



Mental Health Act 2007

2007 CHAPTER 12

PART 1

AMENDMENTS TO MENTAL HEALTH ACT 1983

CHAPTER 2

PROFESSIONAL ROLES

Conflicts of interest in professional roles

22 Conflicts of interest

- (1) The 1983 Act is amended as follows.
- (2) In section 11 (general provisions as to applications), after subsection (1) insert—

“(1A) No application mentioned in subsection (1) above shall be made by an approved mental health professional if the circumstances are such that there would be a potential conflict of interest for the purposes of regulations under section 12A below.”
- (3) In section 12 (general provisions as to medical recommendations), in subsection (1), after “this Part of this Act” insert “or a guardianship application”.
- (4) In that section, for subsections (3) to (7) substitute—

“(3) No medical recommendation shall be given for the purposes of an application mentioned in subsection (1) above if the circumstances are such that there would be a potential conflict of interest for the purposes of regulations under section 12A below.”
- (5) After that section insert—

Status: This is the original version (as it was originally enacted).

“12A Conflicts of interest

- (1) The appropriate national authority may make regulations as to the circumstances in which there would be a potential conflict of interest such that—
 - (a) an approved mental health professional shall not make an application mentioned in section 11(1) above;
 - (b) a registered medical practitioner shall not give a recommendation for the purposes of an application mentioned in section 12(1) above.
- (2) Regulations under subsection (1) above may make—
 - (a) provision for the prohibitions in paragraphs (a) and (b) of that subsection to be subject to specified exceptions;
 - (b) different provision for different cases; and
 - (c) transitional, consequential, incidental or supplemental provision.
- (3) In subsection (1) above, “the appropriate national authority” means—
 - (a) in relation to applications in which admission is sought to a hospital in England or to guardianship applications in respect of which the area of the relevant local social services authority is in England, the Secretary of State;
 - (b) in relation to applications in which admission is sought to a hospital in Wales or to guardianship applications in respect of which the area of the relevant local social services authority is in Wales, the Welsh Ministers.
- (4) References in this section to the relevant local social services authority, in relation to a guardianship application, are references to the local social services authority named in the application as guardian or (as the case may be) the local social services authority for the area in which the person so named resides.”
- (6) In section 13 (duty to make applications for admission or guardianship), in subsection (5), after “section 11(4) above” insert “or of regulations under section 12A above”.