



Mental Health Act 1983

1983 CHAPTER 20

PART VIII

MISCELLANEOUS FUNCTIONS OF LOCAL AUTHORITIES AND THE SECRETARY OF STATE

Functions of the Secretary of State

118 Code of practice.

- (1) The Secretary of State shall prepare, and from time to time revise, a code of practice—
- for the guidance of registered medical practitioners [^{F1}, approved clinicians] , managers and staff of hospitals [^{F2}, independent hospitals and care homes] and [^{F3}approved mental health professionals] in relation to the admission of patients to hospitals [^{F4}and registered establishments] under this Act [^{F5}and to guardianship and [^{F6}community patients] under this Act]; and
 - for the guidance of registered medical practitioners and members of other professions in relation to the medical treatment of patients suffering from mental disorder.
- [^{F7}(1A) The Code which must be prepared, and from time to time revised, in relation to Wales shall also be for the guidance of independent mental health advocates appointed under arrangements made under section 130E below]
- (2) The code shall, in particular, specify forms of medical treatment in addition to any specified by regulations made for the purposes of section 57 above which in the opinion of the Secretary of State give rise to special concern and which should accordingly not be given by a registered medical practitioner unless the patient has consented to the treatment (or to a plan of treatment including that treatment) and a certificate in writing as to the matters mentioned in subsection (2)(a) and (b) of that section has been given by another registered medical practitioner, being a practitioner [^{F8}appointed for the purposes of this section by the regulatory authority].
- [^{F9}(2A) The code shall include a statement of the principles which the Secretary of State thinks should inform decisions under this Act.

Changes to legislation: Mental Health Act 1983, Section 118 is up to date with all changes known to be in force on or before 25 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (2B) In preparing the statement of principles the Secretary of State shall, in particular, ensure that each of the following matters is addressed—
- (a) respect for patients' past and present wishes and feelings,
 - (b) respect for diversity generally including, in particular, diversity of religion, culture and sexual orientation (within the meaning of section 35 of the Equality Act 2006),
 - (c) minimising restrictions on liberty,
 - (d) involvement of patients in planning, developing and delivering care and treatment appropriate to them,
 - (e) avoidance of unlawful discrimination,
 - (f) effectiveness of treatment,
 - (g) views of carers and other interested parties,
 - (h) patient wellbeing and safety, and
 - (i) public safety.
- (2C) The Secretary of State shall also have regard to the desirability of ensuring—
- (a) the efficient use of resources, and
 - (b) the equitable distribution of services.
- (2D) In performing functions under this Act persons mentioned in subsection (1)(a) or (b) [^{F10}and subsection (1A)] shall have regard to the code.]
- (3) Before preparing the code or making any alteration in it the Secretary of State shall consult such bodies as appear to him to be concerned.
- (4) The Secretary of State shall lay copies of the code and of any alteration in the code before Parliament; and if either House of Parliament passes a resolution requiring the code or any alteration in it to be withdrawn the Secretary of State shall withdraw the code or alteration and, where he withdraws the code, shall prepare a code in substitution for the one which is withdrawn.
- (5) No resolution shall be passed by either House of Parliament under subsection (4) above in respect of a code or alteration after the expiration of the period of 40 days beginning with the day on which a copy of the code or alteration was laid before that House; but for the purposes of this subsection no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (6) The Secretary of State shall publish the code as for the time being in force.
- [^{F11}(7) The Care Quality Commission may at any time make proposals to the Secretary of State as to the content of the code of practice which the Secretary of State must prepare, and from time to time revise, under this section in relation to England.]

Textual Amendments

- F1** Words in s. 118(1)(a) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 14(2)**, 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(b)** (with [art. 3](#), [Sch.](#))
- F2** Words in s. 118(1) substituted (1.4.2002) by [2000 c. 14](#), s. 116, **Sch. 4 para. 9(6)(a)**; [S.I. 2001/4150](#), **art. 3(3)** (subject to transitional provisions in [art. 4](#) and [S.I. 2002/1493](#), **art. 4**); [S.I. 2002/920](#), **art. 3(3) (d)** (subject to transitional provisions in [Schs. 1-3](#) and [art. 3\(4\)-\(10\)](#))

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- F3** Words in s. 118(1)(a) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 21, 56, Sch. 2 para. 9](#) (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(d\)](#) (with [art. 3, Sch.](#)); [S.I. 2008/2561, {art. 2\(b\)}](#) (with [art. 3, Sch.](#))
- F4** Words in s. 118(1) substituted (1.4.2002) by [2000 c. 14, ss. 116, 122, Sch. 4 para. 9\(6\)\(b\)](#); [S.I. 2001/4150, art. 3\(3\)](#) (subject to transitional provisions in [art. 4](#) and [S.I. 2002/1493, art. 4](#)); [S.I. 2002/920, art. 3\(3\)\(d\)](#) (subject to transitional provisions in [Schs. 1-3](#) and [art. 3\(4\)-\(10\)](#))
- F5** Words in s. 118(1)(a) inserted (1.4.1996) by [1995 c. 52, ss. 1\(2\), 7\(2\), Sch. 1, para. 16](#)
- F6** Words in s. 118(1)(a) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 32, 56, Sch. 3 para. 25](#) (with [Sch. 10](#)); [S.I. 2008/1210, art. 2\(b\)](#) (with [art. 4](#))
- F7** [S. 118\(1A\)](#) inserted (3.1.2012 for specified purposes, 2.4.2012 in so far as not already in force) by [Mental Health \(Wales\) Measure 2010 \(nawm 7\), ss. 39\(2\), 55\(3\)](#); [S.I. 2011/3046, arts. 2\(f\), 3\(f\)](#) (with [art. 5](#))
- F8** Words in s. 118(2) substituted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), ss. 52, 170, Sch. 3 para. 6\(2\)](#); [S.I. 2009/462, arts. 1\(1\)\(b\), 2, Sch. 1 para. 33](#)
- F9** [S. 118\(2A\)-\(2D\)](#) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 8, 56](#) (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(b\)](#) (with [art. 3, Sch.](#))
- F10** Words in [s. 118\(2D\)](#) inserted (3.1.2012 for specified purposes, 2.4.2012 in so far as not already in force) by [Mental Health \(Wales\) Measure 2010 \(nawm 7\), ss. 39\(3\), 55\(3\)](#); [S.I. 2011/3046, arts. 2\(f\), 3\(f\)](#) (with [art. 5](#))
- F11** [S. 118\(7\)](#) inserted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), ss. 52, 170, Sch. 3 para. 6\(3\)](#); [S.I. 2009/462, arts. 1\(1\)\(b\), 2, Sch. 1 para. 33](#)

Modifications etc. (not altering text)

- C1** [S. 118\(1\)\(a\)](#) modified (3.11.2008) by [The Mental Health Act 2007 \(Commencement No. 6 and After-care under Supervision: Savings, Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/1210\), art. 6\(k\)](#)
- C2** [S. 118\(2\)](#): functions transferred (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), ss. 52\(1\)\(g\), 170](#) (with [s. 96](#)); [S.I. 2009/462, arts. 1\(1\)\(b\), 2, Sch. 1 para. 20](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [1996 c. 46 Sch. 2 para. 9](#)(replacing [1968 c 20 s. 23](#)) (Act applied (prosp.) by [1968 c. 20, s. 23\(4\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 9](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing [1957 c 53 s. 63](#)) (Act applied (prosp.) by [1957 c. 53, s. 63C\(6\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 4](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 19 s. 116](#)) (Act applied (prosp.) by [1955 c. 19, s. 116C\(6\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2 para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)](#))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 18 s 116](#)) (Act applied (prosp.) by [1955 c. 18, s. 116C\(6\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2 para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act power to applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing [1957 c 53 s. 63](#)) (Act: Power to apply conferred (prosp.) by [1957 c. 53, s. 63B\(4\)\(c\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 4](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act power to applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 19 s. 116](#)) (Act: Power to apply conferred (prosp.) by [1955 c. 19, s. 116B\(4\)\(c\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act power to applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 18 s 116](#)) (Act: Power to apply conferred (prosp.) by [1955 c. 18, s. 116B\(4\)\(c\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2 para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 74(8) inserted by [2015 c. 2 Sch. 3 para. 3\(3\)](#)