



Mental Health Act 1983

1983 CHAPTER 20

PART II

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Duration of detention or guardianship and discharge

20 Duration of authority

- (1) Subject to the following provisions of this Part of this Act, a patient admitted to hospital in pursuance of an application for admission for treatment, and a patient placed under guardianship in pursuance of a guardianship application, may be detained in a hospital or kept under guardianship for a period not exceeding six months beginning with the day on which he was so admitted, or the day on which the guardianship application was accepted, as the case may be, but shall not be so detained or kept for any longer period unless the authority for his detention or guardianship is renewed under this section.
- (2) Authority for the detention or guardianship of a patient may, unless the patient has previously been discharged, be renewed—
 - (a) from the expiration of the period referred to in subsection (1) above, for a further period of six months;
 - (b) from the expiration of any period of renewal under paragraph (a) above, for a further period of one year,and so on for periods of one year at a time.
- (3) Within the period of two months ending on the day on which a patient who is liable to be detained in pursuance of an application for admission for treatment would cease under this section to be so liable in default of the renewal of the authority for his detention, it shall be the duty of the responsible medical officer—
 - (a) to examine the patient; and

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- (b) if it appears to him that the conditions set out in subsection (4) below are satisfied, to furnish to the managers of the hospital where the patient is detained a report to that effect in the prescribed form ;
- and where such a report is furnished in respect of a patient the managers shall, unless they discharge the patient, cause him to be informed.
- (4) The conditions referred to in subsection (3) above are that—
- (a) the patient is suffering from mental illness, severe mental impairment, psychopathic disorder or mental impairment, and his mental disorder is of a nature or degree which makes it appropriate for him to receive medical treatment in a hospital; and
 - (b) such treatment is likely to alleviate or prevent a deterioration of his condition; and
 - (c) it is necessary for the health or safety of the patient or for the protection of other persons that he should receive such treatment and that it cannot be provided unless he continues to be detained ;
- but, in the case of mental illness or severe mental impairment, it shall be an alternative to the condition specified in paragraph (b) above that the patient, if discharged, is unlikely to be able to care for himself, to obtain the care which he needs or to guard himself against serious exploitation.
- (5) Before furnishing a report under subsection (3) above the responsible medical officer shall consult one or more other persons who have been professionally concerned with the patient's medical treatment
- (6) Within the period of two months ending with the day on which a patient who is subject to guardianship under this Part of this Act would cease under this section to be so liable in default of the renewal of the authority for his guardianship, it shall be the duty of the appropriate medical officer—
- (a) to examine the patient; and
 - (b) if it appears to him that the conditions set out in subsection (7) below are satisfied, to furnish to the guardian and, where the guardian is a person other than a local social services authority, to the responsible local social services authority a report to that effect in the prescribed form ;
- and where such a report is furnished in respect of a patient, the local social services authority shall, unless they discharge the patient, cause him to be informed.
- (7) The conditions referred to in subsection (6) above are that—
- (a) the patient is suffering from mental illness, severe mental impairment, psychopathic disorder or mental impairment and his mental disorder is of a nature or degree which warrants his reception into guardianship ; and
 - (b) it is necessary in the interests of the welfare of the patient or for the protection of other persons that the patient should remain under guardianship.
- (8) Where a report is duly furnished under subsection (3) or (6) above, the authority for the detention or guardianship of the patient shall be thereby renewed for the period prescribed in that case by subsection (2) above.
- (9) Where the form of mental disorder specified in a report furnished under subsection (3) or (6) above is a form of disorder other than that specified in the application for admission for treatment or, as the case may be, in the guardianship application, that application shall have effect as if that other form of mental disorder were specified in it; and where on any occasion a report specifying such a form of mental disorder is

furnished under either of those subsections the appropriate medical officer need not on that occasion furnish a report under section 16 above.

- (10) In this section " appropriate medical officer" has the same meaning as in section 16(5) above.

21 Special provisions as to patients absent without leave

- (1) If on the day on which, apart from this section, a patient would cease to be liable to be detained or subject to guardianship under this Part of this Act or, within the period of one week ending with that day, the patient is absent without leave, he shall not cease to be so liable or subject—
- (a) in any case, until the expiration of the period during which he can be taken into custody under section 18 above or the day on which he is returned or returns himself to the hospital or place where he ought to be, whichever is the earlier ; and
 - (b) if he is so returned or so returns himself within the period first mentioned in paragraph (a) above, until the expiration of the period of one week beginning with the day on which he is so returned or so returns.
- (2) Where the period for which a patient is liable to be detained or subject to guardianship is extended by virtue of this section, any examination and report to be made and furnished under section 20(3) or (6) above may be made and furnished within that period as so extended.
- (3) Where the authority for the detention or guardianship of a patient is renewed by virtue of this section after the day on which, apart from this section, that authority would have expired under section 20 above, the renewal shall take effect as from that day.

22 Special provisions as to patients sentenced to imprisonment, etc.

- (1) Where a patient who is liable to be detained by virtue of an application for admission for treatment or is subject to guardianship by virtue of a guardianship application is detained in custody in pursuance of any sentence or order passed or made by a court in the United Kingdom (including an order committing or remanding him in custody), and is so detained for a period exceeding, or for successive periods exceeding in the aggregate, six months, the application shall cease to have effect at the expiration of that period.
- (2) Where any such patient is so detained in custody but the application does not cease to have effect under subsection (1) above, then—
- (a) if apart from this subsection the patient would have ceased to be liable to be so detained or subject to guardianship on or before the day on which he is discharged from custody, he shall not cease and shall be deemed not to have ceased to be so liable or subject until the end of that day ; and
 - (b) in any case, sections 18 and 21 above shall apply in relation to the patient as if he had absented himself without leave on that day.

23 Discharge of patients

- (1) Subject to the provisions of this section and section 25 below, a patient who is for the time being liable to be detained or subject to guardianship under this Part of this Act shall cease to be so liable or subject if an order in writing discharging him from

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detention or guardianship (in this Act referred to as " an order for discharge ") is made in accordance with this section.

- (2) An order for discharge may be made in respect of a patient—
 - (a) where the patient is liable to be detained in a hospital in pursuance of an application for admission for assessment or for treatment by the responsible medical officer, by the managers or by the nearest relative of the patient;
 - (b) where the patient is subject to guardianship, by the responsible medical officer, by the responsible local social services authority or by the nearest relative of the patient.
- (3) Where the patient is liable to be detained in a mental nursing home in pursuance of an application for admission for assessment or for treatment, an order for his discharge may, without prejudice to subsection (2) above, be made by the Secretary of State and, if the patient is maintained under a contract with a Regional Health Authority, District Health Authority or special health authority, by that authority.
- (4) The powers conferred by this section on any authority or body of persons may be exercised by any three or more members of that authority or body authorised by them in that behalf or by three or more members of a committee or subcommittee of that authority or body which has been authorised by them in that behalf.

24 Visiting and examination of patients

- (1) For the purpose of advising as to the exercise by the nearest relative of a patient who is liable to be detained or subject to guardianship under this Part of this Act of any power to order his discharge, any registered medical practitioner authorised by or on behalf of the nearest relative of the patient may, at any reasonable time, visit the patient and examine him in private.
- (2) Any registered medical practitioner authorised for the purposes of subsection (1) above to visit and examine a patient may require the production of and inspect any records relating to the detention or treatment of the patient in any hospital.
- (3) Where application is made by the Secretary of State or a Regional Health Authority, District Health Authority or special health authority to exercise, in respect of a patient liable to be detained in a mental nursing home, any power to make an order for his discharge, the following persons, that is to say—
 - (a) any registered medical practitioner authorised by the Secretary of State or, as the case may be, that authority; and
 - (b) any other person (whether a registered medical practitioner or not) authorised under the Nursing Homes Act 1975 to inspect the home,may at any reasonable time visit the patient and interview him in private.
- (4) Any person authorised for the purposes of subsection (3) above to visit a patient may require the production of and inspect any documents constituting or alleged to constitute the authority for the detention of the patient under this Part of this Act; and any person so authorised, who is a registered medical practitioner, may examine the patient in private, and may require the production of and inspect any other records relating to the treatment of the patient in the home.

25 Restrictions on discharge by nearest relative

- (1) An order for the discharge of a patient who is liable to be detained in a hospital shall not be made by his nearest relative except after giving not less than 72 hours' notice in writing to the managers of the hospital; and if, within 72 hours after such notice has been given, the responsible medical officer furnishes to the managers a report certifying that in the opinion of that officer the patient, if discharged, would be likely to act in a manner dangerous to other persons or to himself—
 - (a) any order for the discharge of the patient made by that relative in pursuance of the notice shall be of no effect; and
 - (b) no further order for the discharge of the patient shall be made by that relative during the period of six months beginning with the date of the report.
- (2) In any case where a report under subsection (1) above is furnished in respect of a patient who is liable to be detained in pursuance of an application for admission for treatment the managers shall cause the nearest relative of the patient to be informed.