

SCHEDULE

MODIFICATION OF THE PROVISIONS OF SECTIONS 35A TO 35C OF THE MENTAL HEALTH (SCOTLAND) ACT 1984

Section 35A (Community care orders)

1.—(1) For section 35A(1)(1) there shall be substituted—

(1) As respects a patient who is subject to after-care under supervision under the Mental Health Act 1983(2) and who intends to leave England and Wales in order to reside in Scotland, the applicant may in accordance with section 35B of this Act(3) make an application (in this Act referred to as a “community care application”) to the sheriff for an order (in this Act referred to as a “community care order”) providing that the patient shall, instead of being subject to after-care under supervision in England and Wales, be subject to the conditions specified in the order, being conditions imposed with a view to ensuring that he receives—

- (a) medical treatment; and
- (b) after-care services provided for him under section 8 of this Act(4).

(1A) In the immediately foregoing subsection and in section 35B of this Act “applicant” means the medical practitioner who is to be the patient’s special medical officer.”.

(2) In section 35A—

- (a) subsections (6) and (7) shall be deleted;
- (b) for subsection (8) there shall be substituted—

“(8) A community care order made in respect of such a patient as is referred to in subsection (1) above shall come into force on the date on which the patient takes up residence in Scotland.”.

Section 35B (Community care applications)

2.—(1) In section 35B—

- (a) subsection (1) shall be deleted;
- (b) for subsection (2) there shall be substituted—

“(2) Before making a community care application the applicant shall—

- (a) consult the persons specified in subsection (3) below, and
- (b) consider the matters specified in subsection (5) below.”;

(c) for subsection (3)(b) there shall be substituted—

“(b) the persons who have been principally concerned with the patient’s medical treatment while he was subject to after-care under supervision in England and Wales;”;

(d) for subsection (3)(d) there shall be substituted—

“(d) the person who was the patient’s supervisor while he was subject to after-care under supervision and the person who is to be the patient’s after-care officer;”.

(1) Section 35A was inserted by the 1995 Act, section 4.

(2) 1983 c. 20.

(3) Section 35B was inserted by the 1995 Act, section 4.

(4) Section 8 was amended by the 1995 Act, Schedule 2, paragraph 3.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(2) In sections 35B(3)(e) and (f), 35B(4), 35B(6)(a) and (d), and 35B(10) for “the responsible medical officer” there shall be substituted “the applicant”.

Section 35C (Duration and renewal of community care order)

3. In section 35C(4) for “the responsible medical officer” there shall be substituted “the special medical officer”.