RMO to ensure that the patient's MHO and other members of the multi-disciplinary team are informed of any conditions attached to the suspension certificate, and to ensure that procedures and contingency plans are put in place for any occasion where the conditions are not complied with.

14 When attaching conditions to a suspension certificate, the patient's RMO should also consider the extent to which it would be more appropriate to make an application to the Tribunal under section 95 of the Act seeking a variation of the CTO.

When would it be appropriate to grant a suspension certificate?

15 A suspension certificate suspending the hospital detention requirement could be granted for a number of reasons including a compassionate visit or emergency treatment in another hospital, as described below. Its main purpose, however, will be to act as a tool in the process of planning a patient's discharge from compulsory measures and, more generally, from in-patient psychiatric services. For example, a suspension certificate could be granted to allow the patient to visit and/or be assessed in a place likely to be providing a community care service; or to allow the patient to be gradually re-integrated into their pre-existing social circumstances in the community. This could include allowing the patient to make visits to home or to stay overnight at home, with relatives and carers, or in other care facilities.

16 The patient's RMO should give full consideration to the need for a multidisciplinary assessment of the impact on health and welfare of the patient and others, of the proposed stay in the community. Any proposed suspension of detention and its objectives should concord fully with the patient's agreed care plan and its objectives. In coming to a conclusion on the appropriateness of the proposed suspension certificate, it will be vitally important that the RMO involve the patient's MHO and other members of

the multi-disciplinary team fully. All practitioners involved in this process should also have regard to the principles of the Act and other matters laid out in sections 1 to 3, when deciding whether or not to grant a suspension certificate. Particularly important among these principles, is the principle stated at section 1(4) of the Act which provides for any person discharging a function under the Act to discharge that function in a manner which "involves the minimum restriction on the freedom of the patient that is necessary in the circumstances".

17 It would be expected that the patient and the patient's named person be as fully involved as possible with the planning process preceding the decision to grant a suspension certificate. Subject to the patient's consent, detailed prior consultation will also need to take place with any appropriate relatives or friends of the patient (particularly where the patient is to reside with them once no longer detained in hospital) and with relevant community service providers. It would be best practice not to grant a suspension certificate where the patient does not consent to relatives or friends being consulted, where they are to be involved in his/her care once no longer in hospital.

18 The patient's RMO, in consultation with the patient's multi-disciplinary team, will need to give careful consideration to whether the compulsory measures specified in a patient's CTO should in fact be varied under section 95 of the Act rather than temporarily suspended, before taking the final decision to grant a suspension certificate. While there will undoubtedly be occasions when it is appropriate to grant a suspension certificate as a means of assessing the patient's likely recovery in a community environment rather than in a hospital, a suspension certificate should not be granted merely as a means of avoiding the need to make a section 95 application to the Tribunal to vary a CTO or of avoiding discharging the patient from compulsory measures altogether. For example, attaching a condition to a suspension certificate which stipulates that the patient reside at a specified place should not be used as a long-term alternative to applying to the Tribunal for an order which would vary a previously hospital-based CTO to a community-based CTO which specifies a residence requirement. Accordingly, a suspension certificate and the extent to which it is meeting its objectives should be kept under constant review by the patient's multi-disciplinary team with a view either to revoking the CTO or to making an application to the Tribunal to vary the compulsory measures specified in the order as soon as either option becomes appropriate.

19 Particular consideration should be given to the need for an application under section 95 of the Act where any of the conditions attached to the suspension certificate are equivalent to any community-based compulsory measures which were not discussed and considered by the Tribunal when the CTO was first made.

20 The decision as to whether to proceed with the granting of a suspension certificate as an alternative to an application under section 95 of the Act will ultimately depend on the extent to which the multi-disciplinary team is confident that the patient is ready to be discharged to the community. If the multi-disciplinary team have reservations about the patient's readiness to be discharged, it would be appropriate to grant a suspension certificate which would make the patient's stay in the community subject to an early review. Such a review should be undertaken sooner rather than later after the suspension certificate was granted with a view to making a section 95 application to the Tribunal.

21 A suspension certificate should only be granted under sections 127 or 128 of the Act where it accords with the assessed needs of the patient and not as a means of managing beds in wards which are running at or above capacity. A decision to suspend the power to detain a patient in hospital should only be taken where it is in the best interests of the patient.

22 It would also be best practice to involve community services, such as the Community Psychiatric Nurse in the planning as early as is practicable. It would also be best practice to make the CPN and others aware of whether the patient has an advance statement and a named person.

Involvement of patient and others

23 As noted above, it would be expected that the patient and the patient's named person be as fully involved as possible with the planning process preceding the decision to grant a suspension certificate. In line with section 1 principles, the patient should be supported to make their views known and be involved with planning and decisions, such as by ensuring they have support from their independent advocate. Some ways in which this could be achieved are set out below.

24 If suspension is being granted for rehabilitation, it would be best practice to discuss with the patient how the suspension is being used to support rehabilitation and provide information about the suspension plan. The care team should seek to provide patients with clear information about how long the suspension may last and any potential future actions and ensure that the patient understands any conditions attached to the suspension. The patient and named person should also be involved as far as possible in support planning, and ensure that the patient's views are taken into account in terms of engaging with support services.

25 As the suspension period progresses, care teams should help the patient to understand when and how their situation will be reviewed and involve the patient and their named person in planning discussions as far as is practicable.

Who is responsible for the patient's care and treatment while subject to a suspension certificate?

26 The patient's RMO remains responsible for the patient's care and treatment while the patient is subject to a suspension certificate. He/she must therefore ensure that appropriate arrangements are made for the patient's care and treatment while not in hospital. It should also be remembered that the duty under section 1(6) of the Act to provide "appropriate services" to the patient includes any time where the patient is subject to a suspension certificate.

27 It is important that the patient's relatives and carers (especially where the patient is residing with them for the duration of the suspension certificate) and all the members of the patient's multi-disciplinary team should have clear lines of communication with the patient's RMO so that the patient's progress towards recovery can be effectively monitored and acted upon, where appropriate.

28 Where the duration of the suspension certificate is fairly lengthy (for example, for more than 28 days), it would be best practice for the patient's RMO to issue a written reminder to the patient to return to hospital shortly before the period of suspension is due to end. If the patient does not return on time, then he/she can be said to have absconded and may be dealt with in terms of Part 20 of the Act.

Who must be notified prior to the granting of a suspension certificate?

29 There are a range of notification procedures attached to the granting of a suspension certificate under section 127 of the Act. These are set out in subsections (7) to (9) of that section. If the hospital detention requirement is to be suspended for a period of more than 28 days, the RMO must give notice of the proposal to suspend the CTO to the following parties:

- the patient
- the patient's named person;
- the patient's general medical practitioner; and
- the patient's mental health officer.

30 It should be noted that the RMO must provide notification to these parties before the suspension certificate under section 127(1) is granted. The RMO must additionally give notice to the Commission of the granting of a suspension certificate specifying a period of more than 28 days within 14 days of it being granted. Form SUS1A can be used for the purpose of notifying the Commission. The form must be completed in advance and must not be post-dated. Any conditions should be clearly specified and should be tailored to the patient's needs and circumstances and in line with the principles of maximum benefit and least restriction.

31 It would be best practice to ensure that these parties receive similar notifications where a suspension period of less than 28 days is proposed.

What should happen where a patient requires emergency treatment in another hospital?

32 There may be rare occasions where a patient who is detained in hospital on the authority of a CTO or an ICTO requires to be transferred urgently to another hospital to receive emergency treatment for a physical disorder. If there is insufficient time in such circumstances to effect a formal transfer of the patient under Part 7, Chapter 6 of the Act, it would be permissible to grant a suspension certificate suspending the hospital detention requirement of the CTO or the ICTO as this would allow the transfer of the patient to take place urgently. It should be remembered, however, that the patient could not be detained in the second hospital (i.e. the patient could not be prevented from leaving that hospital) given that the first hospital will be explicitly specified in the CTO. The patient could only be detained in the second hospital where the patient's RMO has explicitly cited residence in the second hospital as a condition of the suspension certificate.

33 Best practice would suggest that the RMO should take steps to ensure that the patient's named person, primary carer, MHO and other relevant members of the multi-disciplinary team are informed of any emergency transfer as soon as possible after it becomes apparent that the transfer may be necessary.

Can a suspension certificate be granted with respect to compulsory measures other than the hospital detention requirement? (section 128)

34 Yes. Section 128 of the Act permits the patient's RMO to grant a suspension certificate suspending any compulsory measure specified in a CTO other than the hospital detention requirement. Compulsory measures other than the hospital detention requirement cannot be suspended where the patient is subject to an ICTO.

35 It should also be noted that a patient's RMO cannot attach conditions to a suspension certificate granted under section 128. This is in contrast to a suspension certificate granted under section 127 which suspends the hospital detention requirement where the patient is subject to a CTO or an ICTO.

36 The reasons for granting such a suspension certificate will be similar to those motivating the granting of a suspension certificate which suspends the hospital detention requirement of a CTO or ICTO. For further information on this point, see paragraphs 40 to 47 of this chapter.

37 A suspension certificate granted under section 128(1) of the Act may not last longer than 90 days. The RMO may not grant a suspension certificate if the period authorised in that certificate, when taken together with any other suspension certificate suspending compulsory measures other than the hospital detention requirement, would be greater

than 90 days. Where any part of a calendar day falls into the period authorised, this counts towards the 90 day period. Therefore, if the measure was suspended from 12 pm on Friday until 12 pm on Monday, this would count as 4 days towards the 90 day total.

38 Before granting a suspension certificate under section 128(1) of the Act, in terms of section 128(4), the patient's RMO must notify the following parties of the compulsory measures to be suspended; the period for which they are to be suspended; and the RMO's reasons for suspending them. The parties to be notified are:

- the patient;
- the patient's named person; and
- the patient's mental health officer.

39 The RMO must provide notification to these parties *before* the suspension certificate is granted under section 128(1). In terms of section 128(5), the RMO must additionally within 14 days of the suspension certificate being granted, give notice to the Commission of the granting of the certificate; the measures suspended by the certificate and the period for which they are to be suspended; and the RMO's reasons for suspending those measures. Form SUS1B can be used for the purpose of giving notice to the Commission. It would always be best practice to ensure that any such notifications are provided as soon as possible after the duty to provide them arises.

Can a suspension certificate be revoked?

40 Any suspension certificate granted under sections 127(1), 127(3) or 128(1) of the Act can be revoked by the patient's RMO under section 129 if he/she is satisfied that it is necessary in the interests of the patient to do so or that it is necessary for the protection of any other person to do so.

41 In terms of section 129(3), as soon as practicable after revoking a certificate which suspended the hospital detention requirement of a CTO or ICTO, the RMO must notify the following parties of the revocation. The parties are:

- the patient;
- the patient's named person;
- the patient's mental health officer;
- any person who was authorised to keep the patient in their charge during the period authorised by the suspension certificate; and
- the patient's general medical practitioner.

42 It would be expected, however, that the RMO discuss with the patient and the other parties mentioned in the preceding paragraph any possible revocation of the suspension certificate before the certificate is suspended. The RMO should, for example, consider

very carefully the reasons for revoking the certificate and, in particular, the effects this revocation might have on the patient's recovery.

43 In terms of section 129(4), as soon as practicable after revoking a suspension certificate which suspended any compulsory measure specified in a CTO other than the hospital detention requirement, the RMO must notify the following parties of the revocation and of the reasons for revoking it. The parties are the patient; the patient's named person; and the patient's mental health officer.

44 Where any suspension certificate is revoked, the patient's RMO must notify the Commission of the revocation within 14 days of it having taken place in terms of section 129(5). Form SUS1c can be used for the purpose of notifying the Commission.