



# Mental Health Act 1983

## 1983 CHAPTER 20

### PART III

#### PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS OR UNDER SENTENCE

##### *Supplemental*

#### **54 Requirements as to medical evidence.**

- (1) The registered medical practitioner whose evidence is taken into account under section 35(3)(a) above and at least one of the registered medical practitioners whose evidence is taken into account under sections 36(1), 37(2)(a), 38(1) [<sup>F1</sup>45A(2)] and 51(6)(a) above and whose reports are taken into account under sections 47(1) and 48(1) above shall be a practitioner approved for the purposes of section 12 above by the Secretary of State [<sup>F2</sup>, or by another person by virtue of section 12ZA or 12ZB above,] as having special experience in the diagnosis or treatment of mental disorder.
- [<sup>F3</sup>(2) For the purposes of any provision of this Part of this Act under which a court may act on the written evidence of any person, a report in writing purporting to be signed by that person may, subject to the provisions of this section, be received in evidence without proof of the following—
  - (a) the signature of the person; or
  - (b) his having the requisite qualifications or approval or authority or being of the requisite description to give the report.
- (2A) But the court may require the signatory of any such report to be called to give oral evidence.]
- (3) Where, in pursuance of a direction of the court, any such report is tendered in evidence otherwise than by or on behalf of the person who is the subject of the report, then—
  - (a) if that person is represented by [<sup>F4</sup>an authorised person], a copy of the report shall be given to [<sup>F5</sup>that authorised person];

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- (b) if that person is not so represented, the substance of the report shall be disclosed to him or, where he is a child or young person, to his parent or guardian if present in court; and
- (c) except where the report relates only to arrangements for his admission to a hospital, that person may require the signatory of the report to be called to give oral evidence, and evidence to rebut the evidence contained in the report may be called by or on behalf of that person.

#### Textual Amendments

- F1** Words in s. 54 inserted (1.10.1997) by 1997 c. 43, s. 55, **Sch. 4**, para. 12(6); S.I. 1997/2200, **art. 2**
- F2** Words in s. 54(1) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), **ss. 38(2)**, 306(4); S.I. 2013/160, **art. 2(2)** (with arts. 7-9)
- F3** S. 54(2)(2A) substituted (3.11.2008) for s. 54(2) by Mental Health Act 2007 (c. 12), **ss. 11(6)**, 56 (with **Sch. 10**); S.I. 2008/1900, **art. 2(b)** (with art. 3, **Sch.**)
- F4** Words in s. 54(3)(a) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), **ss. 208**, 211, **Sch. 21 para. 58(a)** (with **ss. 29**, 192, 193); S.I. 2009/3250, **art. 2(h)** (subject to arts. 6, 9)
- F5** Words in s. 54(3)(a) substituted (1.1.2010) by Legal Services Act 2007 (c. 29), **ss. 208**, 211, **Sch. 21 para. 58(b)** (with **ss. 29**, 192, 193); S.I. 2009/3250, **art. 2(h)** (subject to arts. 6, 9)

#### Modifications etc. (not altering text)

- C1** S. 54(2)(3) extended (30.9.1998) by 1969 c. 54, **s. 12B(3)** (as inserted by 1998 c. 37, **ss. 106**, **Sch. 7**, para. 5(3)); S.I. 1998/2327, **art. 2(1)(w)** (as amended by S.I. 1998/2412, **art. 2** and S.I. 1998/2906, **art. 2**)
- C2** S. 54(2)(3) extended (E.W.) (1.1.1992) by Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25, SIF 39:1), **s. 1(2)** (with saving in s. 8); S.I. 1991/2488, **art. 2**  
S. 54(2)(3) applied (25.8.2000) by 2000 c. 6, **ss. 42**, 168(1), **Sch. 2 para. 5(9)**  
S. 54(2)(3) extended (E.W.) (1.1.1992) by Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25, SIF 39:1), **s. 5(3)**, **Sch. 2 para. 2(3)** (with saving in s. 8); S.I. 1991/2488, **art. 2**  
S. 54(2)(3) extended (1.10.1992) by Powers of Criminal Courts Act 1973 (c. 62, SIF 39:1), **s. 3(3)**, **Sch. 1A para. 5(9)** (as inserted (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), **ss. 8(3)**, 9(2), 101(1), **Sch. 1 Pt. II**, **Sch. 12 para. 1**; S.I. 1992/333, **art. 2(2)**, **Sch. 2**.
- C3** S. 54(2)(3) applied (30.11.2009) by Criminal Justice and Immigration Act 2008 (c. 4), **ss. 1**, 153, **Sch. 1 para. 20(5)**; S.I. 2009/3074, **art. 2(a)(m)**

#### [54A] <sup>F6</sup>Reduction of period for making hospital orders.

- (1) The Secretary of State may by order reduce the length of the periods mentioned in sections 37(4) and (5) and 38(4) above.
- (2) An order under subsection (1) above may make such consequential amendments of sections 40(1) and 44(3) above as appear to the Secretary of State to be necessary or expedient.]

#### Textual Amendments

- F6** S. 54A inserted (E.W.) (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), **s. 27(2)** (with saving in s. 28); S.I. 1992/333, **art. 2(2)**, **Sch.2**.

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## 55 Interpretation of Part III.

(1) In this Part of this Act—

[<sup>F7</sup>“authorised person” means a person who, for the purposes of the Legal Services Act 2007, is an authorised person in relation to an activity which constitutes the exercise of a right of audience (within the meaning of that Act);]

“child” and “young person” have the same meaning as in the <sup>M1</sup>Children and Young Persons Act 1933;

“civil prisoner” has the meaning given to it by section 48(2)(c) above;

“guardian”, in relation to a child or young person, has the same meaning as in the Children and Young Persons Act 1933;

“place of safety”, in relation to a person who is not a child or young person, means any police station, prison or remand centre, or any hospital the managers of which are willing temporarily to receive him, and in relation to a child or young person has the same meaning as in the Children and Young Persons Act 1933;

[<sup>F8</sup>“responsible clinician”, in relation to a person liable to be detained in a hospital within the meaning of Part 2 of this Act, means the approved clinician with overall responsibility for the patient's case.]

(2) Any reference in this Part of this Act to an offence punishable on summary conviction with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any enactment relating to the imprisonment of young offenders.

(3) <sup>F9</sup>.....

(4) Any reference to a hospital order, a guardianship order or a restriction order in section 40(2), (4) or (5), section 41(3) to (5), or section 42 above or section 69(1) below shall be construed as including a reference to any order or direction under this Part of this Act having the same effect as the first-mentioned order; and the exceptions and modifications set out in Schedule 1 to this Act in respect of the provisions of this Act described in that Schedule accordingly include those which are consequential on the provisions of this subsection.

(5) Section 34(2) above shall apply for the purposes of this Part of this Act as it applies for the purposes of Part II of this Act.

(6) References in this Part of this Act to persons serving a sentence of imprisonment shall be construed in accordance with section 47(5) above.

(7) Section 99 of the <sup>M2</sup>Children and Young Persons Act 1933 (which relates to the presumption and determination of age) shall apply for the purposes of this Part of this Act as it applies for the purposes of that Act.

### Textual Amendments

- F7** S. 55(1): definition of "authorised person" inserted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), ss. 208, 211, [Sch. 21 para. 59](#) (with ss. 29, 192, 193); S.I. 2009/3250, [art. 2\(h\)](#) (subject to arts. 6, 9)
- F8** S. 55(1): definition of "responsible clinician" substituted (3.11.2008) for definition of "responsible medical officer" by [Mental Health Act 2007 \(c. 12\)](#), [ss. 11\(7\)](#), 56 (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(b\)](#) (with [art. 3](#), [Sch.](#))
- F9** S. 55(3) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 55, 56, [Sch. 11 Pt. 1](#) (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(p\)](#) (with [art. 3](#), [Sch.](#))

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#### **Marginal Citations**

**M1** 1933 c. 12.

**M2** 1933 c. 12.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [1996 c. 46 Sch. 2 para. 9](#)(replacing [1968 c 20 s. 23](#)) (Act applied (prosp.) by [1968 c. 20, s. 23\(4\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 9](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing [1957 c 53 s. 63](#)) (Act applied (prosp.) by [1957 c. 53, s. 63C\(6\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 4](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 19 s. 116](#)) (Act applied (prosp.) by [1955 c. 19, s. 116C\(6\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2 para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)](#))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 18 s 116](#)) (Act applied (prosp.) by [1955 c. 18, s. 116C\(6\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2 para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act power to applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing [1957 c 53 s. 63](#)) (Act: Power to apply conferred (prosp.) by [1957 c. 53, s. 63B\(4\)\(c\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 4](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act power to applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 19 s. 116](#)) (Act: Power to apply conferred (prosp.) by [1955 c. 19, s. 116B\(4\)\(c\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act power to applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 18 s 116](#)) (Act: Power to apply conferred (prosp.) by [1955 c. 18, s. 116B\(4\)\(c\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2 para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- [s. 74\(8\)](#) inserted by [2015 c. 2 Sch. 3 para. 3\(3\)](#)