



Health and Social Care Act 2012

2012 CHAPTER 7

PART 11

MISCELLANEOUS

Supervised community treatment under the Mental Health Act 1983

299 Certificate of consent of community patients to treatment

- (1) Part 4A of the Mental Health Act 1983 (treatment of community patients not recalled to hospital) is amended as follows.
- (2) In section 64C (treatment of adult community patients), after subsection (4) insert—
 - “(4A) Where there is authority to give treatment by virtue of subsection (2)(a), the certificate requirement is also met in respect of the treatment if the approved clinician in charge of the treatment has certified in writing that the patient has capacity to consent to the treatment and has consented to it.
 - (4B) But, if the patient has not attained the age of 18, subsection (4A) does not apply to section 58A type treatment.”
- (3) In section 64E (treatment of child community patients), in subsection (7)—
 - (a) for “(3) to (9)” substitute “(3) to (4A) and (5) to (9)”, and
 - (b) at the end insert “; and for the purpose of this subsection, subsection (4A) of section 64C above has effect as if—
 - (a) the references to treatment were references only to section 58 type treatment,
 - (b) the reference to subsection (2)(a) of section 64C were a reference to subsection (6)(a) of this section, and
 - (c) the reference to capacity to consent were a reference to competence to consent.”
- (4) After section 64F insert—

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“64FA Withdrawal of consent

- (1) Where the consent of a patient to any treatment has been given as mentioned in section 64C(2)(a) above for the purposes of section 64B or 64E above, the patient may at any time before the completion of the treatment withdraw his consent, and those sections shall then apply as if the remainder of the treatment were a separate form of treatment.
- (2) Subsection (3) below applies where—
 - (a) the consent of a patient to any treatment has been given as mentioned in section 64C(2)(a) above for the purposes of section 64B or 64E above; but
 - (b) before the completion of the treatment, the patient loses capacity or (as the case may be) competence to consent to the treatment.
- (3) The patient shall be treated as having withdrawn his consent and section 64B or (as the case may be) section 64E above shall then apply as if the remainder of the treatment were a separate form of treatment.
- (4) Without prejudice to the application of subsections (1) to (3) above to any treatment given under the plan of treatment to which a patient has consented, a patient who has consented to such a plan may at any time withdraw his consent to further treatment, or to further treatment of any description, under the plan.
- (5) This section shall not preclude the continuation of any treatment, or of treatment under any plan, pending compliance with section 58, 58A, 64B or 64E above if the approved clinician in charge of the treatment considers that the discontinuance of the treatment, or of treatment under the plan, would cause serious suffering to the patient.”
- (5) In section 64H (certificates: supplementary provision)—
 - (a) in subsection (2), at the end insert “; and the regulations may make different provision for the different descriptions of Part 4A certificate”, and
 - (b) in subsections (3), (4) and (5), after “Part 4A certificate” insert “that falls within section 64C(4) above”.
- (6) In section 17B of the Mental Health Act 1983 (conditions of community treatment order), in subsection (3)(b), after “Part 4A of this Act” insert “that falls within section 64C(4) below”.
- (7) In section 61 of that Act (review of treatment), in subsection (1), after “that section)” insert “that falls within section 64C(4) below”.
- (8) In section 62A of that Act (treatment on recall of community patient or revocation of order), in subsection (5), after “applies” insert “and the Part 4A certificate falls within section 64C(4) below”.
- (9) In subsection (6) of that section, after “58 or 58A above” insert “or 64B or 64E below”.
- (10) After that subsection insert—
 - “(6A) In a case where this section applies and the certificate requirement is no longer met for the purposes of section 64C(4A) below, the continuation of any treatment, or of treatment under any plan, pending compliance with section 58 or 58A above or 64B or 64E below shall not be precluded if the approved

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clinician in charge of the treatment considers that the discontinuance of the treatment, or of treatment under the plan, would cause serious suffering to the patient.”

Commencement Information

11 [S. 299](#) in force at 1.6.2012 by [S.I. 2012/1319](#), [art. 2\(2\)](#)

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2012/1831 art. 10 by [S.I. 2012/2657 art. 15](#)

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):

- Pt. 9 Ch. 1B inserted by [2022 c. 31 s. 96](#)
- s. 102(4)(ba) inserted by S.I. 2019/93, Sch. 1 para. 13(3) (as substituted) by [S.I. 2019/1245 reg. 28](#) (This amendment not applied to legislation.gov.uk. The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)
- s. 105(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 21](#)
- s. 106(3A)(3B) inserted by [2013 c. 24 Sch. 14 para. 22](#)
- s. 250(2)-(2B) substituted for s. 250(2) by [2022 c. 31 s. 95\(2\)\(a\)](#)
- s. 250(6)-(6D) substituted for s. 250(6) by [2022 c. 31 s. 95\(2\)\(d\)](#)
- s. 251251ZA substituted for s. 251 by [2022 c. 31 s. 95\(3\)](#)
- s. 251C(6A) inserted by [2022 c. 31 s. 95\(4\)\(a\)](#)
- s. 259(1)(aa)(b) substituted for s. 259(1)(b) by [2022 c. 31 s. 98\(b\)](#)
- s. 259(1)(aa) words substituted by [S.I. 2023/98 Sch. para. 17\(11\)\(a\)\(iii\)](#) (This amendment comes in force at the same time as 2022 c. 31, s. 98 comes into force)
- s. 259(10A)(10B) inserted by [2022 c. 31 s. 98\(h\)](#)
- s. 304(5)(ja) inserted by [2022 c. 31 s. 95\(5\)](#)