



Mental Health Act 1983

1983 CHAPTER 20

PART II

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

General provisions as to applications and recommendations

11 General provisions as to applications.

- (1) Subject to the provisions of this section, an application for admission for assessment, an application for admission for treatment and a guardianship application may be made either by the nearest relative of the patient or by an [^{F1}approved mental health professional] ; and every such application shall specify the qualification of the applicant to make the application.
- [^{F2}(1A) No application mentioned in subsection (1) above shall be made by an approved mental health professional if the circumstances are such that there would be a potential conflict of interest for the purposes of regulations under section 12A below.]
- (2) Every application for admission shall be addressed to the managers of the hospital to which admission is sought and every guardianship application shall be forwarded to the local social services authority named in the application as guardian, or, as the case may be, to the local social services authority for the area in which the person so named resides.
- (3) Before or within a reasonable time after an application for the admission of a patient for assessment is made by an [^{F3}approved mental health professional, that professional] shall take such steps as are practicable to inform the person (if any) appearing to be the nearest relative of the patient that the application is to be or has been made and of the power of the nearest relative under section 23(2)(a) below.
- [^{F4}(4) An approved mental health professional may not make an application for admission for treatment or a guardianship application in respect of a patient in either of the following cases—

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- (a) the nearest relative of the patient has notified that professional, or the local social services authority on whose behalf the professional is acting, that he objects to the application being made; or
 - (b) that professional has not consulted the person (if any) appearing to be the nearest relative of the patient, but the requirement to consult that person does not apply if it appears to the professional that in the circumstances such consultation is not reasonably practicable or would involve unreasonable delay.]
- (5) None of the applications mentioned in subsection (1) above shall be made by any person in respect of a patient unless that person has personally seen the patient within the period of 14 days ending with the date of the application.
- (6) ^{F5}.....
- (7) Each of the applications mentioned in subsection (1) above shall be sufficient if the recommendations on which it is founded are given either as separate recommendations, each signed by a registered medical practitioner, or as a joint recommendation signed by two such practitioners.

Textual Amendments

- F1** Words in s. 11(1) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 21, 56, [Sch. 2 para. 4\(2\)](#) (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(d\)](#) (with art. 3, Sch.); [S.I. 2008/2561, art. 2\(b\)](#) (with art. 3, Sch.)
- F2** S. 11(1A) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. [22\(2\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(e\)](#) (with art. 3, Sch.)
- F3** Words in s. 11(3) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 21, 56, [Sch. 2 para. 4\(3\)](#) (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(d\)](#) (with art. 3, Sch.); [S.I. 2008/2561, art. 2\(b\)](#) (with art. 3, Sch.)
- F4** S. 11(4) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 21, 56, [Sch. 2 para. 4\(4\)](#) (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(d\)](#) (with art. 3, Sch.); [S.I. 2008/2561, art. 2\(b\)](#) (with art. 3, Sch.)
- F5** S. 11(6) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 55, 56, [Sch.11 Pt. 1](#) (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(p\)](#) (with art. 3, Sch.)

12 General provisions as to medical recommendations.

- (1) The recommendations required for the purposes of an application for the admission of a patient under this Part of this Act [^{F6}or a guardianship application](in this Act referred to as “medical recommendations”) shall be signed on or before the date of the application, and shall be given by practitioners who have personally examined the patient either together or separately, but where they have examined the patient separately not more than five days must have elapsed between the days on which the separate examinations took place.
- (2) Of the medical recommendations given for the purposes of any such application, one shall be given by a practitioner approved for the purposes of this section by the Secretary of State as having special experience in the diagnosis or treatment of mental disorder; and unless that practitioner has previous acquaintance with the patient, the other such recommendation shall, if practicable, be given by a registered medical practitioner who has such previous acquaintance.

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[^{F7}(2A) A registered medical practitioner who is an approved clinician shall be treated as also approved for the purposes of this section under subsection (2) above as having special experience as mentioned there.]

[^{F8}(3) No medical recommendation shall be given for the purposes of an application mentioned in subsection (1) above if the circumstances are such that there would be a potential conflict of interest for the purposes of regulations under section 12A below.]

Textual Amendments

- F6** Words in s. 12(1) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 22(3)**, 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(e)** (with [art. 3](#), [Sch.](#))
- F7** S. 12(2A) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 16**, 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(b)** (with [art. 3](#), [Sch.](#))
- F8** S. 12(3) substituted (3.11.2008) for s. 12(3)-(7) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 22(4)**, 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(e)** (with [art. 3](#), [Sch.](#))

Modifications etc. (not altering text)

- C1** S. 12(2): certain functions not to be exercisable by a Primary Care Trust (E.) (1.4.2002) by virtue of 2000/695, reg. 4(1), [Sch. 4](#) (as amended by [S.I. 2002/555](#), **reg. 6(3)**)
- C2** S. 12(2): transfer of functions (E.) (1.4.2001) by [S.I. 2001/747](#), **regs. 2(1), 3, 4**, [Sch. 1](#)
- C3** S. 12(2): functions made exercisable (W.) (1.10.2009) by [Local Health Boards \(Directed Functions\) \(Wales\) Regulations 2009 \(S.I. 2009/1511\)](#), **reg. 4**, [Sch.](#)

[^{F9}12ZA Agreement for exercise of approval function: England

- (1) The Secretary of State may enter into an agreement with another person for an approval function of the Secretary of State to be exercisable by the Secretary of State concurrently—
- with that other person, and
 - if a requirement under section 12ZB has effect, with the other person by whom the function is exercisable under that requirement.
- (2) In this section and sections 12ZB and 12ZC, “approval function” means—
- the function under section 12(2), or
 - the function of approving persons as approved clinicians.
- (3) An agreement under this section may, in particular, provide for an approval function to be exercisable by the other party—
- in all circumstances or only in specified circumstances;
 - in all areas or only in specified areas.
- (4) An agreement under this section may provide for an approval function to be exercisable by the other party—
- for a period specified in the agreement, or
 - for a period determined in accordance with the agreement.
- (5) The other party to an agreement under this section must comply with such instructions as the Secretary of State may give with respect to the exercise of the approval function.
- (6) An instruction under subsection (5) may require the other party to cease to exercise the function to such extent as the instruction specifies.

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- (7) The agreement may provide for the Secretary of State to pay compensation to the other party in the event of an instruction such as is mentioned in subsection (6) being given.
- (8) An instruction under subsection (5) may be given in such form as the Secretary of State may determine.
- (9) The Secretary of State must publish instructions under subsection (5) in such form as the Secretary of State may determine; but that does not apply to an instruction such as is mentioned in subsection (6).
- (10) An agreement under this section may provide for the Secretary of State to make payments to the other party; and the Secretary of State may make payments to other persons in connection with the exercise of an approval function by virtue of this section.

Textual Amendments

F9 Ss. 12ZA-12ZC inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 38(1)**, 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

12ZB Requirement to exercise approval functions: England

- (1) The Secretary of State may impose a requirement on the National Health Service Commissioning Board (“the Board”) or a Special Health Authority for an approval function of the Secretary of State to be exercisable by the Secretary of State concurrently—
 - (a) with the Board or (as the case may be) Special Health Authority, and
 - (b) if an agreement under section 12ZA has effect, with the other person by whom the function is exercisable under that agreement.
- (2) The Secretary of State may, in particular, require the body concerned to exercise an approval function—
 - (a) in all circumstances or only in specified circumstances;
 - (b) in all areas or only in specified areas.
- (3) The Secretary of State may require the body concerned to exercise an approval function—
 - (a) for a period specified in the requirement, or
 - (b) for a period determined in accordance with the requirement.
- (4) Where a requirement under subsection (1) is imposed, the Board or (as the case may be) Special Health Authority must comply with such instructions as the Secretary of State may give with respect to the exercise of the approval function.
- (5) An instruction under subsection (4) may be given in such form as the Secretary of State may determine.
- (6) The Secretary of State must publish instructions under subsection (4) in such form as the Secretary of State may determine.
- (7) Where the Board or a Special Health Authority has an approval function by virtue of this section, the function is to be treated for the purposes of the National Health Service Act 2006 as a function that it has under that Act.

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- (8) The Secretary of State may make payments in connection with the exercise of an approval function by virtue of this section.

Textual Amendments

F9 Ss. 12ZA-12ZC inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 38(1), 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

12ZC Provision of information for the purposes of section 12ZA or 12ZB

- (1) A relevant person may provide another person with such information as the relevant person considers necessary or appropriate for or in connection with—
- (a) the exercise of an approval function; or
 - (b) the exercise by the Secretary of State of the power—
 - (i) to enter into an agreement under section 12ZA;
 - (ii) to impose a requirement under section 12ZB; or
 - (iii) to give an instruction under section 12ZA(5) or 12ZB(4).
- (2) The relevant persons are—
- (a) the Secretary of State;
 - (b) a person who is a party to an agreement under section 12ZA; or
 - (c) if the Secretary of State imposes a requirement under section 12ZB on the National Health Service Commissioning Board or a Special Health Authority, the Board or (as the case may be) Special Health Authority.
- (3) This section, in so far as it authorises the provision of information by one relevant person to another relevant person, has effect notwithstanding any rule of common law which would otherwise prohibit or restrict the provision.
- (4) In this section, “information” includes documents and records.]

Textual Amendments

F9 Ss. 12ZA-12ZC inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), ss. 38(1), 306(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

[^{F10}12A Conflicts of interest

- (1) The appropriate national authority may make regulations as to the circumstances in which there would be a potential conflict of interest such that—
- (a) an approved mental health professional shall not make an application mentioned in section 11(1) above;
 - (b) a registered medical practitioner shall not give a recommendation for the purposes of an application mentioned in section 12(1) above.
- (2) Regulations under subsection (1) above may make—
- (a) provision for the prohibitions in paragraphs (a) and (b) of that subsection to be subject to specified exceptions;
 - (b) different provision for different cases; and

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- (c) transitional, consequential, incidental or supplemental provision.
- (3) In subsection (1) above, “ the appropriate national authority ” means—
- (a) in relation to applications in which admission is sought to a hospital in England or to guardianship applications in respect of which the area of the relevant local social services authority is in England, the Secretary of State;
 - (b) in relation to applications in which admission is sought to a hospital in Wales or to guardianship applications in respect of which the area of the relevant local social services authority is in Wales, the Welsh Ministers.
- (4) References in this section to the relevant local social services authority, in relation to a guardianship application, are references to the local social services authority named in the application as guardian or (as the case may be) the local social services authority for the area in which the person so named resides.]

Textual Amendments

F10 S. 12A inserted (1.4.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. [22\(5\)](#), [56](#) (with [Sch. 10](#)); [S.I. 2008/745](#), art. [3\(c\)](#)

13 [F11Duty of approved mental health professionals to make applications for admission or guardianship].

[F12(1) If a local social services authority have reason to think that an application for admission to hospital or a guardianship application may need to be made in respect of a patient within their area, they shall make arrangements for an approved mental health professional to consider the patient's case on their behalf.

- (1A) If that professional is—
- (a) satisfied that such an application ought to be made in respect of the patient; and
 - (b) of the opinion, having regard to any wishes expressed by relatives of the patient or any other relevant circumstances, that it is necessary or proper for the application to be made by him,

he shall make the application.

- (1B) Subsection (1C) below applies where—
- (a) a local social services authority makes arrangements under subsection (1) above in respect of a patient;
 - (b) an application for admission for assessment is made under subsection (1A) above in respect of the patient;
 - (c) while the patient is liable to be detained in pursuance of that application, the authority have reason to think that an application for admission for treatment may need to be made in respect of the patient; and
 - (d) the patient is not within the area of the authority.

(1C) Where this subsection applies, subsection (1) above shall be construed as requiring the authority to make arrangements under that subsection in place of the authority mentioned there.]

- (2) Before making an application for the admission of a patient to hospital an [F13approved mental health professional] shall interview the patient in a suitable manner and satisfy

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himself that detention in a hospital is in all the circumstances of the case the most appropriate way of providing the care and medical treatment of which the patient stands in need.

- [^{F14}(3) An application under subsection (1A) above may be made outside the area of the local social services authority on whose behalf the approved mental health professional is considering the patient's case.]
- (4) It shall be the duty of a local social services authority, if so required by the nearest relative of a patient residing in their area, to [^{F15}make arrangements under subsection (1) above for an approved mental health professional to consider the patient's case] with a view to making an application for his admission to hospital; and if in any such case [^{F16}that professional] decides not to make an application he shall inform the nearest relative of his reasons in writing.
- (5) Nothing in this section shall be construed as authorising or requiring an application to be made by an [^{F17}approved mental health professional] in contravention of the provisions of section 11(4) above [^{F18}or of regulations under section 12A], or as restricting the power of [^{F19}a local social services authority to make arrangements with an approved mental health professional to consider a patient's case or of] an [^{F17}approved mental health professional] to make any application under this Act.

Textual Amendments

- F11** S. 13 heading: words substituted (3.11.2008) by virtue of [Mental Health Act 2007 \(c. 12\)](#), ss. 21, 56, [Sch. 2 para. 5\(1\)](#) (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(d\)](#) (with [art. 3, Sch.](#)); S.I. 2008/2561, [art. 2\(b\)](#) (with [art. 3, Sch.](#))
- F12** S. 13(1)-(1C) substituted (3.11.2008) for s. 13(1) by [Mental Health Act 2007 \(c. 12\)](#), ss. 21, 56, [Sch. 2 para. 5\(2\)](#) (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(d\)](#) (with [art. 3, Sch.](#)); S.I. 2008/2561, [art. 2\(b\)](#) (art. 3, Sch.)
- F13** Words in s. 13(2) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 21, 56, [Sch. 2 para. 5\(3\)](#) (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(d\)](#) (with [art. 3, Sch.](#)); S.I. 2008/2561, [art. 2\(b\)](#) (with [art. 3, Sch.](#))
- F14** S. 13(3) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 21, 56, [Sch. 2 para. 5\(4\)](#) (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(d\)](#) (with [art. 3, Sch.](#)); S.I. 2008/2561, [art. 2\(b\)](#) (with [art. 3, Sch.](#))
- F15** Words in s. 13(4) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 21, 56, [Sch. 2 para. 5\(5\)\(a\)](#) (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(d\)](#) (with [art. 3, Sch.](#)); S.I. 2008/2561, [art. 2\(b\)](#) (with [art. 3, Sch.](#))
- F16** Words in s. 13(4) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 21, 56, [Sch. 2 para. 5\(5\)\(b\)](#) (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(d\)](#) (with [art. 3, Sch.](#)); S.I. 2008/2561, [art. 2\(b\)](#) (with [art. 3, Sch.](#))
- F17** Words in s. 13(5) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 21, 56, [Sch. 2 para. 5\(6\)\(a\)](#) (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(d\)](#) (with [art. 3, Sch.](#)); S.I. 2008/2561, [art. 2\(b\)](#) (with [art. 3, Sch.](#))
- F18** Words in s. 13(5) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 22\(6\)](#), 56 (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(e\)](#) (with [art. 3, Sch.](#))
- F19** Words in s. 13(5) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 21, 56, [Sch. 2 para. 5\(6\)\(b\)](#) (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(d\)](#) (with [art. 3, Sch.](#)); S.I. 2008/2561, [art. 2\(b\)](#) (with [art. 3, Sch.](#))

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the managers of the hospital shall as soon as practicable give notice of that fact to the local social services authority for the area in which the patient resided immediately before his admission; and that authority shall as soon as practicable arrange for [F20 an approved mental health professional]^{F21} . . . to interview the patient and provide the managers with a report on his social circumstances.

Textual Amendments

- F20** Words in s. 14 substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 21, 56, [Sch. 2 para. 6](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(d\)](#) (with [art. 3](#), [Sch.](#)); [S.I. 2008/2561](#), [art. 2\(b\)](#) (art. 3, [Sch.](#))
- F21** Words in s. 14 repealed (1.4.2005 for E. and 1.4.2006 for W.) by [Children Act 2004 \(c. 31\)](#), ss. 64, 67, [Sch. 5 Pt. 4](#); [S.I. 2005/394](#), [art. 2\(2\)\(g\)](#); [S.I. 2006/885](#), [art. 2\(2\)\(h\)](#)

15 Rectification of applications and recommendations.

- (1) If within the period of 14 days beginning with the day on which a patient has been admitted to a hospital in pursuance of an application for admission for assessment or for treatment the application, or any medical recommendation given for the purposes of the application, is found to be in any respect incorrect or defective, the application or recommendation may, within that period and with the consent of the managers of the hospital, be amended by the person by whom it was signed; and upon such amendment being made the application or recommendation shall have effect and shall be deemed to have had effect as if it had been originally made as so amended.
- (2) Without prejudice to subsection (1) above, if within the period mentioned in that subsection it appears to the managers of the hospital that one of the two medical recommendations on which an application for the admission of a patient is founded is insufficient to warrant the detention of the patient in pursuance of the application, they may, within that period, give notice in writing to that effect to the applicant; and where any such notice is given in respect of a medical recommendation, that recommendation shall be disregarded, but the application shall be, and shall be deemed always to have been, sufficient if—
 - (a) a fresh medical recommendation complying with the relevant provisions of this Part of this Act (other than the provisions relating to the time of signature and the interval between examinations) is furnished to the managers within that period; and
 - (b) that recommendation, and the other recommendation on which the application is founded, together comply with those provisions.
- (3) Where the medical recommendations upon which an application for admission is founded are, taken together, insufficient to warrant the detention of the patient in pursuance of the application, a notice under subsection (2) above may be given in respect of either of those recommendations^{F22} . . .
- (4) Nothing in this section shall be construed as authorising the giving of notice in respect of an application made as an emergency application, or the detention of a patient admitted in pursuance of such an application, after the period of 72 hours referred to in section 4(4) above, unless the conditions set out in paragraphs (a) and (b) of that section are complied with or would be complied with apart from any error or defect to which this section applies.

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Textual Amendments

F22 Words in s. 15(3) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 55, 56, [Sch. 11 Pt. 1](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(p\)](#) (with [art. 3](#), [Sch.](#))

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