

Status: Point in time view as at 17/07/2015.

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SCHEDULES

SCHEDULE 1

Sections 40(1), 41(3) and (5), and 55(4).

APPLICATION OF CERTAIN PROVISIONS TO PATIENTS SUBJECT TO HOSPITAL AND GUARDIANSHIP ORDERS

PART I

PATIENTS NOT SUBJECT TO SPECIAL RESTRICTIONS

- 1 Sections 9, 10, 17 ^{F1}to 17C, 17E, 17F, 20A] , ^{F2} 21 to 21B], ^{F3}... ^{F4}26] to 28, 31, 32, 67 and 76 shall apply in relation to the patient without modification.

Textual Amendments

- F1** Words in Sch. 1 Pt. 1 para. 1 inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 32, 56, [Sch. 3 para. 36\(2\)](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(i\)](#) (with [art. 3](#), [Sch.](#))
- F2** Words in Sch. 1 Pt. 1 para. 1 substituted (1.4.1996) by [1995 c. 52](#), ss. [2\(8\)](#), [7\(2\)](#)
- F3** Words in Sch. 1 Pt. 1 para. 1 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 39(3)(a); [S.I. 2012/1319](#), [art. 2\(3\)](#)
- F4** Word in Sch. 1 Pt. 1 para. 1 substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. [36\(4\)](#), [56](#) (with [Sch. 10](#)); [S.I. 2008/1210](#), [art. 2\(c\)](#) (with [art. 4](#))

Modifications etc. (not altering text)

- C1** Sch. 1 para. 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\(1\)\(b\)](#), [6\(1\)\(i\)](#)

- 2 Sections ^{F5}... ^{F6}17D, 17G, 18 to 20, 20B], 22, 23 ^{F7}... ^{F8}, 66 and 68] shall apply in relation to the patient with the modifications specified in ^{F9}paragraphs 2A]^{F10}to 10] below.

Textual Amendments

- F5** Word in [Sch. 1 Pt. 1 para. 2](#) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 55, 56, [Sch. 11 Pt. 1](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(p\)](#) (with [art. 3](#), [Sch.](#))
- F6** Words in [Sch. 1 Pt. 1 para. 2](#) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 32, 56, [Sch. 3 para. 36\(3\)\(a\)](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(i\)](#) (with [art. 3](#), [Sch.](#))
- F7** Words in [Sch. 1 Pt. 1 para. 2](#) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 55, 56, [Sch. 11 Pt. 5](#) (with [Sch. 10](#)); [S.I. 2008/1210](#), [art. 2\(d\)](#) (with [art.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](#))
- F8** Words in [Sch. 1 Pt. 1 para. 2](#) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. [37\(6\)\(a\)\(i\)](#), [56](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(1\)](#) (with [art. 3](#), [Sch.](#))
- F9** Words in [Sch. 1 Pt. 1 para. 2](#) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 32, 56, [Sch. 3 para. 36\(3\)\(b\)](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(i\)](#) (with [art. 3](#), [Sch.](#))

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F10 Words in Sch. 1 Pt. 1 para. 2 substituted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 37(6)(a)(ii), 56 (with Sch. 10); S.I. 2008/1900, art. 2(I) (with art. 3, Sch.)

Modifications etc. (not altering text)

C2 Sch. 1 para. 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), arts. 1(1)(b), 6(I)(ii)

[^{F11}2A In section 17D(2)(a) for the reference to section 6(2) above there shall be substituted a reference to section 40(1)(b) below.

Textual Amendments

F11 Sch. 1 Pt. 1 paras. 2A, 2B inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, Sch. 3 para. 36(4) (with Sch. 10); S.I. 2008/1900, art. 2(i) (with art. 3, Sch.)

2B In section 17G—
(a) in subsection (2) for the reference to section 6(2) above there shall be substituted a reference to section 40(1)(b) below;
(b) in subsection (4) for paragraphs (a) and (b) there shall be substituted the words the order or direction under Part 3 of this Act in respect of him were an order or direction for his admission or removal to that other hospital; and
(c) in subsection (5) for the words from “the patient” to the end there shall be substituted the words the date of the relevant order or direction under Part 3 of this Act were the date on which the community treatment order is revoked.]

Textual Amendments

F11 Sch. 1 Pt. 1 paras. 2A, 2B inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, Sch. 3 para. 36(4) (with Sch. 10); S.I. 2008/1900, art. 2(i) (with art. 3, Sch.)

3 ^{F12}

Textual Amendments

F12 Sch. 1 Pt. 1 para. 3 repealed (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 55, 56, Sch. 11 Pt. 1 (with Sch. 10); S.I. 2008/1900, art. 2(p) (with art. 3, Sch.)

4 In section 18 subsection (5) shall be omitted.

5 In section 19(2) for the words from “as follows” to the end of the subsection there shall be substituted the words “as if the order or direction under Part III of this Act by virtue of which he was liable to be detained or subject to guardianship before being transferred were an order or direction for his admission or removal to the hospital to which he is transferred, or placing him under the guardianship of the authority or person into whose guardianship he is transferred, as the case may be”.

[^{F13}5A In section 19A(2), paragraph (b) shall be omitted.]

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Textual Amendments

F13 Sch. 1 Pt. 1 para. 5A inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, Sch. 3 para. 36(5) (with Sch. 10); S.I. 2008/1900, art. 2(i) (with art. 3, Sch.)

- 6 In subsection 20—
- (a) in subsection (1) for the words from “day on which he was” to “as the case may be” there shall be substituted the words “date of the relevant order or direction under Part III of this Act”; ^{F14} . . .
 - (b) ^{F14} . . .

Textual Amendments

F14 Sch. 1 Pt. 1 para. 6(b) and preceding word repealed (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 55, 56, Sch. 11 Pt. 1 (with Sch. 10); S.I. 2008/1900, art. 2(p) (with art. 3, Sch.)

- [^{F15}6A In section 20B(1), for the reference to the application for admission for treatment there shall be substituted a reference to the order or direction under Part 3 of this Act by virtue of which the patient is liable to be detained.]

Textual Amendments

F15 Sch. 1 Pt. 1 para. 6A inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, Sch. 3 para. 36(6) (with Sch. 10); S.I. 2008/1900, art. 2(i) (with art. 3, Sch.)

- 7 In section 22 for references to an application for admission or a guardianship application there shall be substituted references to the order or direction under Part III of this Act by virtue of which the patient is liable to be detained or subject to guardianship.
- 8 In section 23(2)—
- (a) in paragraph (a) the words “for assessment or” shall be omitted; and
 - (b) in paragraphs (a) [^{F16}to (c)] the references to the nearest relative shall be omitted.

Textual Amendments

F16 Words in Sch. 1 Pt. 1 para. 8(b) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, Sch. 3 para. 36(7) (with Sch. 10); S.I. 2008/1900, art. 2(i) (with art. 3, Sch.)

- 8A ^{F17}

Textual Amendments

F17 Sch. 1 Pt. 1 para. 8A 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)

- 9 In section 66—
- (a) in subsection (1), paragraphs (a), (b), (c), (g) and (h), the words in parenthesis in paragraph (i) and paragraph (ii) shall be omitted; and

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- (b) in subsection (2), paragraphs (a), (b), (c) and (g) ^[F18], and in paragraph (d) “, (g)”, shall be omitted.]

Textual Amendments

F18 Words in Sch. 1, para. 9(b) substituted (1.4.1996) by 1995 c. 52, ss. 1(2), 7(2), Sch. 1, para. 14

^[F19]10 In section 68—

- (a) in subsection (1) paragraph (a) shall be omitted; and
(b) subsections (2) to (5) shall apply if the patient falls within paragraph (e) of subsection (1), but not otherwise.]

Textual Amendments

F19 Sch. 1 Pt. 1 para. 10 inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 37(6)(b), 56 (with Sch. 10); S.I. 2008/1900, art. 2(i) (with art. 3, Sch.)

PART II

PATIENTS SUBJECT TO SPECIAL RESTRICTIONS

1 Sections ^{F20}... 32 and 76 shall apply in relation to the patient without modification.

Textual Amendments

F20 Words in Sch. 1 Pt. 2 para. 1 omitted (1.7.2012) by virtue of Health and Social Care Act 2012 (c. 7), s. 39(3)(b); S.I. 2012/1319, art. 2(3)

2 Sections ^{F21}17, 18, 19], 22, 23 and 34 shall apply in relation to the patient with the modifications specified in paragraphs 3 to 8 below.

Textual Amendments

F21 Words in Sch. 1 Pt. 2 para. 2 substituted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, Sch. 3 para. 37(2) (with Sch. 10); S.I. 2008/1900, art. 2(i) (with art. 3, Sch.)

3 In section 17—

- (a) in subsection (1) after the word “may” there shall be inserted the words “with the consent of the Secretary of State”;
^[F22](aa) subsections (2A) and (2B) shall be omitted;]
(b) in subsection (4) after the words ^[F23]“the responsible clinician” and after the words “that clinician”] there shall be inserted the words “or the Secretary of State”; and
(c) in subsection (5) after the word “recalled” there shall be inserted the words ^[F24]“by the responsible clinician”], and for the words from “he has ceased” to the end of the subsection there shall be substituted the words “the expiration of the period of ^[F25]twelve] months beginning with the first day of his absence on leave”.

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Textual Amendments

- F22** Sch. 1 Pt. 2 para. 3(aa) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 33\(3\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(j\)](#) (with [art. 3](#), [Sch.](#))
- F23** Words in [Sch. 1 Pt. 2 para. 3\(b\)](#) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 11\(8\)\(a\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(b\)](#) (with [art. 3](#), [Sch.](#))
- F24** Words in [Sch. 1 Pt. 2 para. 3\(c\)](#) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 11\(8\)\(b\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(b\)](#) (with [art. 3](#), [Sch.](#))
- F25** Words in [Sch. 1, Pt. II, para. 3\(c\)](#) substituted (1.4.1996 with application as mentioned in s. 3(3) of substituting Act) by [1995 c. 52](#), [ss. 3\(2\)\(3\)](#), 7(2)

- 4 In section 18 there shall be omitted—
- (a) in subsection (1) the words “subject to the provisions of this section”; and
 - (b) subsections (3), (4) and (5).
- 5 In section 19—
- (a) in subsection (1) after the word “may” in paragraph (a) there shall be inserted the words “with the consent of the Secretary of State”, and the words from “or into” to the end of the subsection shall be omitted;^{F26} . . .
 - (b) in subsection (2) for the words from “as follows” to the end of the subsection there shall be substituted the words “as if the order or direction under Part III of this Act by virtue of which he was liable to be detained before being transferred were an order or direction for his admission or removal to the hospital to which he is transferred”;^{F27} and
 - (c) in subsection (3) after the words “may at any time” there shall be inserted the words “, with the consent of the Secretary of State,”.]

Textual Amendments

- F26** Words in [Sch. 1 Pt. II](#) immediately following [para. 5\(a\)](#) repealed (1.10.1997) by [1997 c. 43](#), [ss. 49\(4\)\(a\)](#), 56(2), [Sch. 6](#); [S.I. 1997/2200](#), [art. 2](#)
- F27** [Sch. 1 Pt. II para. 5\(c\)](#) and the word “and” immediately preceding it inserted (1.10.1997) by [1997 c. 43](#), [s. 49\(4\)\(b\)](#); [S.I. 1997/2200](#), [art. 2](#)

[^{F28}6 In section 22, subsections (1) and (5) shall not apply.]

Textual Amendments

- F28** [Sch. 1 Pt. 2 para. 6](#) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 32](#), 56, [Sch. 3 para. 37\(3\)](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(i\)](#) (with [art. 3](#), [Sch.](#))

- 7 In section 23—
- (a) in subsection (1) references to guardianship shall be omitted and after the word “made” there shall be inserted the words “with the consent of the Secretary of State and” and
 - (b) in subsection (2)—
 - (i) in paragraph (a) the words “for assessment or” and “or by the nearest relative of the patient” shall be omitted; and
 - (ii) paragraph (b) shall be omitted.

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- 8 In section 34, in subsection (1) the definition of “the nominated medical attendant” and subsection (3) shall be omitted.

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