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Mental Health Act 1983

1983 CHAPTER 20

PART II

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Duration of detention or guardianship and discharge

20 Duration of authority.

- (1) Subject to the following provisions of this Part of this Act, a patient admitted to hospital in pursuance of an application for admission for treatment, and a patient placed under guardianship in pursuance of a guardianship application, may be detained in a hospital or kept under guardianship for a period not exceeding six months beginning with the day on which he was so admitted, or the day on which the guardianship application was accepted, as the case may be, but shall not be so detained or kept for any longer period unless the authority for his detention or guardianship is renewed under this section.
- (2) Authority for the detention or guardianship of a patient may, unless the patient has previously been discharged, be renewed—
 - (a) from the expiration of the period referred to in subsection (1) above, for a further period of six months;
 - (b) from the expiration of any period of renewal under paragraph (a) above, for a further period of one year,and so on for periods of one year at a time.
- (3) Within the period of two months ending on the day on which a patient who is liable to be detained in pursuance of an application for admission for treatment would cease under this section to be so liable in default of the renewal of the authority for his detention, it shall be the duty of the responsible medical officer—
 - (a) to examine the patient; and

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- (b) if it appears to him that the conditions set out in subsection (4) below are satisfied, to furnish to the managers of the hospital where the patient is detained a report to that effect in the prescribed form;
- and where such a report is furnished in respect of a patient the managers shall, unless they discharge the patient, cause him to be informed.
- (4) The conditions referred to in subsection (3) above are that—
- (a) the patient is suffering from mental illness, severe mental impairment, psychopathic disorder or mental impairment, and his mental disorder is of a nature or degree which makes it appropriate for him to receive medical treatment in a hospital; and
 - (b) such treatment is likely to alleviate or prevent a deterioration of his condition; and
 - (c) it is necessary for the health or safety of the patient or for the protection of other persons that he should receive such treatment and that it cannot be provided unless he continues to be detained;
- but, in the case of mental illness or severe mental impairment, it shall be an alternative to the condition specified in paragraph (b) above that the patient, if discharged, is unlikely to be able to care for himself, to obtain the care which he needs or to guard himself against serious exploitation.
- (5) Before furnishing a report under subsection (3) above the responsible medical officer shall consult one or more other persons who have been professionally concerned with the patient's medical treatment.
- (6) Within the period of two months ending with the day on which a patient who is subject to guardianship under this Part of this Act would cease under this section to be so liable in default of the renewal of the authority for his guardianship, it shall be the duty of the appropriate medical officer—
- (a) to examine the patient; and
 - (b) if it appears to him that the conditions set out in subsection (7) below are satisfied, to furnish to the guardian and, where the guardian is a person other than a local social services authority, to the responsible local social services authority a report to that effect in the prescribed form;
- and where such a report is furnished in respect of a patient, the local social services authority shall, unless they discharge the patient, cause him to be informed.
- (7) The conditions referred to in subsection (6) above are that—
- (a) the patient is suffering from mental illness, severe mental impairment, psychopathic disorder or mental impairment and his mental disorder is of a nature or degree which warrants his reception into guardianship; and
 - (b) it is necessary in the interests of the welfare of the patient or for the protection of other persons that the patient should remain under guardianship.
- (8) Where a report is duly furnished under subsection (3) or (6) above, the authority for the detention or guardianship of the patient shall be thereby renewed for the period prescribed in that case by subsection (2) above.
- (9) Where the form of mental disorder specified in a report furnished under subsection (3) or (6) above is a form of disorder other than that specified in the application for admission for treatment or, as the case may be, in the guardianship application, that application shall have effect as if that other form of mental disorder were specified in it; and where on any occasion a report specifying such a form of mental disorder is

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furnished under either of those subsections the appropriate medical officer need not on that occasion furnish a report under section 16 above.

- (10) In this section “appropriate medical officer” has the same meaning as in section 16(5) above.

VALID FROM 03/11/2008

[^{F1}20A Community treatment period

- (1) Subject to the provisions of this Part of this Act, a community treatment order shall cease to be in force on expiry of the period of six months beginning with the day on which it was made.
- (2) That period is referred to in this Act as “the community treatment period”.
- (3) The community treatment period may, unless the order has previously ceased to be in force, be extended—
 - (a) from its expiration for a period of six months;
 - (b) from the expiration of any period of extension under paragraph (a) above for a further period of one year,and so on for periods of one year at a time.
- (4) Within the period of two months ending on the day on which the order would cease to be in force in default of an extension under this section, it shall be the duty of the responsible clinician—
 - (a) to examine the patient; and
 - (b) if it appears to him that the conditions set out in subsection (6) below are satisfied and if a statement under subsection (8) below is made, to furnish to the managers of the responsible hospital a report to that effect in the prescribed form.
- (5) Where such a report is furnished in respect of the patient, the managers shall, unless they discharge him under section 23 below, cause him to be informed.
- (6) The conditions referred to in subsection (4) above are that—
 - (a) the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment;
 - (b) it is necessary for his health or safety or for the protection of other persons that he should receive such treatment;
 - (c) subject to his continuing to be liable to be recalled as mentioned in paragraph (d) below, such treatment can be provided without his being detained in a hospital;
 - (d) it is necessary that the responsible clinician should continue to be able to exercise the power under section 17E(1) above to recall the patient to hospital; and
 - (e) appropriate medical treatment is available for him.
- (7) In determining whether the criterion in subsection (6)(d) above is met, the responsible clinician shall, in particular, consider, having regard to the patient's history of mental disorder and any other relevant factors, what risk there would be of a deterioration of the patient's condition if he were to continue not to be detained in a hospital (as

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a result, for example, of his refusing or neglecting to receive the medical treatment he requires for his mental disorder).

- (8) The statement referred to in subsection (4) above is a statement in writing by an approved mental health professional—
- (a) that it appears to him that the conditions set out in subsection (6) above are satisfied; and
 - (b) that it is appropriate to extend the community treatment period.
- (9) Before furnishing a report under subsection (4) above the responsible clinician shall consult one or more other persons who have been professionally concerned with the patient's medical treatment.
- (10) Where a report is duly furnished under subsection (4) above, the community treatment period shall be thereby extended for the period prescribed in that case by subsection (3) above.

Textual Amendments

- F1** Ss. 20A, 20B inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 32(3)**, 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(i)** (with [art. 3](#), [Sch.](#))

VALID FROM 03/11/2008

20B Effect of expiry of community treatment order

- (1) A community patient shall be deemed to be discharged absolutely from liability to recall under this Part of this Act, and the application for admission for treatment cease to have effect, on expiry of the community treatment order, if the order has not previously ceased to be in force.
- (2) For the purposes of subsection (1) above, a community treatment order expires on expiry of the community treatment period as extended under this Part of this Act, but this is subject to sections 21 and 22 below.]

Textual Amendments

- F1** Ss. 20A, 20B inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 32(3)**, 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(i)** (with [art. 3](#), [Sch.](#))

Modifications etc. (not altering text)

- C1** [S. 20B\(1\)](#) 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\(1\)\(b\)](#), [11\(e\)](#)

[^{F2}21 Special provisions as to patients absent without leave.

- (1) Where a patient is absent without leave—

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- (a) on the day on which (apart from this section) he would cease to be liable to be detained or subject to guardianship under this Part of this Act; or
 - (b) within the period of one week ending with that day,
- he shall not cease to be so liable or subject until the relevant time.
- (2) For the purposes of subsection (1) above the relevant time—
- (a) where the patient is taken into custody under section 18 above, is the end of the period of one week beginning with the day on which he is returned to the hospital or place where he ought to be;
 - (b) where the patient returns himself to the hospital or place where he ought to be within the period during which he can be taken into custody under section 18 above, is the end of the period of one week beginning with the day on which he so returns himself; and
 - (c) otherwise, is the end of the period during which he can be taken into custody under section 18 above.]

Textual Amendments

F2 Ss. 21, 21A, 21B substituted (1.4.1996) for s. 21 by 1995 c. 52, ss. 2(2), 7(2)

21A Patients who are taken into custody or return within 28 days.

- (1) This section applies where a patient who is absent without leave is taken into custody under section 18 above, or returns himself to the hospital or place where he ought to be, 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 or subject to guardianship is extended by section 21 above, any examination and report to be made and furnished in respect of the patient under section 20(3) or (6) above may be made and furnished within the period as so extended.
- (3) Where the authority for the detention or guardianship of the patient is renewed by virtue of subsection (2) above after the day on which (apart from section 21 above) that authority would have expired, the renewal shall take effect as from that day.

21B Patients who are taken into custody or return after more than 28 days.

- (1) This section applies where a patient who is absent without leave is taken into custody under section 18 above, or returns himself to the hospital or place where he ought to be, later than the end of the period of 28 days beginning with the first day of his absence without leave.
- (2) It shall be the duty of the appropriate medical officer, within the period of one week beginning with the day on which the patient is returned or returns himself to the hospital or place where he ought to be—
 - (a) to examine the patient; and
 - (b) if it appears to him that the relevant conditions are satisfied, to furnish to the appropriate body a report to that effect in the prescribed form;and where such a report is furnished in respect of the patient the appropriate body shall cause him to be informed.

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- (3) Where the patient is liable to be detained (as opposed to subject to guardianship), the appropriate medical officer shall, before furnishing a report under subsection (2) above, consult—
 - (a) one or more other persons who have been professionally concerned with the patient’s medical treatment; and
 - (b) an approved social worker.
- (4) Where the patient would (apart from any renewal of the authority for his detention or guardianship on or after the day on which he is returned or returns himself to the hospital or place where he ought to be) be liable to be detained or subject to guardianship after the end of the period of one week beginning with that day, he shall cease to be so liable or subject 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 21 above) have ceased to be liable to be detained or subject to guardianship 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 or guardianship for the period prescribed in that case by section 20(2) above.
- (6) Where the authority for the detention or guardianship of the patient is renewed by virtue of subsection (5) above—
 - (a) the renewal shall take effect as from the day on which (apart from section 21 above and that subsection) 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 20(2) above.
- (7) Where the authority for the detention or guardianship 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 20(3) or (6) above; and the reference in this subsection to authority includes any authority renewed under subsection (5) above by the report.
- (8) Where the form of mental disorder specified in a report furnished under subsection (2) above is a form of disorder other than that specified in the application for admission for treatment or guardianship application concerned (and the report does not have effect as a report furnished under section 20(3) or (6) above), that application shall have effect as if that other form of mental disorder were specified in it.
- (9) Where on any occasion a report specifying such a form of mental disorder is furnished under subsection (2) above the appropriate medical officer need not on that occasion furnish a report under section 16 above.
- (10) In this section—
 - “appropriate medical officer” has the same meaning as in section 16(5) above;
 - “the appropriate body” means—
 - (a) in relation to a patient who is liable to be detained in a hospital, the managers of the hospital; and

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- (b) in relation to a patient who is subject to guardianship, the responsible local social services authority; and
- “the relevant conditions” means—
- (a) in relation to a patient who is liable to be detained in a hospital, the conditions set out in subsection (4) of section 20 above; and
- (b) in relation to a patient who is subject to guardianship, the conditions set out in subsection (7) of that section.

22 Special provisions as to patients sentenced to imprisonment, etc.

- (1) Where a patient who is liable to be detained by virtue of an application for admission for treatment or is subject to guardianship by virtue of a guardianship application 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, or for successive periods exceeding in the aggregate, six months, the application shall cease to have effect at the expiration of that period.
- (2) Where any such patient is so detained in custody but the application does not cease to have effect under subsection (1) above, then—
 - (a) if apart from this subsection the patient would have ceased to be liable to be so detained or subject to guardianship on or before the day on which he is discharged from custody, he shall not cease and shall be deemed not to have ceased to be so liable or subject until the end of that day; and
 - (b) in any case, sections 18 [^{F3}, 21 and 21A] above shall apply in relation to the patient as if he had absented himself without leave on that day.
- [^{F4}(3) In its application by virtue of subsection (2) above section 18(4) above shall have effect with the substitution of the words “end of the period of 28 days beginning with the first day of his absence without leave.” for the words from “later of” onwards.]

Extent Information

E1 For extent of s. 22 see [ss. 146, 147](#)

Textual Amendments

F3 Words in s. 22(2)(b) substituted (1.4.1996) by 1995 c. 52, [ss. 2\(3\)\(a\)](#), 7(2)

F4 S. 22(3) inserted (1.4.1996) by 1995 c. 52, [ss. 2\(3\)\(b\)](#), 7(2)

23 Discharge of patients.

- (1) Subject to the provisions of this section and section 25 below, a patient who is for the time being liable to be detained or subject to guardianship under this Part of this Act shall cease to be so liable or subject if an order in writing discharging him from detention or guardianship (in this Act referred to as “an order for discharge” is made in accordance with this section.
- (2) An order for discharge may be made in respect of a patient—
 - (a) where the patient is liable to be detained in a hospital in pursuance of an application for admission for assessment or for treatment by the responsible medical officer, by the managers or by the nearest relative of the patient;

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- (b) where the patient is subject to guardianship, by the responsible medical officer, by the responsible local social services authority or by the nearest relative of the patient.
- (3) Where the patient is liable to be detained in a ^{F5}registered establishment] in pursuance of an application for admission for assessment or for treatment, an order for his discharge may, without prejudice to subsection (2) above, be made by the Secretary of State and, if the patient is maintained under a contract with a ^{F6}National Health Service trust ^{F7}, ^{F8}NHS foundation trust, ^{F9}Health Authority, Special Health Authority or Primary Care Trust], by that National Health Service trust, ^{F8}NHS foundation trust, ^{F9}Health Authority, Special Health Authority or Primary Care Trust].
- (4) The powers conferred by this section on any authority ^{F10}trust ^{F11}(other than an NHS foundation trust)] or body of persons may be exercised ^{F10}subject to subsection (5) below] by any three or more members of that authority ^{F10}trust] or body authorised by them in that behalf or by three or more members of a committee or sub-committee of that authority ^{F10}trust] or body which has been authorised by them in that behalf.
- ^{F12}(5) The reference in subsection (4) above to the members of an authority, trust or body or the members of a committee or sub-committee of an authority, trust or body,—
- (a) in the case of ^{F13}a ^{F14}Health Authority, Special Health Authority or Primary Care Trust]] or a committee or sub-committee of ^{F13}a ^{F14}Health Authority, Special Health Authority or Primary Care Trust]], is a reference only to the chairman of the authority ^{F15}or trust]and such members (of the authority ^{F15}, trust], committee or sub-committee, as the case may be) as are not also officers of the authority ^{F15}or trust], within the meaning of the National Health Service Act 1977; and
- (b) in the case of a National Health Service trust or a committee or sub-committee of such a trust, is a reference only to the chairman of the trust and such directors or (in the case of a committee or sub-committee) members as are not also employees of the trust.]
- ^{F16}(6) The powers conferred by this section on any NHS foundation trust may be exercised by any three or more non-executive directors of the board of the trust authorised by the board in that behalf.]

Textual Amendments

- F5** Words in s. 23(3) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 9(2)**; 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)**)
- F6** Words inserted by **National Health Service and Community Care Act 1990** (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 24(3)(a)**
- F7** Words in s. 23(3) substituted (28.6.1995 for certain purposes, otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8, **Sch. 1 Pt. III**, para. 107(2)(a)
- F8** Words in s. 23(3) inserted (1.4.2004) by **Health and Social Care (Community Health and Standards) Act 2003** (c. 43), ss. 34, 199, **Sch. 4 para. 53(a)**; S.I. 2004/759, {art. 2}
- F9** Words in s. 23(3) substituted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 16(4)(a)** (with art. 2(5))
- F10** Words inserted by **National Health Service and Community Care Act 1990** (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 24(3)(b)**
- F11** Words in s. 23(4) inserted (1.4.2004) by **Health and Social Care (Community Health and Standards) Act 2003** (c. 43), ss. 34, 199, **Sch. 4 para. 53(b)**; S.I. 2004/759, **art. 2**

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- F12** S.23(5) inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), [Sch. 9 para. 24\(3\)\(c\)](#)
- F13** Words in s. 23(5)(a) substituted (28.6.1995 for certain purposes, otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8, [Sch. 1 Pt. III, para. 107\(2\)\(b\)](#)
- F14** Words in s. 23(5)(a) substituted (8.2.2000) by S.I. 2000/90, art. 3(1), [Sch. 1 para. 16\(4\)\(b\)\(i\)](#) (with art. 2(5))
- F15** Words in s. 23(5)(a) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), [Sch. 1 para. 16\(4\)\(b\)\(ii\)\(iii\)](#) (with art. 2(5))
- F16** S. 23(6) inserted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 34, 199, [Sch. 4 para. 53\(c\)](#); S.I. 2004/759, [art. 2](#)

24 Visiting and examination of patients.

- (1) For the purpose of advising as to the exercise by the nearest relative of a patient who is liable to be detained or subject to guardianship under this Part of this Act of any power to order his discharge, any registered medical practitioner authorised by or on behalf of the nearest relative of the patient may, at any reasonable time, visit the patient and examine him in private.
- (2) Any registered medical practitioner authorised for the purposes of subsection (1) above to visit and examine a patient may require the production of and inspect any records relating to the detention or treatment of the patient in any hospital [^{F17}or to any after-care services provided for the patient under section 117 below.].
- (3) Where application is made by the Secretary of State or a [^{F18}Health Authority, Special Health Authority [^{F19}, Primary Care Trust]][^{F20}, National Health Service trust or NHS foundation trust] to exercise, in respect of a patient liable to be detained in a [^{F21}registered establishment], any power to make an order for his discharge, the following persons, that is to say—
 - (a) any registered medical practitioner authorised by the Secretary of State or, as the case may be, that [^{F18}Health Authority, Special Health Authority [^{F19}, Primary Care Trust]][^{F20}, National Health Service trust or NHS foundation trust]; and
 - (b) any other person (whether a registered medical practitioner or not) authorised under [^{F22}Part II of the Care Standards Act 2000] to inspect the home, may at any reasonable time visit the patient and interview him in private.
- (4) Any person authorised for the purposes of subsection (3) above to visit a patient may require the production of and inspect any documents constituting or alleged to constitute the authority for the detention of the patient under this Part of this Act; and any person so authorised, who is a registered medical practitioner, may examine the patient in private, and may require the production of and inspect any other records relating to the treatment of the patient in the home [^{F17}or to any after-care services provided for the patient under section 117 below.].

Textual Amendments

- F17** Words in s. 24(2)(4) inserted (1.4.1996) by 1995 c. 52, ss. 1(2), 7(2), Sch. 1, para. 1
- F18** Words in s. 24(3) substituted (28.6.1995 for certain purposes, otherwise 1.4.1996) by 1995 c. 17, s. 2(1), [Sch. 1, Pt. III, para. 107\(3\)](#) (with ss. 2(3), 8)
- F19** Words in s. 24(3) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), [Sch. 1 para. 16\(5\)](#) (with art. 2(5))

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- F20** Words in s. 24(3) substituted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199, **Sch. 4 para. 54**; S.I. 2004/759, **art.2**
- F21** Words in s. 24(3) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 9(2)**; 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))
- F22** Words in s. 24(3) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 9(3)**; 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)** (with transitional provisions in Schs. 1-3 and art. 3(4)-(10))

25 Restrictions on discharge by nearest relative.

- (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 72 hours' notice in writing to the managers of the hospital; and if, within 72 hours after such notice has been given, the responsible medical officer furnishes to the managers a report certifying that in the opinion of that officer the patient, if discharged, would be likely to act in a manner dangerous to other persons or to himself—
 - (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 six months beginning with the date of the report.
- (2) In any case where a report under subsection (1) above is furnished in respect of a patient who is liable to be detained in pursuance of an application for admission for treatment the managers shall cause the nearest relative of the patient to be informed.

Status:

Point in time view as at 22/07/2004. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation:

Mental Health Act 1983, Cross Heading: Duration of detention or guardianship and discharge is up to date with all changes known to be in force on or before 25 June 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.