



Mental Health Act 1983

1983 CHAPTER 20

PART V

MENTAL HEALTH REVIEW TRIBUNALS

Discharge of patients

72 Powers of tribunals.

- (1) Where application is made to a Mental Health Review Tribunal by or in respect of a patient who is liable to be detained under this Act, the tribunal may in any case direct that the patient be discharged, and—
- (a) the tribunal shall direct the discharge of a patient liable to be detained under section 2 above if they are satisfied—
 - (i) that he is not then suffering from mental disorder or from mental disorder of a nature or degree which warrants his detention in a hospital for assessment (or for assessment followed by medical treatment) for at least a limited period; or
 - (ii) that his detention as aforesaid is not justified in the interests of his own health or safety or with a view to the protection of other persons;
 - (b) the tribunal shall direct the discharge of a patient liable to be detained otherwise than under section 2 above if they are satisfied—
 - (i) that he is not then suffering from mental illness, psychopathic disorder, severe mental impairment or mental impairment or from any of those forms of 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
 - (ii) that 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; or
 - (iii) in the case of an application by virtue of paragraph (g) of section 66(1) above, that the patient, if released, would not be likely to act in a manner dangerous to other persons or to himself.

Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.

Changes to legislation: Mental Health Act 1983, Section 72 is up to date with all changes known to be in force on or before 29 July 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. (See end of Document for details)

- (2) In determining whether to direct the discharge of a patient detained otherwise than under section 2 above in a case not falling within paragraph (b) of subsection (1) above, the tribunal shall have regard—
 - (a) to the likelihood of medical treatment alleviating or preventing a deterioration of the patient's condition; and
 - (b) in the case of a patient suffering from mental illness or severe mental impairment, to the likelihood of the patient, if discharged, being able to care for himself, to obtain the case he needs or to guard himself against serious exploitation.
- (3) A tribunal may under subsection (1) above direct the discharge of a patient on a future date specified in the direction; and where a tribunal do not direct the discharge of a patient under that subsection the tribunal may—
 - (a) with a view to facilitating his discharge on a future date, recommend that he be granted leave of absence or transferred to another hospital or into guardianship; and
 - (b) further consider his case in the event of any such recommendation not being complied with.
- (4) Where application is made to a Mental Health Review Tribunal by or in respect of a patient who is subject to guardianship under this Act, the tribunal may in any case direct that the patient be discharged, and shall so direct if they are satisfied—
 - (a) that he is not then suffering from mental illness, psychopathic disorder, severe mental impairment or mental impairment; or
 - (b) that it is not necessary in the interests of the welfare of the patient, or for the protection of other persons, that the patient should remain under such guardianship.
- (5) Where application is made to a Mental Health Review Tribunal under any provision of this Act by or in respect of a patient and the tribunal do not direct that the patient be discharged, the tribunal may, if satisfied that the patient is suffering from a form of mental disorder other than the form specified in the application, order or direction relating to him, direct that that application, order or direction be amended by substituting for the form of mental disorder specified in it such other form of mental disorder as appears to the tribunal to be appropriate.
- (6) Subsections (1) to (5) above apply in relation to references to a Mental Health Review Tribunal as they apply in relation to applications made to such a tribunal by or in respect of a patient.
- (7) Subsection (1) above shall not apply in the case of a restricted patient except as provided in sections 73 and 74 below.

Status:

Point in time view as at 01/02/1991. This version of this provision has been superseded.

Changes to legislation:

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