



Mental Health Act 1983

1983 CHAPTER 20

PART VIII **E+W+S**

MISCELLANEOUS FUNCTIONS OF LOCAL AUTHORITIES AND THE SECRETARY OF STATE

After-care

117 **After-care.** **E+W**

- (1) This section applies to persons who are detained under section 3 above, or admitted to a hospital in pursuance of a hospital order made under section 37 above, or transferred to a hospital in pursuance of [^{F1}a hospital direction made under section 45A above or] a transfer direction made under section 47 or 48 above, and then cease to be detained and [^{F2}(whether or not immediately after so ceasing)] leave hospital.
- (2) It shall be the duty of the [^{F3}clinical commissioning group or]^{F4}... [^{F5}Local Health Board] and of the local social services authority to provide, in co-operation with relevant voluntary agencies, after-care services for any person to whom this section applies until such time as the [^{F6}clinical commissioning group or]^{F4}... [^{F5}Local Health Board] and the local social services authority are satisfied that the person concerned is no longer in need of such services [^{F7}; but they shall not be so satisfied in the case of a [^{F8}community patient while he remains such a patient.] .]

^{F9}(2A) ^{F10}

- (2B) Section 32 above shall apply for the purposes of this section as it applies for the purposes of Part II of this Act.

[^{F11}(2C) References in this Act to after-care services provided for a patient under this section include references to services provided for the patient—

- (a) in respect of which direct payments are made under regulations under section 57 of the Health and Social Care Act 2001 or section 12A(4) of the National Health Service Act 2006, and
- (b) which would be provided under this section apart from the regulations.]

Status: Point in time view as at 01/10/2014.

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- [^{F12}(2D) Subsection (2), in its application to the clinical commissioning group, has effect as if for “to provide” there were substituted “to arrange for the provision of”.
- (2E) The Secretary of State may by regulations provide that the duty imposed on the clinical commissioning group by subsection (2) is, in the circumstances or to the extent prescribed by the regulations, to be imposed instead on another clinical commissioning group or the National Health Service Commissioning Board.
- (2F) Where regulations under subsection (2E) provide that the duty imposed by subsection (2) is to be imposed on the National Health Service Commissioning Board, subsection (2D) has effect as if the reference to the clinical commissioning group were a reference to the National Health Service Commissioning Board.
- (2G) Section 272(7) and (8) of the National Health Service Act 2006 applies to the power to make regulations under subsection (2E) as it applies to a power to make regulations under that Act.]
- (3) In this [^{F13}section “ the [^{F14}clinical commissioning group or [^{F15} ... [^{F5} Local Health Board]” means the [^{F16}clinical commissioning group or]^{F15}...[^{F5}Local Health Board], and “the local social services authority” means the local social services authority, for the area] in which the person concerned is resident or to which he is sent on discharge by the hospital in which he was detained.

Textual Amendments

- F1** Words in s. 117(1) inserted (1.10.1997) by 1997 c. 43, s. 55, **Sch. 4**, para. 12(17); S.I.1997/2200, **art. 2(2)**
- F2** Words in s. 117(1) inserted (1.4.1996) by 1995 c. 52, ss. 1(2), 7(2), **Sch. 1**, para. 15(2)
- F3** Words in s. 117(2) inserted (27.3.2012 for specified purposes, 1.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by **Health and Social Care Act 2012 (c. 7)**, ss. 40(2)(a), 306(1)(d), (4); S.I. 2012/2657, art. 2(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F4** Words in s. 117(2) omitted (27.3.2012 for specified purposes, 1.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of **Health and Social Care Act 2012 (c. 7)**, **ss. 40(2)(b), 306(1)(4)**; S.I. 2012/2657, art. 2(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F5** Words in s. 117(2)(2A)(3) substituted (1.4.2007) by The References to **Health Authorities Order 2007 (S.I. 2007/961)**, **art. 3, Sch. para. 13(9)**
- F6** Words in s. 117(2) inserted (27.3.2012 for specified purposes, 1.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by **Health and Social Care Act 2012 (c. 7)**, **ss. 40(2)(c), 306(1)(d), (4)**; S.I. 2012/2657, art. 2(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F7** Words in s. 117(2) inserted (1.4.1996) by 1995 c. 52, ss. 1(2), 7(2), **Sch. 1**, para. 15(3)
- F8** Words in s. 117(2) substituted (3.11.2008) by **Mental Health Act 2007 (c. 12)**, ss. 32, 56, **Sch. 3 para. 24** (with **Sch. 10**); S.I. 2008/1210, **art. 2(b)** (with art. 4)
- F9** S. 117(2A)-(2B) inserted (1.4.1996) by 1995 c. 52, ss. 1(2), 7(2), **Sch. 1**, para. 15(4)
- F10** S. 117(2A) 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)
- F11** S. 117(2C) inserted (19.1.2010) by **Health Act 2009 (c. 21)**, s. 40(1), **Sch. 1 para. 3**; S.I. 2010/30, art. 2(b)
- F12** S. 117(2D)-(2G) inserted (27.3.2012 for specified purposes, 1.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by **Health and Social Care Act 2012 (c. 7)**, **ss. 40(3), 306(1)(d), (4)**; S.I. 2012/2657, art. 2(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F13** Words in s. 117(3) substituted (28.6.1995 for certain purposes, otherwise 1.4.1996) by 1995 c. 17, ss. 2(1), 9(3), **Sch. 1, Pt. III, para. 107(8)(b)** (with ss. 2(3), 8)

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- F14** Words in s. 117(3) inserted (27.3.2012 for specified purposes, 1.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 40\(4\)\(a\), 306\(1\)\(d\), \(4\); S.I. 2012/2657, art. 2\(4\); S.I. 2013/160, art. 2\(2\) \(with arts. 7-9\)](#)
- F15** Words in s. 117(3) omitted (27.3.2012 for specified purposes, 1.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Health and Social Care Act 2012 \(c. 7\), ss. 40\(4\)\(b\), 306\(1\)\(d\), \(4\); S.I. 2012/2657, art. 2\(4\); S.I. 2013/160, art. 2\(2\) \(with arts. 7-9\)](#)
- F16** Words in s. 117(3) inserted (27.3.2012 for specified purposes, 1.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Health and Social Care Act 2012 \(c. 7\), ss. 40\(4\)\(c\), 306\(1\)\(d\), \(4\); S.I. 2012/2657, art. 2\(4\); S.I. 2013/160, art. 2\(2\) \(with arts. 7-9\)](#)

Modifications etc. (not altering text)

- C1** S. 117(2)(2A): functions of local authority may be responsibility of an executive of the authority (1.4.2000) by virtue of [S.I. 2000/695, reg. 3\(2\)\(b\), Sch. 2](#)
- C2** S. 117(2) 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 \(S.I. 2008/1210\), art. 6\(j\)](#)

[^{F17} 117A After-care: preference for particular accommodation **E+W**

- (1) The Secretary of State may by regulations provide that where—
- the local social services authority under section 117 is, in discharging its duty under subsection (2) of that section, providing or arranging for the provision of accommodation for the person concerned;
 - the person concerned expresses a preference for particular accommodation; and
 - any prescribed conditions are met,
- the local social services authority must provide or arrange for the provision of the person's preferred accommodation.
- (2) Regulations under this section may provide for the person concerned, or a person of a prescribed description, to pay for some or all of the additional cost in prescribed cases.
- (3) In subsection (2), “ additional cost ” means the cost of providing or arranging for the provision of the person's preferred accommodation less the amount that the local social services authority would expect to be the usual cost of providing or arranging for the provision of accommodation of that kind.
- (4) The power to make regulations under this section—
- is exercisable only in relation to local social services authorities in England;
 - includes power to make different provision for different cases or areas.]

Textual Amendments

- F17** S. 117A inserted (1.10.2014 for specified purposes, otherwise 1.4.2015) by [Care Act 2014 \(c. 23\), ss. 75\(6\), 127\(1\); S.I. 2014/2473, art. 2\(1\)\(u\); S.I. 2015/993, art. 7\(1\)\(b\) \(with transitional provisions in S.I. 2015/995\)](#)

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