



Access to Health Records Act 1990

1990 CHAPTER 23

Supplemental

8 Applications to the court.

- (1) Subject to subsection (2) below, where the court is satisfied, on an application made by the person concerned within such period as may be prescribed by rules of court, that the holder of a health record has failed to comply with any requirement of this Act, the court may order the holder to comply with that requirement.
- (2) The court shall not entertain an application under subsection (1) above unless it is satisfied that the applicant has taken all such steps to secure compliance with the requirement as may be prescribed by regulations made by the Secretary of State.
- (3) For the purposes of subsection (2) above, the Secretary of State may by regulations require the holders of health records to make such arrangements for dealing with complaints that they have failed to comply with any requirements of this Act as may be prescribed by the regulations.
- (4) For the purpose of determining any question whether an applicant is entitled to be given access under section 3(2) above to any health record, or any part of a health record, the court—
 - (a) may require the record or part to be made available for its own inspection; but
 - (b) shall not, pending determination of that question in the applicant's favour, require the record or part to be disclosed to him or his representatives whether by discovery (or, in Scotland, recovery) or otherwise.
- (5) The jurisdiction conferred by this section shall be exercisable by the High Court or ^{[F1}the county court] or, in Scotland, by the Court of Session or the sheriff.

Textual Amendments

- F1** Words in s. 8(5) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); [S.I. 2014/954](#), art. 2(c) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Status: Point in time view as at 22/04/2014.

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9 Avoidance of certain contractual terms.

Any term or condition of a contract shall be void in so far as it purports to require an individual to supply any other person with a copy of a health record, or of an extract from a health record, to which he has been given access under section 3(2) above.

10 Regulations and orders.

- (1) Regulations under this Act may make different provision for different cases or classes of cases including, in particular, different provision for different health records or classes of health records.
- (2) Any power to make regulations ^{F2} . . . under this Act shall be exercisable by statutory instrument.
- (3) Any statutory instrument containing regulations under this Act or an order under section 2(3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F2 Words in s. 10(2) repealed (1.3.2000) by 1998 c. 29, s. 74(2), Sch. 16 Pt. I; S.I. 2000/183, art. 2(1)

11 Interpretation.

In this Act—

“application” means an application in writing and “apply” shall be construed accordingly;

“care” includes examination, investigation, diagnosis and treatment;

^{F3} . . .

[^{F4}“general medical services contract” means a contract under [^{F5} section 84 of the National Health Service Act 2006 or section 42 of the National Health Service (Wales) Act 2006];]

[^{F6}“general medical services contract” means a contract under section 17J of the National Health Service (Scotland) Act 1978]

^{F7}

[^{F8}[^{F9}“Health Authority” means a Health Authority established under section 8 of the National Health Service Act 1977;]

“Health Board” has the same meaning as in the National Health Service (Scotland) Act 1978;

“health service body” means—

- (a) [^{F10}[^{F11}a ^{F12}... Health Authority][^{F13}, Special Health Authority [^{F14}[^{F15}or Local] Health Board]^{F16}...];
- (b) a Health Board;
- (c) [^{F17}a State Hospital Management Committee constituted under section 91 of the ^{M1}Mental Health (Scotland) Act 1984; [^{F18}or]]
- (d) a National Health Service trust first established under section 5 of the ^{M2}National Health Service and Community Care Act 1990 [^{F19}, section 25 of the National Health Service Act 2006 or section 18 of the National

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Health Service (Wales) Act 2006] or section 12A of the National Health Service (Scotland) Act 1978;

(e) [^{F20}an NHS foundation trust;]

(f) [^{F21}the Health and Social Care Information Centre;]

“information”, in relation to a health record, includes any expression of opinion about the patient;

[^{F22}“Local Health Board” means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006;]

“make”, in relation to such a record, includes compile;

^{F3}
.
^{F23}
...

[^{F24}“Special Health Authority” means a Special Health Authority established under [^{F25}section 28 of the National Health Service Act 2006 or section 22 of the National Health Service (Wales) Act 2006].]

^{F26}
...]]

Textual Amendments

- F3** Definitions of “child” and “parental responsibility” repealed (1.3.2000) by 1998 c. 29, s. 74(2) Sch. 16 Pt. I; S.I. 2000/183, art. 2(1)
- F4** S. 11: definition of “general medical services contract” inserted (E.W.) (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 184, 199, Sch. 11 para. 57(5)(a); S.I. 2004/288, art. 5(1)(2)(v) (as amended by S.I. 2004/866, art. 2); S.I. 2004/480, art. 4(2)(z) (as amended by S.I. 2004/1019, art. 2)
- F5** In s. 11 words in definition of “general medical services contract” substituted (E.W.) (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8, Sch. 1 para. 136(a) (with Sch. 3 Pt. 1)
- F6** S. 11: definition of “general medical services contract” inserted (S.) (1.4.2004) by The Primary Medical Services (Scotland) Act 2004 (Modification of Enactments) Order 2004 (S.S.I. 2004/167), art. 2, Sch. para. 3(5)(a)
- F7** S. 11: definition of “general practitioner” repealed (E.W.) (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 184, 196, 199, Sch. 11 para. 57(5)(b), Sch. 14 Pt. 4; S.I. 2004/288, arts. {5(1)(2)(v)}, {6(2)(j)} (as amended by S.I. 2004/866, art. 2); S.I. 2004/480, arts. {4(2)(z)}, {5(2)(j)} (as amended by S.I. 2004/1019, art. 2); and omitted (S.) (1.4.2004) by virtue of The Primary Medical Services (Scotland) Act 2004 (Modification of Enactments) Order 2004 (S.S.I. 2004/167), art. 2, Sch. para. 3(5)(b)
- F8** S. 11: definition of “Health Authority” repealed (E.W.) (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 6, 8, Sch. 1 para. 136(b), Sch. 4 (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)
- F9** Definition of “Health Authority” inserted (28.6.1995) by 1995 c. 17, s. 2(1), Sch. 1 Pt. III para. 119(4)(a) (with Sch. 2 paras. 6, 16)
- F10** Para. (a) in definition of “health service body” substituted (28.6.1995) by 1995 c. 17, s. 2(1), Sch. 1 Pt. III para. 119(4)(b) (with Sch. 2 paras. 6, 16)
- F11** S. 11: words in para. (a) of definition of “health service body” substituted (1.10.2002) by S.I. 2002/2469, reg. 4, Sch. 1 Pt. 1 para. 17(a)
- F12** Words in s. 11 omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 5 para. 64(a)(i); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F13** Words in the definition of “health service body” in s. 11 substituted (E.W.) (8.2.2000) by S.I. 2000/90, art. 3(1), Sch. 1 para. 25(a)
- F14** S. 11: words in definition of “health service body” inserted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, Sch. para. 21(2)(a)

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- F15** Words in s. 11 substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 64(a)(ii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F16** Words in s. 11 omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 64(a)(iii)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F17** S. 11: definition of "health service body" para. (c) repealed (S.) (5.10.2005) by Mental Health (Care and Treatment) (Scotland) Act 2003 (asp. 13), ss. 331(2)(3), 333(2)-(4), **Sch. 5 Pt. 1**; S.S.I. 2005/161, **art. 3** (as amended by S.S.I. 2005/375, art. 2)
- F18** Word in s. 11 repealed (E.W.) (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 196, 199, Sch. 4 para. 88, **Sch. 14 Pt. 1**; S.I. 2004/759, **art. 2**; S.I. 2004/288, **art. 6(2)(j)** (as amended by S.I. 2004/866, art. 2); S.I. 2004/480, **art. 5(2)(z)** (as amended by S.I. 2004/1019, art. 2)
- F19** In s. 11 words in definition of "health service body" para. (d) inserted (E.W.) (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8, **Sch. 1 para. 136(c)** (with Sch. 3 Pt. 1)
- F20** S. 11: definition of "health service body" para. (e) inserted (E.W.) (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199, **Sch. 4 para. 88**; S.I. 2004/759, **art. 2**
- F21** Para. (f) in definition of "health service body" in s. 11 inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 19 para. 5**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F22** S. 11: definition of "Local Health Board" inserted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, **Sch. para. 21(2)(b)**
- F23** Definition of "Primary Care Trust" in s. 11 omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 64(b)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F24** Definition of "Special Health Authority" inserted (28.6.1995) by 1995 c. 17, s. 2(1), **Sch. 1 Pt. III para. 119(4)(c)** (with Sch. 2, paras. 6, 16)
- F25** In s. 11 words in definition of "Special Health Authority" substituted (E.W.) (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8, **Sch. 1 para. 136(e)** (with Sch. 3 Pt. 1)
- F26** Definition of "Strategic Health Authority" in s. 11 omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 64(c)**; S.I. 2013/160, art. 2(2) (with arts. 7-9)

Marginal Citations

- M1** 1984 c. 36.
M2 1990 c. 19.

12 Short title, commencement, and extent.

- (1) This Act may be cited as the Access to Health Records Act 1990.
- (2) This Act shall come into force on 1st November 1991.
- (3) This Act does not extend to Northern Ireland.

Status:

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