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Mental Health (Scotland) Act 1984

1984 CHAPTER 36

PART V

ADMISSION TO AND DETENTION IN HOSPITAL AND GUARDIANSHIP

Duration of authority for detention and discharge of patients: hospital

30 Duration of authority: hospital.

- (1) Subject to the provisions of this Part of this Act, a patient admitted to a hospital in pursuance of an application for admission may be detained in a hospital for a period not exceeding 6 months beginning with the day on which he was so admitted, but shall not be so detained for any longer period unless the authority for his detention is renewed under the following provisions of this section.
- (2) Authority for the detention of a patient may, unless the patient has previously been discharged, be renewed under this section—
 - (a) from the expiration of the period referred to in subsection (1) of this section, for a further period of 6 months;
 - (b) from the expiration of any period of renewal under paragraph (a) of this subsection, for a further period of one year, and so on for periods of one year at a time.
- (3) The responsible medical officer shall within the period of 2 months ending on the day when a patient who is liable to be detained in a hospital under this Part of this Act would cease to be so liable under this section in default of the renewal of the authority for his detention—
 - (a) examine the patient or obtain from another medical practitioner a report on the condition of the patient; and
 - (b) consult such other person or persons who appear to him to be principally concerned with the patient's medical treatment,

and thereafter assess the need for the detention of the patient to be continued; and if it appears to him that the grounds set out in section 17(1) of this Act apply to the patient

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he shall furnish to the managers of the hospital where the patient is liable to be detained and to the Mental Welfare Commission a report to that effect in the prescribed form, along with the report first mentioned if such a report has been obtained.

- (4) Subject to subsection (6) of this section and section 33(2) and (4) of this Act, where a report is duly furnished to the managers of a hospital under subsection (3) of this section, the authority for the detention of the patient shall be thereby renewed for the period prescribed in that case by subsection (2) of this section.
- (5) Where a report under this section is furnished to them in respect of a patient, the managers of the hospital shall, unless they discharge the patient, cause him and his nearest relative to be informed.
- (6) Any patient may within the period for which the authority for his detention is renewed by virtue of a report furnished in respect of him under this section appeal to the sheriff to order his discharge and the provisions of section 33(2) and (4) of this Act shall apply in relation to such an appeal.

31 Special provisions as to patients absent without leave: hospital.

- (1) If on the day on which, apart from this section, a patient would cease to be liable to be detained under this Part of this Act or within the period of one week ending with that day, the patient is absent without leave, he shall not cease to be so liable or so subject—
 - (a) in any case, until the expiration of the period during which he can be taken into custody under section 28 of this Act, or the day on which he returns or is returned to the hospital or place where he ought to be, whichever is the earlier; and
 - (b) if he returns or is returned as aforesaid within the period first mentioned in the foregoing paragraph, until the expiration of the period of one week beginning with the day on which he is returned or returns as aforesaid.
- (2) Where the period for which a patient is liable to be detained is extended by virtue of this section, any examination and report to be made and furnished under subsection (3) of section 30 of this Act may be made and furnished within that period as so extended.
- (3) Where the authority for the detention of a patient is renewed by virtue of this section after the day on which, apart from this section, that authority would have expired under section 30 of this Act, the renewal shall take effect as from that day.

VALID FROM 01/04/1996

31A ^{F1}Patients who are taken into custody or return within 28 days: hospital.

- (1) This section applies where a patient who is absent without leave is taken into custody under section 28 of this Act, or returns to the hospital, not later than the end of the period of 28 days beginning with the first day of his absence without leave.
- (2) Where the period for which the patient is liable to be detained is extended by section 31 of this Act, any examination and report to be made and furnished in respect of the patient under section 30(3) of this Act may be made and furnished within the period as so extended.

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- (3) Where the authority for the detention of a patient is renewed by virtue of subsection (2) above after the day on which (apart from section 31 of this Act) that authority would have expired, the renewal shall take effect as from that day.

Textual Amendments

- F1** Ss. 31-31B substituted (1.4.1996) for s. 31 by 1995 c. 52, ss. 5(3), 7(2)

VALID FROM 01/04/1996

31B ^{F2}**Patients who are taken into custody or return after more than 28 days: hospital.**

- (1) This section applies where a patient who is absent without leave is taken into custody under section 28 of this Act, or returns to the hospital, later than the end of the period of 28 days beginning with the first day of his absence without leave.
- (2) The responsible medical officer shall, within the period of one week beginning with the day on which the patient returns, or is returned, to the hospital—
- (a) examine the patient or obtain from another medical practitioner a report on the condition of the patient; and
 - (b) consult—
 - (i) such other person or persons who appear to him to be principally concerned with the patient's medical treatment; and
 - (ii) a mental health officer,and thereafter assess the need for the detention of the patient to be continued; and if it appears to him that the grounds set out in section 17(1) of this Act apply to the patient he shall furnish to the managers of the hospital where the patient is liable to be detained and to the Mental Welfare Commission a report to that effect in the prescribed form, along with the report first mentioned if such a report has been obtained.
- (3) Where a report under this section is furnished to them in respect of a patient, the managers of a hospital shall, unless they discharge the patient, cause him and his nearest relative to be informed.
- (4) Where the patient would (apart from any renewal of the authority for his detention on or after the day on which he is returned or returns to the hospital) be liable to be detained after the end of the period of one week beginning with that day, he shall cease to be so liable at the end of that period unless a report is duly furnished in respect of him under subsection (2) above.
- (5) Where the patient would (apart from section 31 of this Act) have ceased to be liable to be detained on or before the day on which a report is duly furnished in respect of him under subsection (2) above, the report shall renew the authority for his detention for the period prescribed in that case by section 30(2) of this Act.
- (6) Where the authority for the detention of the patient is renewed by virtue of subsection (5) above—

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- (a) the renewal shall take effect as from the day on which (apart from section 31 of this Act and subsection (5) above) the authority would have expired; and
 - (b) if (apart from this paragraph) the renewed authority would expire on or before the day on which the report is furnished, the report shall further renew the authority, as from the day on which it would expire, for the period prescribed in that case by section 30(2) of this Act.
- (7) Where the authority for the detention of the patient would expire within the period of two months beginning with the day on which a report is duly furnished in respect of him under subsection (2) above, the report shall, if it so provides, have effect also as a report duly furnished under section 30(3) of this Act; and the reference in this subsection to authority includes any authority renewed under subsection (5) above by the report.

Textual Amendments

F2 Ss. 31-31B substituted (1.4.1996) for s. 31 by 1995 c. 52, ss. 5(3), 7(2)

32 Special provisions as to patients sentenced to imprisonment etc.: hospital.

- (1) Where a patient who is liable to be detained in a hospital under this Part of this Act is detained in custody in pursuance of any sentence or order passed or made by a court in the United Kingdom (including an order committing or remanding him in custody) and is so detained for a period exceeding 6 months, he shall, at the end of that period, cease to be so liable.
- (2) Where any such patient is detained in custody as aforesaid for a period not exceeding 6 months, or for successive periods that do not in the aggregate exceed 6 months, then—
 - (a) if apart from this subsection the patient would have ceased to be liable to be detained as aforesaid on or before the day he is discharged from custody, he shall not cease to be so liable until the end of that day; and
 - (b) in any case, sections 28 and 31 of this Act shall apply in relation to the patient as if he had absented himself without leave on that day.

33 Discharge of patients: hospital.

- (1) Subject to the provisions of this and the next following section, a patient who is liable to be detained in a hospital under this Part of this Act shall cease to be so liable if an order in writing discharging him from detention (in this Act referred to as “an order for discharge”) is made in accordance with the following provisions of this section.
- (2) An order for discharge may be made in respect of a patient by the responsible medical officer, the Mental Welfare Commission or, where an appeal has been taken under sections 26, 30 or 34 of this Act, by the sheriff:

Provided that such an order shall not be made by the responsible medical officer in respect of a patient detained in a State hospital without the consent of the managers of the hospital.

- (3) The responsible medical officer or the Mental Welfare Commission shall make an order for discharge in respect of a patient where he is or they are satisfied that—

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- (a) he is not suffering from mental disorder of a nature or degree which makes it appropriate for him to be liable to be detained in a hospital for medical treatment; or
 - (b) it is not necessary for the health or safety of the patient or for the protection of other persons that he should receive such treatment.
- (4) Where an appeal is made to the sheriff by a patient under sections 26, 30 or 34 of this Act, the sheriff shall order the discharge of the patient if he is satisfied that—
- (a) the patient is not at the time of the hearing of the appeal suffering from mental disorder of a nature or degree which makes it appropriate for him to be liable to be detained in a hospital for medical treatment; or
 - (b) it is not necessary for the health or safety of the patient or for the protection of other persons that he should receive such treatment.
- (5) Subject to the provisions of this section and section 34 of this Act, an order for discharge in respect of a patient may also be made by the managers of the hospital or by the nearest relative of the patient.
- (6) An order for discharge made in respect of a patient by the managers of a hospital shall, with the consent of the responsible medical officer, take effect on the expiration of a period of 7 days from the date on which the order was made, and where the responsible medical officer does not so consent he shall furnish to the managers a report certifying that in his opinion the grounds set out in section 17(1) of this Act apply in relation to the patient.

34 Restrictions on discharge by nearest relative: hospital.

- (1) An order for the discharge of a patient who is liable to be detained in a hospital shall not be made by his nearest relative except after giving not less than 7 days' notice in writing to the managers of the hospital; and if within that period the responsible medical officer furnishes to the managers a report certifying that, in his opinion, the grounds set out in section 17(1) of this Act apply in relation to the patient—
- (a) any order for the discharge of the patient made by that relative in pursuance of the notice shall be of no effect; and
 - (b) no further order for the discharge of the patient shall be made by that relative during the period of 6 months beginning with the date of the report.
- (2) In any case where a report under subsection (1) of this section is furnished in respect of a patient, the managers shall cause the nearest relative of the patient to be informed and that relative may, within the period of 28 days beginning with the day on which he is so informed, appeal to the sheriff to order the discharge of the patient and the provisions of section 33(2) and (4) of this Act shall apply in relation to such an appeal.
- (3) An order for discharge in respect of a patient detained in a State hospital shall not be made by his nearest relative.

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