
Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 2007, Paragraph 7. (See end of Document for details)

SCHEDULES

SCHEDULE 6

VICTIMS' RIGHTS

Hospital orders (with or without restriction orders)

7 After section 38 insert —

“38A Information where restriction order not made

- (1) This section applies if, in a case where section 36 applies, the hospital order in respect of the patient was made without a restriction order.
- (2) The responsible clinician must inform the managers of the relevant hospital—
 - (a) whether he is to make an order for discharge in respect of the patient under section 23(2) of the Mental Health Act 1983;
 - (b) whether he is to make a community treatment order in respect of the patient;
 - (c) if a community treatment order is to be made in respect of the patient, what conditions are to be specified in the order;
 - (d) if a community treatment order is in force in respect of the patient, of any variation to be made under section 17B(4) of the Mental Health Act 1983 of the conditions specified in the order;
 - (e) if a community treatment order in respect of the patient is to cease to be in force, of the date on which it is to cease to be in force;
 - (f) if, following the examination of the patient under section 20 of the Mental Health Act 1983, it does not appear to the responsible clinician that the conditions set out in subsection (4) of that section are satisfied, of the date on which the authority for the patient's detention is to expire.
- (3) Any person who has the power to make an order for discharge in respect of the patient under section 23(3) of the Mental Health Act 1983 must inform the managers of the relevant hospital if he is to make that order.
- (4) Subsection (5) applies if—
 - (a) an application is made to a Mental Health Review Tribunal under section 66 or 69 of the Mental Health Act 1983,
 - (b) the patient's case is referred to a Mental Health Review Tribunal under section 67 of that Act, or
 - (c) the managers of the relevant hospital refer the patient's case to a Mental Health Review Tribunal under section 68 of that Act.
- (5) The tribunal must inform the managers of the relevant hospital if it directs that the patient is to be discharged.

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- (6) Subsection (7) applies if a person who appears to the managers of the relevant hospital to be the victim of the offence or to act for the victim of the offence—
- (a) when his wishes were ascertained under section 36(4), expressed a wish to receive the information specified in section 36(6), or
 - (b) has subsequently informed the managers of the relevant hospital that he wishes to receive that information.
- (7) The managers of the relevant hospital order must take all reasonable steps—
- (a) to inform that person whether the patient is to be discharged under section 23 or 72 of the Mental Health Act 1983;
 - (b) to inform that person whether a community treatment order is to be made in respect of the patient;
 - (c) if a community treatment order is to be made in respect of the patient and is to specify conditions which relate to contact with the victim or his family, to provide that person with details of those conditions;
 - (d) if a community treatment order is in force in respect of the patient and the conditions specified in the order are to be varied under section 17B(4) of the Mental Health Act 1983, to provide that person with details of any variation which relates to contact with the victim or his family;
 - (e) if a community treatment order in respect of the patient is to cease to be in force, to inform that person of the date on which it is to cease to be in force;
 - (f) if, following the examination of the patient under section 20 of the Mental Health Act 1983, the authority for the patient's detention is not to be renewed, to inform that person of the date on which the authority is to expire;
 - (g) to provide that person with such other information as the managers of the relevant hospital consider appropriate in all the circumstances of the case.
- (8) The relevant hospital has the meaning given by section 36A(6).

38B Removal of restriction

- (1) This section applies if, in a case where section 36 applies—
- (a) the hospital order in respect of the patient was made with a restriction order, and
 - (b) the restriction order ceases to have effect while the hospital order continues in force.
- (2) Subsection (3) applies if a person who appears to the [F1relevant probation body]^{F1} to be the victim of the offence or to act for the victim of the offence—
- (a) when his wishes were ascertained under section 36(4), expressed a wish to make representations about a matter specified in section 36(5) or to receive the information specified in section 36(6), or
 - (b) has subsequently informed the [F1relevant probation body]^{F1} that he wishes to make representations about such a matter or to receive that information.

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- (3) The [F²relevant probation body]^{F2} must take all reasonable steps—
- (a) to notify the managers of the relevant hospital of an address at which that person may be contacted;
 - (b) to notify that person of the name and address of the hospital.
- (4) While the hospital order continues in force, the patient is to be regarded as a patient in respect of whom a hospital order was made without a restriction order; and sections 37A and 38A are to apply in relation to him accordingly.
- (5) The relevant hospital has the meaning given in section 36A(6).
- (6) The [F³relevant probation body]^{F3} has the meaning given in section 37(8).”

Textual Amendments

- F1** Words in Sch. 6 para. 7 substituted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, **Sch. 1 para. 24(2)(b)(i)**
- F2** Words in Sch. 6 para. 7 substituted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, **Sch. 1 para. 24(2)(b)(ii)**
- F3** Words in Sch. 6 para. 7 substituted (1.4.2008) by The Offender Management Act 2007 (Consequential Amendments) Order 2008 (S.I. 2008/912), art. 3, **Sch. 1 para. 24(2)(b)(iii)**

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