

**Status:** Point in time view as at 01/08/1997.

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## SCHEDULES

### SCHEDULE 2

#### APPLICATION OF PROVISIONS OF PART V TO PATIENTS SUBJECT TO HOSPITAL OR GUARDIANSHIP ORDERS

##### PART I

HOSPITAL ORDER WITHOUT RESTRICTION ORDER (SECTION 60(1));  
TRANSFER FROM PRISON WITHOUT RESTRICTION (SECTION 71).

- 1 Sections 27, 31, <sup>[F1]</sup>to 31B,<sup>]32,</sup> <sup>[F2]</sup>35A,<sup>] 53, 54, 55, 56 and 58 shall apply in relation to the patient without modification.</sup>

##### Extent Information

**E1** For extent of Sch. 2, see [ss. 128, 129](#)

##### Textual Amendments

**F1** Words in [Sch. 2 para. 1](#) inserted (1.4.1996) by [1995 c. 52, ss. 5\(11\)\(a\), 7\(2\)](#)

**F2** Words in [Sch. 2 para. 1](#) inserted (1.4.1996) by [1995 c. 52, ss. 4\(2\), 7\(2\), Sch. 2, para. 5\(a\)](#)

- 2 Sections 22, 28, 29, 30, 33, 35, <sup>[F3]</sup>35B,<sup>] 57 and 59 shall apply in relation to the patient with the modifications specified in paragraphs 3 to 10 of this Part of this Schedule.</sup>

##### Extent Information

**E2** For extent of Sch. 2, see [ss. 128, 129](#)

##### Textual Amendments

**F3** Words in [Sch. 2, para. 2](#) inserted (1.4.1996) by [1995 c. 52, ss. 4\(2\), 7\(2\), Sch. 2, para. 5\(b\)](#)

- 3 In section 22—  
(a) subsection (1) shall be omitted; and  
(b) in subsection (2) for the reference to an application for admission there shall be substituted a reference to the order or direction by virtue of which the patient is liable under Part VI of this Act to be detained.
- 4 In section 28 subsection (4) shall be omitted.
- 5 In section 29(3) for the words from “as follows” to the end of the subsection there shall be substituted the words “as if the order or direction by virtue of which he was liable under Part VI of this Act to be detained before being transferred were an order or direction for his admission or removal to the hospital to which he is transferred.”.

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- 6 In section 30—
- (a) in subsection (1), for the words “an application for admission” and “day on which he was so admitted” there shall be substituted the words “an order or direction by virtue of which he is liable under Part VI of this Act to be detained” and “date of the relevant order or direction” respectively; and
  - (b) in subsection (3), for the words “this Part” there shall be substituted the words “Part VI”.
- 7 In section 33—
- (a) in subsection (1), for the words “this Part” there shall be substituted the words “Part VI”;
  - (b) in subsection (4), for “26, [<sup>F4</sup>26A,]30 or 34” there shall be substituted “30”; and
  - (c) in subsection (5) the words “by the nearest relative of the patient or” shall be omitted. [<sup>F5</sup>; and
  - (d) subsection (7) shall be omitted]

#### Textual Amendments

- F4** Word in Sch. 2 Pt. I para. 7(b) inserted (9.3.1992) by [Mental Health \(Detention\) \(Scotland\) Act 1991 \(c. 47, SIF 85\)](#), s. 3(6)(a)(i); S.I. 1992/357, art.2
- F5** Sch. 2 Pt. I para. 7(d) and word “; and” preceding it inserted (9.3.1992) by [Mental Health \(Detention\) \(Scotland\) Act 1991 \(c. 47, SIF 85\)](#), s. 3(6)(a)(ii); S.I. 1992/357, art.2

- 8 In section 35(1)—
- (a) the words “any of sections 26, 30 or 34 of” shall be omitted;
  - (b) for the words “any of the said sections” there shall be substituted the words “Part V of this Act”; and
  - (c) the words from “whether” to “both” shall be omitted.
- [<sup>F6</sup>8A In section 35B(1) for the words “an application for admission” there shall be substituted the words “an order or direction by virtue of which he is liable under Part VI of this Act to be detained.”]

#### Textual Amendments

- F6** Sch. 2 para. 8A inserted (1.4.1996) by [1995 c. 52, s. 4\(2\)](#), [Sch. 2 para. 5\(e\)](#)

- 9 In section 57(4) for paragraphs (a) and (b) there shall be substituted the words “on the date when the patient ceases to be liable to be detained in pursuance of the order or direction by virtue of which he was liable under Part VI of this Act to be detained (otherwise than on being transferred in pursuance of section 29(1)(b) or (c) of this Act.”.
- 10 In section 59 subsections (1)(b) [<sup>F7</sup>,(2) and (4)]shall be omitted.

#### Textual Amendments

- F7** Words in Sch. 2 Pt. I para. 10 substituted (9.3.1992) by [Mental Health \(Detention\) \(Scotland\) Act 1991 \(c. 47, SIF 85\)](#), s. 3(6)(a)(iii); S.I. 1992/357, art.2

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## PART II

### HOSPITAL ORDER WITH RESTRICTION ORDER, (SECTION 62) AND ORDERS OR DIRECTIONS HAVING THE LIKE EFFECT (SECTIONS 69, 70 AND 72).

- 1 Sections 53, 54, 56 and 58 shall apply in relation to the patient without modification.
- 2 Section 22, 27, 28, 29, 55, 57 and 59 shall apply in relation to the patient with the modifications specified in paragraphs 3 to 9 of this Part of this Schedule.
- 3 In section 22—
- (a) subsection (1) shall be omitted;
  - (b) in subsection (2) for the words “application under this Part” there shall be substituted the words “order or direction by virtue of which he is liable under Part VI of this Act to be detained” and paragraph (b) shall be omitted;
  - (c) subsections (3) and (4) shall be omitted.
- 4 In section 27—
- (a) in subsection (1) after the word “may” there shall be inserted the words “with the consent of the Secretary of State”;
  - (b) in subsection (2) the word “either” and the words from “or from any specified period” to the end of the subsection shall be omitted; and
  - [<sup>F8</sup>(bb) subsections (2A) to (2C) shall be omitted;]
  - (c) in subsection (5) after the words “responsible medical officer” and after the words “that officer” there shall be inserted the words “or the Secretary of State”.

#### Textual Amendments

**F8** Sch. 2, Pt. II para. 4(bb) inserted (1.4.1996) by 1995 c. 52, ss. 6(4), 7(2)

- 5 In section 28 subsections (3) and (4) shall be omitted.
- 6 In section 29—
- (a) in subsection (1) after the word “may” there shall be inserted the words “with the consent of the Secretary of State” and paragraphs (b) and (c) shall be omitted;
  - (b) in subsection (3) for the words from “as follows” to the end of the subsection there shall be substituted the words “as if the order or direction by virtue of which he was liable under Part VI of this Act to be detained before being transferred were an order or direction for his admission or removal to the hospital to which he is transferred.”.
- 7 In section 55 subsection (3) shall be omitted.
- 8 In section 57(4) for paragraphs (a) and (b) there shall be substituted the words “on the date when the patient ceases to be liable to be detained in pursuance of the order or direction by virtue of which he was liable under Part VI of this Act to be detained (otherwise than on being transferred in pursuance of section 29(1)(b) or (c) of this Act.)”.
- 9 In section 59, subsections (1)(b) [<sup>F9</sup>,(2) and (4)] shall be omitted.

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#### Textual Amendments

- F9** Words in [Sch. 2 Pt. II para. 9](#) substituted (9.3.1992) by [Mental Health \(Detention\) \(Scotland\) Act 1991 \(c. 47, SIF 85\)](#), [s. 3\(6\)\(b\)](#); [S.I. 1992/357](#), [art.2](#)

### PART III

#### GUARDIANSHIP ORDER (SECTION 61(2))

- 1 Sections 43, 44, 46, 48, [<sup>F10</sup>to 48B], 53, 55, 56 and 58 shall apply in relation to the patient without modification.

#### Textual Amendments

- F10** Words in [Sch. 2 Pt. III para. 1](#) inserted (1.4.1996) by [1995 c. 52, ss. 5\(11\)\(a\)](#), [7\(2\)](#)

- 2 Sections 41, 45, 47, 49, 50, 52, 57 and 59 shall apply in relation to the patient with the modifications specified in paragraphs 3 to 10 of this Part of this Schedule.
- 3 In section 41—
- (a) in subsection (1) for the words “an application under this Part of this Act” and “the application” there shall be substituted the words “a guardianship order” and “the order” respectively; and
  - (b) in subsection (2) for the words from “Where” to “shall” and “named in the application” there shall be substituted the words “Where a guardianship order has been made in respect of a patient the order shall” and “named in the order” respectively.
- 4 In section 45(1) and (3) for the words “guardianship application” there shall be substituted the words “guardianship order”.
- 5 In section 47—
- (a) in subsection (1) for the words “guardianship application” and “the day on which he was so received” there shall be substituted the words “guardianship order” and “the date of the order” respectively;
  - (b) in subsection (3) for the words “this Part” there shall be substituted the words “Part VI”.
- 6 In section 49(1) for the words “this Part” there shall be substituted the words “Part VI”.
- 7 In section 50—
- (a) in subsection (1) for the words “this Part” there shall be substituted the words “Part VI”;
  - (b) in subsection (5) for the words “sections 47 or 51” there shall be substituted the words “section 47”; and
  - (c) subsection (6) shall be omitted.
- 8 In section 52(1)—
- (a) for the words “either of sections 47 or 51” and “either of the said sections” there shall be substituted the words “section 47” and “the said section” respectively; and

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- (b) the words from “whether” to “both” shall be omitted.
- 9 In section 57(4) for paragraphs (a) and (b) there shall be substituted the words “on the date when the patient ceases to be subject to guardianship under this Act”.
- 10 In section 59(1)—
- (a) in subsection (1) paragraph (a) shall be omitted; and
  - (b) in subsection (2) for paragraphs (a) and (b) there shall be substituted the words “to the local authority to whose guardianship he is subject or who approved his guardian.”. <sup>F11</sup>; and
  - (c) subsection (4) shall be omitted.]

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**Textual Amendments**

- F11** Sch. 2 Pt. III para. 10(c) and word “; and” preceding it inserted (9.3.1992) by [Mental Health \(Detention\) \(Scotland\) Act 1991 \(c. 47, SIF 85\)](#), s. 3(6)(c); S.I. 1992/357, art.2

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