



# Mental Health Act 1983

## 1983 CHAPTER 20

### PART II

#### COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

##### *Supplemental*

#### **31 Procedure on applications to county court.**

County court rules which relate to applications authorised by this Part of this Act to be made to a county court may make provision—

- (a) for the hearing and determination of such applications otherwise than in open court;
- (b) for the admission on the hearing of such applications of evidence of such descriptions as may be specified in the rules notwithstanding anything to the contrary in any enactment or rule of law relating to the admissibility of evidence;
- (c) for the visiting and interviewing of patients in private by or under the directions of the court.

#### **32 Regulations for purposes of Part II.**

- (1) The Secretary of State may make regulations for prescribing anything which, under this Part of this Act, is required or authorised to be prescribed, and otherwise for carrying this Part of this Act into full effect.
- (2) Regulations under this section may in particular make provision—
  - (a) for prescribing the form of any application, recommendation, report, order, notice or other document to be made or given under this Part of this Act;
  - (b) for prescribing the manner in which any such application, recommendation, report, order, notice or other document may be proved, and for regulating the service of any such application, report, order or notice;

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- (c) for requiring [<sup>F1</sup>such bodies as may be prescribed by the regulations] to keep such registers or other records as may be [<sup>F1</sup>so prescribed] in respect of patients liable to be detained or subject to guardianship <sup>F2</sup>. . . under this Part of this Act [<sup>F3</sup>or community patients] , and to furnish or make available to those patients, and their relatives, such written statements of their rights and powers under this Act as may be so prescribed;
- (d) for the determination in accordance with the regulations of the age of any person whose exact age cannot be ascertained by reference to the registers kept under the <sup>M1</sup>Births and Deaths Registration Act 1953; and
- (e) for enabling the functions under this Part of this Act of the nearest relative of a patient to be performed, in such circumstances and subject to such conditions (if any) as may be prescribed by the regulations, by any person authorised in that behalf by that relative;

and for the purposes of this Part of this Act any application, report or notice the service of which is regulated under paragraph (b) above shall be deemed to have been received by or furnished to the authority or person to whom it is authorised or required to be furnished, addressed or given if it is duly served in accordance with the regulations.

- (3) Without prejudice to subsections (1) and (2) above, but subject to section 23(4) [<sup>F4</sup>and (6)] above, regulations under this section may determine the manner in which functions under this Part of this Act of the managers of hospitals, local social services authorities, [<sup>F5</sup>[<sup>F6</sup>Local Health Board] Special Health Authorities [<sup>F7</sup>, Primary Care Trusts][<sup>F8</sup>, National Health Service trusts or NHS foundation trusts]] are to be exercised, and such regulations may in particular specify the circumstances in which, and the conditions subject to which, any such functions may be performed by officers of or other persons acting on behalf of those managers [<sup>F9</sup>, boards,][<sup>F10</sup>authorities and trusts].

#### Textual Amendments

- F1** Words in s. 32(2)(c) substituted (1.4.1996) by 1995 c. 52, ss. 1(2), 7(2), **Sch. 1 para. 2**
- F2** Words in s. 32(2)(c) repealed (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 55, 56, **Sch. 11 Pt. 5** (with Sch. 10); S.I. 2008/1210, **art. 2(d)** (with art. 4)
- F3** Words in s. 32(2)(c) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, **Sch. 3 para. 15** (with Sch. 10); S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)
- F4** Words in s. 32(3) inserted (24.7.2007) by Mental Health Act 2007 (c. 12), **ss. 45(2)**, 56 (with Sch. 10); S.I. 2007/2156, **art. 2**
- F5** Words in s. 32(3) substituted (28.6.1995 for certain purposes, otherwise 1.4.1996) by 1995 c. 17, s. 2(1)(3), 8, **Sch. 1**, Pt. III, para. 107(4)
- F6** Words in s. 32(3) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), **art. 3**, {Sch. para. 13(7(a))}
- F7** Words in s. 32(3) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 16(6)** (with art. 2(5))
- F8** Words in s. 32(3) substituted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199, **Sch. 4 para. 55**; S.I. 2004/759, **art.2**
- F9** Word in s. 32(3) inserted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), **art. 3**, {Sch. para. 13(7(b))}
- F10** Words substituted by virtue of National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 24(5)**

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#### Modifications etc. (not altering text)

- C1** S. 32(2)(c) modified (3.11.2008) by [The Mental Health Act 2007 \(Commencement No. 6 and After-care under Supervision: Savings, Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/1210\)](#), arts. 1(1)(b), **6(d)**
- C2** S. 32(3) modified (1.7.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), s. 45(4); [S.I. 2005/1705](#), art. 2(b) (as inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 48, 56, **Sch. 6 para. 16(4)** (with Sch. 10)); [S.I. 2008/1900](#), art. 2(o) (with art. 3, Sch.)

#### Marginal Citations

- M1** 1953 c. 20.

### 33 Special provisions as to wards of court.

- (1) An application for the admission to hospital of a minor who is a ward of court may be made under this Part of this Act with the leave of the court; and section 11(4) above shall not apply in relation to an application so made.
- (2) Where a minor who is a ward of court is liable to be detained in a hospital by virtue of an application for admission under this Part of this Act [<sup>F11</sup>or is a community patient] , any power exercisable under this Part of this Act or under section 66 below in relation to the patient by his nearest relative shall be exercisable by or with the leave of the court.
- (3) Nothing in this Part of this Act shall be construed as authorising the making of a guardianship application in respect of a minor who is a ward of court, or the transfer into guardianship of any such minor.
- [<sup>F12</sup>(4) Where a community treatment order has been made in respect of a minor who is a ward of court, the provisions of this Part of this Act relating to community treatment orders and community patients have effect in relation to the minor subject to any order which the court makes in the exercise of its wardship jurisdiction; but this does not apply as regards any period when the minor is recalled to hospital under section 17E above.]

#### Textual Amendments

- F11** Words in s. 33(2) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 32, 56, **Sch. 3 para. 16(2)** (with Sch. 10); [S.I. 2008/1210](#), art. 2(b) (with art. 4)
- F12** S. 33(4) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 32, 56, **Sch. 3 para. 16(3)** (with Sch. 10); [S.I. 2008/1210](#), art. 2(b) (with art. 4)

#### Modifications etc. (not altering text)

- C3** S. 33 modified (3.11.2008) by [The Mental Health Act 2007 \(Commencement No. 6 and After-care under Supervision: Savings, Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/1210\)](#), arts. 1(1)(b), **6(e)**

### 34 Interpretation of Part II.

- (1) In this Part of this Act—  
[<sup>F13</sup>“the appropriate practitioner” means—

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- (a) in the case of a patient who is subject to the guardianship of a person other than a local social services authority, the nominated medical attendant of the patient; and
- (b) in any other case, the responsible clinician;]

F14

.....  
“the nominated medical attendant”, in relation to a patient who is subject to the guardianship of a person other than a local social services authority, means the person appointed in pursuance of regulations made under section 9(2) above to act as the medical attendant of the patient;

[F15“registered establishment” means an establishment—

- (a) which would not, apart from subsection (2) below, be a hospital for the purposes of this Part; and
- (b) in respect of which a person is registered under Part II of the Care Standards Act 2000 as an independent hospital in which treatment or nursing (or both) are provided for persons liable to be detained under this Act;]

[F16“the responsible clinician” means—

- (a) in relation to a patient liable to be detained by virtue of an application for admission for assessment or an application for admission for treatment, or a community patient, the approved clinician with overall responsibility for the patient's case;
- (b) in relation to a patient subject to guardianship, the approved clinician authorised by the responsible local social services authority to act (either generally or in any particular case or for any particular purpose) as the responsible clinician;]

F14

(1A) F17

- (2) Except where otherwise expressly provided, this Part of this Act applies in relation to [F18a registered establishment], as it applies in relation to a hospital, and references in this Part of this Act to a hospital, and any reference in this Act to a hospital to which this Part of this Act applies, shall be construed accordingly.
- (3) In relation to a patient who is subject to guardianship in pursuance of a guardianship application, any reference in this Part of this Act to the responsible local social services authority is a reference—
  - (a) where the patient is subject to the guardianship of a local social services authority, to that authority;
  - (b) where the patient is subject to the guardianship of a person other than a local social services authority, to the local social services authority for the area in which that person resides.

**Textual Amendments**

**F13** Definition of "the appropriate practitioner" in s 34(1) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 9\(9\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(b\)](#) (with [art. 3](#), [Sch.](#))

**F14** Definitions of "the community responsible medical officer" and "the supervisor" in s 34(1) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 55](#), 56, [Sch. 11 Pt. 5](#) (with [Sch. 10](#)); [S.I. 2008/1210](#), [art. 2\(d\)](#) (with [art. 4](#))

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- F15** S. 34(1): definition of "registered establishment" inserted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 9(4)(a)**; S.I. 2001/4150, **art. 3(3)** (subject to transitional provisions in art. 4 and S.I. 2002/1493, **art. 4**); S.I. 2002/920, **art. 3(3)(d)** (subject to transitional provisions in Schs. 1-3 and art. 3(4)-(10))
- F16** Definition of "the responsible clinician" in s 34(1) substituted (3.11.2008) for definition of "the responsible medical officer" by Mental Health Act 2007 (c. 12), **ss. 9(10)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(b)** (with art. 3, Sch.)
- F17** S. 34(1A) repealed (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 55, 56, **Sch. 11 Pt. 5** (with Sch. 10); S.I. 2008/1210, **art. 2(d)** (with art. 4)
- F18** Words in s. 34(2) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 9(4)(b)**; S.I. 2001/4150, **art. 3(3)** (subject to transitional provisions in art. 4 and S.I. 2002/1493, **art. 4**); S.I. 2002/920, **art. 3(3)(d)** (subject to transitional provisions in Schs. 1-3 and art. 3(4)-(10))

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