



Mental Health Act 1983

1983 CHAPTER 20

PART II

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Functions of relatives of patients

29 Appointment by court of acting nearest relative.

(1) The county court may, upon application made in accordance with the provisions of this section in respect of a patient, by order direct that the functions of the nearest relative of the patient under this Part of this Act and sections 66 and 69 below shall, during the continuance in force of the order, be exercisable by [^{F1}the person specified in the order] .

[^{F2}(1A) If the court decides to make an order on an application under subsection (1) above, the following rules have effect for the purposes of specifying a person in the order—

- (a) if a person is nominated in the application to act as the patient's nearest relative and that person is, in the opinion of the court, a suitable person to act as such and is willing to do so, the court shall specify that person (or, if there are two or more such persons, such one of them as the court thinks fit);
- (b) otherwise, the court shall specify such person as is, in its opinion, a suitable person to act as the patient's nearest relative and is willing to do so.]

(2) An order under this section may be made on the application of—

- [^{F3}(za) the patient;]
- (a) any relative of the patient;
- (b) any other person with whom the patient is residing (or, if the patient is then an in-patient in a hospital, was last residing before he was admitted); or
- (c) an [^{F4}approved mental health professional] ;

^{F5} . . .

Changes to legislation: Mental Health Act 1983, Section 29 is up to date with all changes known to be in force on or before 16 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

- (3) An application for an order under this section may be made upon any of the following grounds, that is to say—
- (a) that the patient has no nearest relative within the meaning of this Act, or that it is not reasonably practicable to ascertain whether he has such a relative, or who that relative is;
 - (b) that the nearest relative of the patient is incapable of acting as such by reason of mental disorder or other illness;
 - (c) that the nearest relative of the patient unreasonably objects to the making of an application for admission for treatment or a guardianship application in respect of the patient;^{F6} . . .
 - (d) that the nearest relative of the patient has exercised without due regard to the welfare of the patient or the interests of the public his power to discharge the patient^{F7} . . . under this Part of this Act, or is likely to do so.^[F8]; or
 - (e) that the nearest relative of the patient is otherwise not a suitable person to act as such.]
- (4) If, immediately before the expiration of the period for which a patient is liable to be detained by virtue of an application for admission for assessment, an application under this section, which is an application made on the ground specified in subsection (3)(c) or (d) above, is pending in respect of the patient, that period shall be extended—
- (a) in any case, until the application under this section has been finally disposed of; and
 - (b) if an order is made in pursuance of the application under this section, for a further period of seven days;
- and for the purposes of this subsection an application under this section shall be deemed to have been finally disposed of at the expiration of the time allowed for appealing from the decision of the court or, if notice of appeal has been given within that time, when the appeal has been heard or withdrawn, and “pending” shall be construed accordingly.
- (5) An order made on the ground specified in subsection ^[F9](3)(a), (b) or (e)] above may specify a period for which it is to continue in force unless previously discharged under section 30 below.
- (6) While an order made under this section is in force, the provisions of this Part of this Act (other than this section and section 30 below) and sections 66, 69, 132(4) and 133 below shall apply in relation to the patient as if for any reference to the nearest relative of the patient there were substituted a reference to the person having the functions of that relative and (without prejudice to section 30 below) shall so apply notwithstanding that the person who was the patient’s nearest relative when the order was made is no longer his nearest relative; but this subsection shall not apply to section 66 below in the case mentioned in paragraph (h) of subsection (1) of that section.

Textual Amendments

- F1** Words in s. 29(1) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 23(2)**, 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(f)** (with [art. 3](#), [Sch.](#))
- F2** [S. 29\(1A\)](#) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 23(3)**, 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(f)** (with [art. 3](#), [Sch.](#))
- F3** [S. 29\(2\)\(za\)](#) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 23(4)(a)**, 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(f)** (with [art. 3](#), [Sch.](#))

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- F4** Words in s. 29(2)(c) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 21, 56, [Sch. 2 para. 7\(c\)](#) (with Sch. 10); S.I. 2008/1900, [art. 2\(d\)](#) (with art. 3, Sch.); S.I. 2008/2561, [art. 2\(b\)](#) (art. 3, Sch.)
- F5** Words in s. 29(2) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 23(4)(b), 55, 56, [Sch. 11 Pt. 4](#) (with Sch. 10); S.I. 2008/1900, [art. 2\(f\)\(p\)](#) (with art. 3, Sch.)
- F6** Word in s. 29(3)(c) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 23(5)(a), 55, 56, [Sch. 11 Pt. 4](#) (with Sch. 10); S.I. 2008/1900, [art. 2\(f\)\(p\)](#) (with art. 3, Sch.)
- F7** Words in s. 29(3)(d) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 32, 55, 56, Sch. 3 para. 13, [Sch. 11 Pt. 5](#) (with Sch. 10); S.I. 2008/1210, [art. 2\(d\)](#) (with art. 4); S.I. 2008/1900, [art. 2\(i\)](#) (with art. 3, Sch.)
- F8** S. 29(3)(e) and preceding words inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 23\(5\)\(b\)](#), 56 (with Sch. 10); S.I. 2008/1900, [art. 2\(f\)](#) (with art. 3, Sch.)
- F9** Words in s. 29(5) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 23\(6\)](#), 56, (with Sch. 10); S.I. 2008/1900, [art. 2\(f\)](#) (with art. 3, Sch.)

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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\(3\)](#)