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SCHEDULES

SCHEDULE 1

DISCHARGE OF RESTRICTED PATIENTS

Discharge of patients

6 (1) Where an application to a Mental Health Review Tribunal is made by a restricted patient who is subject to a restriction direction, or where the case of such a patient is referred to such a tribunal, the tribunal—

(a) shall notify the Secretary of State whether, in their opinion, the patient would, if subject to a restriction order, be entitled to be absolutely or conditionally discharged under paragraph 5 above ; and

(b) if they notify him that the patient would be entitled to be conditionally discharged, may recommend that in the event of his not being discharged under this paragraph he should continue to be detained in hospital.

(2) If in the case of a patient not falling within sub-paragraph (4) below —

(a) the tribunal notify the Secretary of State that the patient would be entitled to be absolutely or conditionally discharged ; and

(b) within the period of ninety days beginning with the date of that notification the Secretary of State gives notice to the tribunal that the patient may be so discharged,

the tribunal shall direct the absolute or, as the case may be, the conditional discharge of the patient.

(3) Where a patient continues to be liable to be detained in a hospital at the end of the period referred to in sub-paragraph (2) (b) above because the Secretary of State has not given the notice there mentioned, the managers of the hospital shall, unless the tribunal have made a recommendation under sub-paragraph (1)(b) above, transfer the patient to a prison or other institution in which he might have been detained if he had not been removed to hospital, there to be dealt with as if he had not been so removed.

(4) If, in the case of a patient who is subject to a transfer direction under section 73 of the principal Act, the tribunal notify the Secretary of State that the patient would be entitled to be absolutely or conditionally discharged, the Secretary of State shall, unless the tribunal have made a recommendation under sub-paragraph (1)(b) above, by warrant direct that the patient be remitted to a prison or other institution in which he might have been detained if he had not been removed to hospital, there to be dealt with as if he had not been so removed.

(5) Where a patient is transferred or remitted under sub-paragraph (3)or (4) above the relevant transfer direction and the restriction direction shall cease to have effect on his arrival in the prison or other institution.

(6) Sub-paragraphs (3) to (8) of paragraph 5 above shall have effect in relation to this paragraph as they have effect in relation to that paragraph, taking references to the

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relevant hospital order and the restriction order as references to the transfer direction and the restriction direction.

(7) This paragraph is without prejudice to sections 75 and 76 of the principal Act and sections 26 and 27 of this Act (termination of transfer directions and return to prison etc. of transferred prisoners) in their application to patients who are not discharged under this paragraph.