



Mental Health Act 1983

1983 CHAPTER 20

PART II

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Functions of relatives of patients

30 Discharge and variation of orders under s. 29.

- (1) An order made under section 29 above in respect of a patient may be discharged by the county court upon application made—
- (a) in any case, by [^{F1}the patient or] the person having the functions of the nearest relative of the patient by virtue of the order;
 - (b) where the order was made on the ground specified in paragraph (a) [^{F2}, (b) or (e)] of section 29(3) above, or where the person who was the nearest relative of the patient when the order was made has ceased to be his nearest relative, on the application of the nearest relative of the patient.

[^{F3}(1A) But, in the case of an order made on the ground specified in paragraph (e) of section 29(3) above, an application may not be made under subsection (1)(b) above by the person who was the nearest relative of the patient when the order was made except with leave of the county court.]

- (2) An order made under section 29 above in respect of a patient may be varied by the county court, on the application of the person having the functions of the nearest relative by virtue of the order or on the application of [^{F4}the patient or of] an [^{F5}approved mental health professional] , by substituting [^{F6}another person for the person having those functions].

[^{F7}(2A) If the court decides to vary an order on an application under subsection (2) above, the following rules have effect for the purposes of substituting another person—

- (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

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- 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.]
- (3) If the person having the functions of the nearest relative of a patient by virtue of an order under section 29 above dies—
- (a) subsections (1) and (2) above shall apply as if for any reference to that person there were substituted a reference to any relative of the patient, and
- (b) until the order is discharged or varied under those provisions the functions of the nearest relative under this Part of this Act and sections 66 and 69 below shall not be exercisable by any person.
- (4) [^{F8}An order made on the ground specified in paragraph (c) or (d) of section 29(3) above shall, unless previously discharged under subsection (1) above, cease to have effect as follows]—
- [^{F9}(a) if—
- (i) on the date of the order the patient was liable to be detained or subject to guardianship by virtue of a relevant application, order or direction; or
- (ii) he becomes so liable or subject within the period of three months beginning with that date; or
- (iii) he was a community patient on the date of the order,
- it shall cease to have effect when he is discharged under section 23 above or 72 below or the relevant application, order or direction otherwise ceases to have effect (except as a result of his being transferred in pursuance of regulations under section 19 above);
- (b) otherwise, it shall cease to have effect at the end of the period of three months beginning with the date of the order.]
- [^{F10}(4A) In subsection (4) above, reference to a relevant application, order or direction is to any of the following—
- (a) an application for admission for treatment;
- (b) a guardianship application;
- (c) an order or direction under Part 3 of this Act (other than under section 35, 36 or 38).]
- [^{F11}(4B) An order made on the ground specified in paragraph (a), (b) or (e) of section 29(3) above shall—
- (a) if a period was specified under section 29(5) above, cease to have effect on expiry of that period, unless previously discharged under subsection (1) above;
- (b) if no such period was specified, remain in force until it is discharged under subsection (1) above.]
- (5) The discharge or variation under this section of an order made under section 29 above shall not affect the validity of anything previously done in pursuance of the order.

Textual Amendments

- F1** Words in s. 30(1)(a) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 24(2)(a)**, 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(f)** (with [art. 3](#), [Sch.](#))

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- F2** Words in s. 30(1)(b) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 24(2)(b)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(f)** (with art. 3, Sch.)
- F3** S. 30(1A) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 24(3)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(f)** (with art. 3, Sch.)
- F4** Words in s. 30(2) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 24(4)(a)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(f)** (with art. 3, Sch.)
- F5** Words in s. 30(2) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 21, 56, **Sch. 2 para. 7(d)** (with Sch. 10); S.I. 2008/1900, **art. 2(f)** (with art. 3, Sch.); S.I. 2008/2561, **art. 2(b)**, (with art. 3, Sch.)
- F6** Words in s. 30(2) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 24(4)(b)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(f)** (with art. 3, Sch.)
- F7** S. 30(2A) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 24(5)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(f)** (with art. 3, Sch.)
- F8** Words in s. 30(4) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 24(6)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(f)** (with art. 3, Sch.)
- F9** S. 30(4)(a)(b) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, **Sch. 3 para. 14(2)** (with Sch. 10); S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)
- F10** S. 30(4A) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, **Sch. 3 para. 14(3)** (with Sch. 10); S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)
- F11** S. 30(4B) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 24(7)**, 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\(3\)](#)