



# Domestic Violence, Crime and Victims Act 2004

## 2004 CHAPTER 28

### PART 3

#### VICTIMS ETC

### CHAPTER 2

#### REPRESENTATIONS AND INFORMATION

##### *Transfer directions*

#### **44** [F<sup>1</sup>Information where restriction direction made]

- (1) This section applies [F<sup>2</sup>if, in a case where section 42 applies, the transfer direction in respect of the patient was given with a restriction direction].
- (2) Subsection (3) applies if a person who appears to the [F<sup>3</sup>relevant probation body] to be the victim of the offence or to act for the victim of the offence—
  - (a) when his wishes were ascertained under section 42(2), expressed a wish to receive the information specified in section 42(4), or
  - (b) has subsequently informed the [F<sup>3</sup>relevant probation body] that he wishes to receive that information.
- (3) The [F<sup>4</sup>relevant probation body] must take all reasonable steps—
  - (a) to inform that person whether or not the offender is to be subject to any conditions in the event of his discharge;
  - (b) if he is, to provide that person with details of any conditions which relate to contact with the victim or his family;
  - (c) if the restriction direction in respect of the offender is to cease to have effect, to notify that person of the date on which it is to cease to have effect;

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- (d) to provide that person with such other information as the board [<sup>F5</sup>or the body] considers appropriate in all the circumstances of the case.
- (4) The Secretary of State must inform the [<sup>F6</sup>relevant probation body]—
- (a) whether the offender is to be discharged;
  - (b) if he is, whether he is to be discharged absolutely or subject to conditions;
  - (c) if he is to be discharged subject to conditions, what the conditions are to be;
  - (d) if he has been discharged subject to conditions—
    - (i) of any variation of the conditions by the Secretary of State;
    - (ii) of any recall to hospital under section 42(3) of the Mental Health Act 1983 (c. 20);
  - (e) if the restriction direction is to cease to have effect by virtue of action to be taken by the Secretary of State, of the date on which the restriction direction is to cease to have effect.
- (5) Subsections (6) and (7) apply (instead of subsection (4)) if—
- (a) an application is made to [<sup>F7</sup>the First-tier Tribunal or the Mental Health Review Tribunal for Wales] by the offender under section 69, 70 or 75 of the Mental Health Act 1983 (applications concerning restricted patients), or
  - (b) the Secretary of State refers the offender's case to [<sup>F7</sup>the First-tier Tribunal or the Mental Health Review Tribunal for Wales] under section 71 of that Act (references concerning restricted patients).
- (6) The tribunal must inform the [<sup>F8</sup>relevant probation body]—
- (a) of the matters specified in subsection (4)(a) to (c);
  - (b) if the offender has been discharged subject to conditions, of any variation of the conditions by the tribunal;
  - (c) if the restriction direction is to cease to have effect by virtue of action to be taken by the tribunal, of the date on which the restriction direction is to cease to have effect.
- (7) The Secretary of State must inform the [<sup>F9</sup>relevant probation body] of the matters specified in subsection (4)(d) and (e).
- (8) The duties in subsections (3) to (7) apply only while the restriction direction is in force.
- (9) The [<sup>F10</sup>relevant probation body] has the meaning given in section 43(8).

#### Textual Amendments

- F1** S. 44 title substituted (3.11.2008) by virtue of [Mental Health Act 2007 \(c. 12\)](#), ss. 48, 56(1), [Sch. 6 para. 14](#) (with s. 50(8)-(13)); S.I. 2008/1900, arts. 1(1), [2\(o\)](#) (with art. 3, Sch.)
- F2** Words in s. 44(1) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 48, 56(1), [Sch. 6 para. 14](#) (with s. 50(8)-(13)); S.I. 2008/1900, arts. 1(1), [2\(o\)](#) (with art. 3, Sch.)
- F3** Words in s. 44(2) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), arts. 1, 3, [Sch. 1 para. 20\(12\)\(a\)](#)
- F4** Words in s. 44(3) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), arts. 1, 3, [Sch. 1 para. 20\(12\)\(b\)\(i\)](#)
- F5** Words in s. 44(3)(d) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), arts. 1, 3, [Sch. 1 para. 20\(12\)\(b\)\(ii\)](#)
- F6** Words in s. 44(4) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), arts. 1, 3, [Sch. 1 para. 20\(12\)\(c\)](#)

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- F7** Words in s. 44(5)(a)(b) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), arts. 1(1), 9(1), **Sch. 3 para. 213**
- F8** Words in s. 44(6) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), arts. 1, 3, **Sch. 1 para. 20(12)(d)**
- F9** Words in s. 44(7) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), arts. 1, 3, **Sch. 1 para. 20(12)(e)**
- F10** Words in s. 44(9) substituted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), arts. 1, 3, **Sch. 1 para. 20(12)(f)**

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

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

- Sch. 9 para. 26A inserted by [2015 c. 2 Sch. 3 para. 12](#)