
Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 2007, Cross Heading: Courts-Martial (Appeals) Act 1968. (See end of Document for details)

SCHEDULES

SCHEDULE 4

SUPERVISED COMMUNITY TREATMENT: AMENDMENTS TO OTHER ACTS

Courts-Martial (Appeals) Act 1968

- 3 (1) The Courts-Martial (Appeals) Act 1968 (c. 20) is amended as follows.
- (2) In section 20 (implementation of authority for retrial etc), after subsection (4) insert—
- “(4A) Where retrial is authorised in the case of a person who—
- (a) was liable to be detained in pursuance of an order or direction under Part 3 of the Mental Health Act 1983;
 - (b) was then made subject to a community treatment order (within the meaning of that Act); and
 - (c) was subject to that community treatment order immediately before the date of the authorisation,
- the order or direction under Part 3 of that Act and the community treatment order shall continue in force until the relevant time (as defined in subsection (3A)) as if his conviction had not been quashed.
- (4B) An order under subsection (1E)(a) is of no effect in relation to a person for so long as he is subject to a community treatment order.”
- (3) In section 43 (detention of accused), after subsection (3) insert—
- “(3A) The relevant provisions of the Mental Health Act 1983 with respect to community treatment orders (within the meaning of that Act) shall also apply for the purposes of subsection (3).”
- (4) After that section insert—
- “43A Continuation of community treatment order**
- (1) The Appeal Court may make an order under this section where—
- (a) but for the decision of the Appeal Court, the accused would be liable to recall; and
 - (b) immediately after that decision, the Director of Service Prosecutions is granted leave to appeal or gives notice that he intends to apply for leave to appeal.
- (2) For the purposes of this section, a person is liable to recall if he is subject to a community treatment order (within the meaning of the Mental Health Act 1983) and, when that order was made, he was liable to be detained in pursuance of an order or direction under Part 3 of that Act.

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- (3) An order under this section is an order providing for the continuation of the community treatment order and the order or direction under Part 3 of that Act so long as any appeal to the Supreme Court is pending.
- (4) Where the Appeal Court makes an order under this section, the relevant provisions of the Mental Health Act 1983 with respect to persons liable to recall (including provisions as to the extension of the community treatment period, the removal or discharge of community patients, the revocation of community treatment orders and the re-detention of patients following revocation) shall apply accordingly.
- (5) An order under this section shall (unless the appeal has been previously disposed of) cease to have effect at the end of the period for which the accused would, but for the decision of the Appeal Court, have been—
 - (a) liable to recall; or
 - (b) where the community treatment order is revoked, liable to be detained in pursuance of the order or direction under Part 3 of the Mental Health Act 1983.
- (6) Where the Appeal Court has power to make an order under this section and either no such order is made or the accused is discharged by virtue of subsection (4) or (5) above before the appeal is disposed of, the accused shall not be liable to be again detained as a result of the decision of the Supreme Court on the appeal.”

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