



2016 CHAPTER 18

PART 2

LACK OF CAPACITY: PROTECTION
FROM LIABILITY, AND SAFEGUARDS

CHAPTER 7

RIGHTS OF REVIEW OF AUTHORISATION

References to the Tribunal

References etc to Tribunal: persons formerly detained under the Mental Health Order

49.—(1) This section applies where—

- (a) immediately before the day a person reaches the age of 16 (“the relevant day”), the person is liable to be detained under Part 2 of the Mental Health Order; and
- (b) on that day, there is in force an authorisation under Schedule 1 to this Act (“the authorisation”) that authorises the detention of the person in circumstances amounting to a deprivation of liberty.

(2) If an application to the Tribunal by the person, or a reference of the person’s case to the Tribunal, was made under Part 5 of the Mental Health Order before the relevant day but has not been dealt with by that day, the matters to be considered by the Tribunal include the question whether the authorisation is appropriate.

(3) If—

(a) on any date when the person is under 17, the period of the authorisation is extended (under section 37 or 38 or Schedule 3),

(b) a relevant authority has been in force throughout the period of one year ending with that date, and

(c) the Tribunal has not considered the person's case at any time in that period, the relevant trust must as soon as practicable refer to the Tribunal the question whether the authorisation is appropriate.

(4) In this section—

“the person's case”—

- (a) in relation to any time when the person was under 16, has the same meaning as in Part 5 of the Mental Health Order;
- (b) in relation to any time when the person is 16 or over, means the question whether the authorisation is appropriate;

“relevant authority”—

- (a) in relation to any time when the person was under 16, means an authority under Part 2 of the Mental Health Order for the detention of the person;
- (b) in relation to any time when the person is 16 or over, means the authorisation;

“the relevant trust” has the same meaning as in section 48.