

Status: Point in time view as at 05/10/2005.

Changes to legislation: There are currently no known outstanding effects for the Mental Health (Patients in the Community) Act 1995, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 1(2).

AFTER-CARE UNDER SUPERVISION: SUPPLEMENTARY

Records

- 1 In section 24 of the ^{M1}Mental Health Act 1983 (visiting and examination of patients), in each of subsections (2) and (4) (records) at the end there shall be inserted the words “ or to any after-care services provided for the patient under section 117 below. ”

Marginal Citations

M1 1983 c. 20.

Regulations

- 2 In section 32 of that Act (regulations for purposes of Part II), in subsection (2)(c) (records etc.)—
- (a) for the words “the managers of hospitals and local social services authorities” there shall be substituted “ such bodies as may be prescribed by the regulations ”;
 - (b) for the words “prescribed by the regulations” there shall be substituted “ so prescribed ”; and
 - (c) after the word “guardianship” there shall be inserted “ or to after-care under supervision ”.

Wards of court

- 3 In section 33 of that Act (wards of court), at the end there shall be inserted the following subsection—
- “(4) Where a supervision application has been made in respect of a minor who is a ward of court, the provisions of this Part of this Act relating to after-care under supervision have effect in relation to the minor subject to any order which the court may make in the exercise of its wardship jurisdiction.”

Medical officers and supervisors

- 4 (1) Section 34 of that Act (interpretation) shall be amended in accordance with subparagraphs (2) to (5) below.
- (2) In subsection (1), before the definition of “the nominated medical attendant” there shall be inserted the following definition—

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““the community responsible medical officer”, in relation to a patient subject to after-care under supervision, means the person who, in accordance with section 117(2A)(a) below, is in charge of medical treatment provided for him;”.

- (3) In that subsection, in the definition of “the responsible medical officer”—
- (a) after the word “means” there shall be inserted “ (except in the phrase “the community responsible medical officer”) ”; and
 - (b) in paragraph (a), after the words “a patient” there shall be inserted “ who is ” and after the words “admission for treatment” there shall be inserted “ or who is to be subject to after-care under supervision after leaving hospital ”.
- (4) In that subsection, after the definition of “the responsible medical officer”, there shall be inserted the following definition—

““the supervisor”, in relation to a patient subject to after-care under supervision, means the person who, in accordance with section 117(2A) (b) below, is supervising him.”

- (5) After that subsection there shall be inserted the following subsection—
- “(1A) Nothing in this Act prevents the same person from acting as more than one of the following in relation to a patient, that is—
- (a) the responsible medical officer;
 - (b) the community responsible medical officer; and
 - (c) the supervisor.”

Part III patients

- 5 In section 41 of that Act (power of higher courts to restrict discharge from hospital of persons subject to hospital order), in subsection (3) (nature of special restrictions), after paragraph (a) there shall be inserted the following paragraph—
- “(aa) none of the provisions of Part II of this Act relating to after-care under supervision shall apply;”.
- 6 In Schedule 1 to that Act (application of provisions to patients subject to hospital and guardianship orders), in Part I (patients not subject to special restrictions)—
- (a) in paragraph 1 (provisions applying without modification), for “26” there shall be substituted “ 25C ”;
 - (b) in paragraph 2 (provisions applying with modifications), after “23” there shall be inserted “ , 25A, 25B ”; and
 - (c) after paragraph 8 there shall be inserted the following paragraph—
- “8A In sections 25A(1)(a) and 25B(5)(a) for the words “in pursuance of an application for admission for treatment” there shall be substituted the words “by virtue of an order or direction for his admission or removal to hospital under Part III of this Act”.”

Mental Health Review Tribunals

- 7 (1) Section 66 of that Act (applications to tribunals) shall be amended in accordance with sub-paragraphs (2) to (4) below.

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- (2) In subsection (1) (cases where application may be made), after paragraph (g) there shall be inserted the following paragraphs—
- “(ga) a supervision application is accepted in respect of a patient; or
 - (gb) a report is furnished under section 25F above in respect of a patient; or
 - (gc) a report is furnished under section 25G above in respect of a patient; or”.
- (3) In that subsection, in paragraph (i), for the words “case mentioned in paragraph (d) above, by his nearest relative” there shall be substituted “ cases mentioned in paragraphs (d), (ga), (gb) and (gc), by his nearest relative if he has been (or was entitled to be) informed under this Act of the report or acceptance ”.
- (4) In subsection (2) (period within which application may be made)—
- (a) in paragraph (c), for the words “case mentioned in paragraph (c)” there shall be substituted “ cases mentioned in paragraphs (c) and (ga) ”;
 - (b) in paragraph (d), for the words “and (g)” there shall be substituted “ , (g) and (gb) ”; and
 - (c) after paragraph (f) there shall be inserted the following paragraph—
 - “(fa) in the case mentioned in paragraph (gc) of that subsection, the further period for which the patient is made subject to after-care under supervision by virtue of the report;”.
- 8 (1) Section 67 of that Act (references to tribunals by Secretary of State) shall be amended in accordance with sub-paragraphs (2) and (3) below.
- (2) In subsection (1) (power of Secretary of State to refer), after the word “guardianship” there shall be inserted “ or to after-care under supervision ”.
- (3) In subsection (2) (power of registered medical practitioner to require records), at the end there shall be inserted the words “ or to any after-care services provided for the patient under section 117 below ”.
- 9 In section 68 of that Act (duty of managers of hospitals to refer cases to tribunal), in subsection (3) (power of registered medical practitioner to require records), at the end there shall be inserted the words “ or to any after-care services provided for the patient under section 117 below ”.
- 10 (1) Section 72 of that Act (powers of tribunal) shall be amended in accordance with sub-paragraphs (2) to (4) below.
- (2) After subsection (3) there shall be inserted the following subsection—
- “(3A) Where, in the case of an application to a tribunal by or in respect of a patient who is liable to be detained in pursuance of an application for admission for treatment or by virtue of an order or direction for his admission or removal to hospital under Part III of this Act, the tribunal do not direct the discharge of the patient under subsection (1) above, the tribunal may—
 - (a) recommend that the responsible medical officer consider whether to make a supervision application in respect of the patient; and
 - (b) further consider his case in the event of no such application being made.”
- (3) After subsection (4) there shall be inserted the following subsection—

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- “(4A) Where application is made to a Mental Health Review Tribunal by or in respect of a patient who is subject to after-care under supervision (or, if he has not yet left hospital, is to be so subject after he leaves hospital), the tribunal may in any case direct that the patient shall cease to be so subject (or not become so subject), and shall so direct if they are satisfied—
- (a) in a case where the patient has not yet left hospital, that the conditions set out in section 25A(4) above are not complied with; or
 - (b) in any other case, that the conditions set out in section 25G(4) above are not complied with.”
- (4) In subsection (5) (power of tribunal to amend application, order or direction where satisfied that patient is suffering from a form of mental disorder different from that specified in it), after the word “discharged” there shall be inserted “ or, if he is (or is to be) subject to after-care under supervision, that he cease to be so subject (or not become so subject) ”.
- 11 In section 76(1) of that Act (visiting and examination of patients)—
- (a) after the word “guardianship” there shall be inserted “ or to after-care under supervision (or, if he has not yet left hospital, is to be subject to after-care under supervision after he leaves hospital) ”; and
 - (b) in paragraph (b), at the end there shall be inserted the words “ or to any after-care services provided for the patient under section 117 below. ”
- 12 In section 77(3) of that Act (tribunal applications), after the word “guardianship” there shall be inserted “ or when subject to after-care under supervision (or in which he is to reside on becoming so subject after leaving hospital) ”.
- 13 In section 79(6) of that Act (interpretation of Part V), after the words “a hospital” there shall be inserted “ , and “the responsible medical officer” means the responsible medical officer, ”.
- 14 In Schedule 1 to that Act (application of provisions to patients subject to hospital and guardianship orders), in Part I (patients not subject to special restrictions), in paragraph 9(b) (modifications of section 66(2)), for the words from “shall be omitted” to the end there shall be substituted “ , and in paragraph (d) “ , (g)”, shall be omitted. ”

After-care services

- 15 (1) Section 117 of that Act (after-care services) shall be amended in accordance with sub-paragraphs (2) to (4) below.
- (2) In subsection (1) (persons to whom section 117 applies), after the words “detained and” there shall be inserted “ (whether or not immediately after so ceasing) ”.
 - (3) In subsection (2) (duty of authorities to provide after-care services), at the end there shall be inserted the words “ ; but they shall not be so satisfied in the case of a patient who is subject to after-care under supervision at any time while he remains so subject. ”
 - (4) After that subsection there shall be inserted the following subsections—
 - “(2A) It shall be the duty of the Health Authority to secure that at all times while a patient is subject to after-care under supervision—

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- (a) a person who is a registered medical practitioner approved for the purposes of section 12 above by the Secretary of State as having special experience in the diagnosis or treatment of mental disorder is in charge of the medical treatment provided for the patient as part of the after-care services provided for him under this section; and
- (b) a person professionally concerned with any of the after-care services so provided is supervising him with a view to securing that he receives the after-care services so provided.

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

Code of practice

- 16 In section 118 of that Act (code of practice), in subsection (1)(a) (guidance to medical practitioners, social workers etc.), after the word “Act” there shall be inserted “ and to guardianship and after-care under supervision under this Act ”.

Offences

- 17 In section 126 of that Act (forgery, false statements etc.), in subsection (3)(b) (subsection (1) to apply to medical recommendations and reports), after the word “medical” there shall be inserted “ or other ”.

- 18 In section 127 of that Act (ill-treatment of patients), after subsection (2) there shall be inserted the following subsection—

“(2A) It shall be an offence for any individual to ill-treat or wilfully to neglect a mentally disordered patient who is for the time being subject to after-care under supervision.”

- 19 In section 129 of that Act (obstruction), in subsection (1)(b) (refusal to allow visiting, interviewing or examination by a person authorised by or under the Act), after the word “Act” there shall be inserted “ or to give access to any person to a person so authorised ”.

Interpretation

- 20 (1) Section 145 of that Act (interpretation) shall be amended in accordance with subparagraphs (2) and (3) below.

(2) In subsection (1)—

- (a) after the definition of “patient” there shall be inserted the following definition—

““the responsible after-care bodies” has the meaning given in section 25D above;”;

- (b) after the definition of “special hospital” there shall be inserted the following definition—

““supervision application” has the meaning given in section 25A above;”.

(3) After that subsection there shall be inserted the following subsection—

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“(1A) References in this Act to a patient being subject to after-care under supervision (or to after-care under supervision) shall be construed in accordance with section 25A above.”

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