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Mental Health Act 1983

1983 CHAPTER 20

PART V

MENTAL HEALTH REVIEW TRIBUNALS

Applications and references concerning Part II patients

66 Applications to tribunals.

(1) Where—

- (a) a patient is admitted to a hospital in pursuance of an application for admission for assessment; or
- (b) a patient is admitted to a hospital in pursuance of an application for admission for treatment; or
- (c) a patient is received into guardianship in pursuance of a guardianship application; or
- (d) a report is furnished under section 16 above in respect of a patient; or
- (e) a patient is transferred from guardianship to a hospital in pursuance of regulations made under section 19 above; or
- (f) a report is furnished under section 20 above in respect of a patient and the patient is not discharged; or
- (g) a report is furnished under section 25 above in respect of a patient who is detained in pursuance of an application for admission for treatment; or
- (h) an order is made under section 29 above in respect of a patient who is or subsequently becomes liable to be detained or subject to guardianship under Part II of this Act,

an application may be made to a Mental Health Review Tribunal within the relevant period—

- (i) by the patient (except in the cases mentioned in paragraphs (g) and (h) above) or, in the case mentioned in paragraph (d) above, by his nearest relative, and
- (ii) in the cases mentioned in paragraphs (g) and (h) above, by his nearest relative.

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- (2) In subsection (1) above “the relevant period” means—
- (a) in the case mentioned in paragraph (a) of that subsection, 14 days beginning with the day on which the patient is admitted as so mentioned;
 - (b) in the case mentioned in paragraph (b) of that subsection, six months beginning with the day on which the patient is admitted as so mentioned;
 - (c) in the case mentioned in paragraph (c) of that subsection, six months beginning with the day on which the application is accepted;
 - (d) in the cases mentioned in paragraphs (d) and (g) of that subsection, 28 days beginning with the day on which the applicant is informed that the report has been furnished;
 - (e) in the case mentioned in paragraph (e) of that subsection, six months beginning with the day on which the patient is transferred;
 - (f) in the case mentioned in paragraph (f) of that subsection, the period for which authority for the patient’s detention or guardianship is renewed by virtue of the report;
 - (g) in the case mentioned in paragraph (h) of that subsection, 12 months beginning with the date of the order, and in any subsequent period of 12 months during which the order continues in force.
- (3) Section 32 above shall apply for the purposes of this section as it applies for the purposes of Part II of this Act.

67 References to tribunals by Secretary of State concerning Part II patients.

- (1) The Secretary of State may, if he thinks fit, at any time refer to a Mental Health Review Tribunal the case of any patient who is liable to be detained or subject to guardianship under Part II of this Act.
- (2) For the purpose of furnishing information for the purposes of a reference under subsection (1) above any registered medical practitioner authorised by or on behalf of the patient may, at any reasonable time, visit the patient and examine him in private and require the production of and inspect any records relating to the detention or treatment of the patient in any hospital.
- (3) Section 32 above shall apply for the purposes of this section as it applies for the purposes of Part II of this Act.

68 Duty of managers of hospitals to refer cases to tribunal.

- (1) Where a patient who is admitted to a hospital in pursuance of an application for admission for treatment or a patient who is transferred from guardianship to hospital does not exercise his right to apply to a Mental Health Review Tribunal under section 66(1) above by virtue of his case falling within paragraph (b) or, as the case may be, paragraph (e) of that section, the managers of the hospital shall at the expiration of the period for making such an application refer the patient’s case to such a tribunal unless an application or reference in respect of the patient has then been made under section 66(1) above by virtue of his case falling within paragraph (d), (g) or (h) of that section or under section 67(1) above.
- (2) If the authority for the detention of a patient in a hospital is renewed under section 20 above and a period of three years (or, if the patient has not attained the age of sixteen years, one year) has elapsed since his case was last considered by a Mental Health

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Review Tribunal, whether on his own application or otherwise, the managers of the hospital shall refer his case to such a tribunal.

- (3) For the purpose of furnishing information for the purposes of any reference under this section, any registered medical practitioner authorised by or on behalf of the patient may at any reasonable time visit and examine the patient in private and require the production of and inspect any records relating to the detention or treatment of the patient in any hospital.
- (4) The Secretary of State may by order vary the length of the periods mentioned in subsection (2) above.
- (5) For the purposes of subsection (1) above a person who applies to a tribunal but subsequently withdraws his application shall be treated as not having exercised his right to apply, and where a person withdraws his application on a date after the expiration of the period mentioned in that subsection, the managers shall refer the patient's case as soon as possible after that date.

VALID FROM 03/11/2008

[^{F1}68A Power to reduce periods under section 68

- (1) The appropriate national authority may from time to time by order amend subsection (2) or (6) of section 68 above so as to substitute for a period mentioned there such shorter period as is specified in the order.
- (2) The order may include such transitional, consequential, incidental or supplemental provision as the appropriate national authority thinks fit.
- (3) The order may, in particular, make provision for a case where—
 - (a) a patient in respect of whom subsection (1) of section 68 above applies is, or is about to be, transferred from England to Wales or from Wales to England; and
 - (b) the period by reference to which subsection (2) or (6) of that section operates for the purposes of the patient's case is not the same in one territory as it is in the other.
- (4) A patient is transferred from one territory to the other if—
 - (a) he is transferred from a hospital, or from guardianship, in one territory to a hospital in the other in pursuance of regulations made under section 19 above;
 - (b) he is removed under subsection (3) of that section from a hospital or accommodation in one territory to a hospital or accommodation in the other;
 - (c) he is a community patient responsibility for whom is assigned from a hospital in one territory to a hospital in the other in pursuance of regulations made under section 19A above;
 - (d) on the revocation of a community treatment order in respect of him under section 17F above he is detained in a hospital in the territory other than the one in which the responsible hospital was situated; or
 - (e) he is transferred or removed under section 123 below from a hospital in one territory to a hospital in the other.

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- (5) Provision made by virtue of subsection (3) above may require or authorise the managers of a hospital determined in accordance with the order to refer the patient's case to [^{F2}the appropriate tribunal].
- (6) In so far as making provision by virtue of subsection (3) above, the order—
- (a) may make different provision for different cases;
 - (b) may make provision which applies subject to specified exceptions.
- (7) Where the appropriate national authority for one territory makes an order under subsection (1) above, the appropriate national authority for the other territory may by order make such provision in consequence of the order as it thinks fit.
- (8) An order made under subsection (7) above may, in particular, make provision for a case within subsection (3) above (and subsections (4) to (6) above shall apply accordingly).
- (9) In this section, “the appropriate national authority” means—
- (a) in relation to a hospital in England, the Secretary of State;
 - (b) in relation to a hospital in Wales, the Welsh Ministers.]

Textual Amendments

- F1** Ss. 68, 68A substituted (3.11.2008) for s. 68 by [Mental Health Act 2007 \(c. 12\)](#), **ss. 37(3)**, 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(1)** (with [art. 3](#), [Sch.](#))
- F2** Words in s. 68A(5) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), [art. 6](#), **Sch. 3 para. 49**

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