

Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 2007, Part 2. (See end of Document for details)

SCHEDULES

SCHEDULE 5

CROSS-BORDER ARRANGEMENTS

PART 2

RELATED AMENDMENTS

The 1983 Act

- 18 In section 69 of the 1983 Act (applications to tribunals concerning patients subject to hospital and guardianship orders), in subsection (2)(a)—
- (a) after “hospital order” insert “, hospital direction”, and
 - (b) for the words from “, 82(2) or” to the end substitute “ or section 80B(2), 82(2) or 85(2) below.”

Commencement Information

- II** Sch. 5 para. 18 not in force at Royal Assent see s. 56(1); Sch. 5 para. 18(a) in force for E.W. at 1.10.2007 by S.I. 2007/2798, art. 2(c)(vii); Sch. 5 para. 18 in force insofar as not already in force at 3.11.2008 by S.I. 2008/1900, arts. 1(1), 2(n) (with art. 3, Sch.)

- 19 (1) Section 79 of that Act (interpretation of Part 5) is amended as follows.
- (2) In subsection (1), for paragraph (c) substitute—
- “(c) is treated as subject to a hospital order and a restriction order, or to a hospital direction and a limitation direction, or to a transfer direction and a restriction direction, by virtue of any provision of Part 6 of this Act (except section 80D(3), 82A(2) or 85A(2) below),”.
- (3) In subsection (5)—
- (a) after “the relevant hospital order,” insert “ the relevant hospital direction, ”,
 - (b) after “the restriction order” insert “, the limitation direction ”,
 - (c) after “the hospital order,” insert “ hospital direction, ”, and
 - (d) after “restriction order,” insert “ limitation direction, ”.
- (4) After that subsection insert—
- “(5A) Section 75 above shall, subject to the modifications in subsection (5C) below, have effect in relation to a qualifying patient as it has effect in relation to a restricted patient who is conditionally discharged under section 42(2), 73 or 74 above.
- (5B) A patient is a qualifying patient if he is treated by virtue of section 80D(3), 82A(2) or 85A(2) below as if he had been conditionally discharged and were

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subject to a hospital order and a restriction order, or to a hospital direction and a limitation direction, or to a transfer direction and a restriction direction.

- (5C) The modifications mentioned in subsection (5A) above are—
- (a) references to the relevant hospital order, hospital direction or transfer direction, or to the restriction order, limitation direction or restriction direction to which the patient is subject, shall be construed as references to the hospital order, hospital direction or transfer direction, or restriction order, limitation direction or restriction direction, to which the patient is treated as subject by virtue of section 80D(3), 82A(2) or 85A(2) below; and
 - (b) the reference to the date on which the patient was conditionally discharged shall be construed as a reference to the date on which he was treated as conditionally discharged by virtue of a provision mentioned in paragraph (a) above.”

Commencement Information

I2 Sch. 5 para. 19 not in force at Royal Assent see s. 56(1); Sch. 5 para. 19 in force for E.W. at 1.10.2007 by S.I. 2007/2798, art. 2(c)(viii)

- 20 (1) In section 146 (application to Scotland), omit the words from “88” to “138”.
- (2) This paragraph does not extend to Scotland.

Commencement Information

I3 Sch. 5 para. 20 not in force at Royal Assent see s. 56(1); Sch. 5 para. 20 in force insofar as not already in force for E.W. at 28.10.2008 by S.I. 2008/2788, art. 2(a)

*Mental Health (Care and Treatment) (Scotland) Act 2003
 (Consequential Provisions) Order 2005 (S.I. 2005/2078)*

- 21 (1) The Mental Health (Care and Treatment) (Scotland) Act 2003 (Consequential Provisions) Order 2005 is amended as follows.
- (2) Omit the following provisions—
- (a) article 1(5),
 - (b) article 2, and
 - (c) article 3.
- (3) In article 8 (the title to which becomes “Patients absent from hospitals or other places in Scotland”), in paragraph (1)(b), for “290” substitute “ 289, 290, 309, 309A ”.
- (4) In article 12(2), for “2 to 11” substitute “ 4 to 11 ”.

Commencement Information

I4 Sch. 5 para. 21 not in force at Royal Assent see s. 56(1); Sch. 5 para. 21(2)(c) in force for E.W. at 1.10.2007 by S.I. 2007/2798, art. 2(c)(ix); Sch. 5 para. 21 in force insofar as not already in force at 3.11.2008 by S.I. 2008/1900, arts. 1(1), 2(n) (with art. 3, Sch.)

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