



# Mental Health Act 1983

## 1983 CHAPTER 20

### PART IV **E+W**

#### CONSENT TO TREATMENT

#### [<sup>F1</sup>56 Patients to whom Part IV applies. **E+W**

- (1) Section 57 and, so far as relevant to that section, sections 59 to 62 below apply to any patient.
- (2) Subject to that and to subsection (5) below, this Part of this Act applies to a patient only if he falls within subsection (3) or (4) below.
- (3) A patient falls within this subsection if he is liable to be detained under this Act but not if—
  - (a) he is so liable by virtue of an emergency application and the second medical recommendation referred to in section 4(4)(a) above has not been given and received;
  - (b) he is so liable by virtue of section 5(2) or (4) or 35 above or section 135 or 136 below or by virtue of a direction for his detention in a place of safety under section 37(4) or 45A(5) above; or
  - (c) he has been conditionally discharged under section 42(2) above or section 73 or 74 below and he is not recalled to hospital.
- (4) A patient falls within this subsection if—
  - (a) he is a community patient; and
  - (b) he is recalled to hospital under section 17E above.
- (5) Section 58A and, so far as relevant to that section, sections 59 to 62 below also apply to any patient who—
  - (a) does not fall within subsection (3) above;
  - (b) is not a community patient; and
  - (c) has not attained the age of 18 years.]

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### Textual Amendments

- F1** S. 56 substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 34\(2\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(j\)](#) (with [art. 3](#), [Sch.](#))

## 57 Treatment requiring consent and a second opinion. **E+W**

- (1) This section applies to the following forms of medical treatment for mental disorder—
- (a) any surgical operation for destroying brain tissue or for destroying the functioning of brain tissue; and
  - (b) such other forms of treatment as may be specified for the purposes of this section by regulations made by the Secretary of State.
- (2) Subject to section 62 below, a patient shall not be given any form of treatment to which this section applies unless he has consented to it and—
- (a) a registered medical practitioner appointed for the purposes of this Part of this Act by [<sup>F2</sup>the regulatory authority](not being the [<sup>F3</sup>responsible clinician (if there is one) or the person in charge of the treatment in question]) and two other persons appointed for the purposes of this paragraph by [<sup>F2</sup>the regulatory authority](not being registered medical practitioners) have certified in writing that the patient is capable of understanding the nature, purpose and likely effects of the treatment in question and has consented to it; and
  - (b) the registered medical practitioner referred to in paragraph (a) above has certified in writing that [<sup>F4</sup>it is appropriate for the treatment to be given.]
- (3) Before giving a certificate under subsection (2)(b) above the registered medical practitioner concerned shall consult two other persons who have been professionally concerned with the patient's medical treatment [<sup>F5</sup> but, of those persons—
- (a) one shall be a nurse and the other shall be neither a nurse nor a registered medical practitioner; and
  - (b) neither shall be the responsible clinician (if there is one) or the person in charge of the treatment in question.]
- (4) Before making any regulations for the purpose of this section the Secretary of State shall consult such bodies as appear to him to be concerned.

### Textual Amendments

- F2** Words in s. 57(2)(a) substituted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 52](#), 170, [Sch. 3 para. 2](#); [S.I. 2009/462](#), [art. 2](#), [Sch. 1 para. 33](#)
- F3** Words in s. 57(2)(a) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 12\(2\)\(a\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(b\)](#) (with [art. 3](#), [Sch.](#))
- F4** Words in s. 57(2)(b) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 6\(2\)\(a\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(b\)](#) (with [art. 3](#), [Sch.](#))
- F5** Words in s. 57(3) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 12\(2\)\(b\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(b\)](#) (with [art. 3](#), [Sch.](#))

### Modifications etc. (not altering text)

- C1** S. 57(2)(a): functions transferred (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), [ss. 52\(1\)\(a\)](#), 170 (with [s. 96](#)); [S.I. 2009/462](#), [art. 2](#), [Sch. 1 para. 20](#)

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## 58 Treatment requiring consent or a second opinion. **E+W**

- (1) This section applies to the following forms of medical treatment for mental disorder—
  - (a) such forms of treatment as may be specified for the purposes of this section by regulations made by the Secretary of State;
  - (b) the administration of medicine to a patient by any means (not being a form of treatment specified under paragraph (a) above or section 57 above [<sup>F6</sup>or section 58A(1)(b) below]) at any time during a period for which he is liable to be detained as a patient to whom this Part of this Act applies if three months or more have elapsed since the first occasion in that period when medicine was administered to him by any means for his mental disorder.
- (2) The Secretary of State may by order vary the length of the period mentioned in subsection (1)(b) above.
- (3) Subject to section 62 below, a patient shall not be given any form of treatment to which this section applies unless—
  - (a) he has consented to that treatment and either the [<sup>F7</sup>approved clinician in charge of it] or a registered medical practitioner appointed for the purposes of this Part of this Act by [<sup>F8</sup>the regulatory authority] has certified in writing that the patient is capable of understanding its nature, purpose and likely effects and has consented to it; or
  - (b) a registered medical practitioner appointed as aforesaid (not being the [<sup>F9</sup>responsible clinician or the approved clinician in charge of the treatment in question]) has certified in writing that the patient is not capable of understanding the nature, purpose and likely effects of that treatment or [<sup>F10</sup>being so capable] has not consented to it but that [<sup>F11</sup>it is appropriate for the treatment to be given.]
- (4) Before giving a certificate under subsection (3)(b) above the registered medical practitioner concerned shall consult two other persons who have been professionally concerned with the patient's medical treatment [<sup>F12</sup> but, of those persons—
  - (a) one shall be a nurse and the other shall be neither a nurse nor a registered medical practitioner; and
  - (b) neither shall be the responsible clinician or the approved clinician in charge of the treatment in question.]
- (5) Before making any regulations for the purposes of this section the Secretary of State shall consult such bodies as appear to him to be concerned.

### Textual Amendments

- F6** Words in s. 58(1)(b) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 28\(2\)\(a\)](#), 56 (with Sch. 10); S.I. 2008/1900, [art. 2\(g\)](#) (with art. 3, Sch.)
- F7** Words in s. 58(3)(a) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 12\(3\)\(a\)\(i\)](#), 56 (with Sch. 10); S.I. 2008/1900, [art. 2\(b\)](#) (with art. 3, Sch.)
- F8** Words in s. 58(3)(a) substituted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), ss. 52, 170, Sch. 3 para. 3](#); S.I. 2009/462, [art. 2](#), Sch. 1 para. 33
- F9** Words in s. 58(3)(b) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 12\(3\)\(a\)\(ii\)](#), 56 (with Sch. 10); S.I. 2008/1900, [art. 2\(b\)](#) (with art. 3, Sch.)
- F10** Words in s. 58(3)(b) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 28\(2\)\(b\)](#), 56 (with Sch. 10); S.I. 2008/1900, [art. 2\(g\)](#) (with art. 3, Sch.)

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**F11** Words in s. 58(3)(b) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 6\(2\)\(b\), 56](#) (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(b\)](#) (with [art. 3, Sch.](#))

**F12** Words in s. 58(4) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 12\(3\)\(b\), 56](#) (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(b\)](#) (with [art. 3, Sch.](#))

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

**C2** [S. 58\(3\)\(a\)](#): functions transferred (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), ss. 52\(1\)\(b\), 170](#) (with [s. 96](#)); [S.I. 2009/462, art. 2, Sch. 1 para. 20](#)

[<sup>F13</sup>**58A Electro-convulsive therapy, etc.** **E+W**]

- (1) This section applies to the following forms of medical treatment for mental disorder—
  - (a) electro-convulsive therapy; and
  - (b) such other forms of treatment as may be specified for the purposes of this section by regulations made by the appropriate national authority.
- (2) Subject to section 62 below, a patient shall be not be given any form of treatment to which this section applies unless he falls within subsection (3), (4) or (5) below.
- (3) A patient falls within this subsection if—
  - (a) he has attained the age of 18 years;
  - (b) he has consented to the treatment in question; and
  - (c) either the approved clinician in charge of it or a registered medical practitioner appointed as mentioned in section 58(3) above has certified in writing that the patient is capable of understanding the nature, purpose and likely effects of the treatment and has consented to it.
- (4) A patient falls within this subsection if—
  - (a) he has not attained the age of 18 years; but
  - (b) he has consented to the treatment in question; and
  - (c) a registered medical practitioner appointed as aforesaid (not being the approved clinician in charge of the treatment) has certified in writing—
    - (i) that the patient is capable of understanding the nature, purpose and likely effects of the treatment and has consented to it; and
    - (ii) that it is appropriate for the treatment to be given.
- (5) A patient falls within this subsection if a registered medical practitioner appointed as aforesaid (not being the responsible clinician (if there is one) or the approved clinician in charge of the treatment in question) has certified in writing—
  - (a) that the patient is not capable of understanding the nature, purpose and likely effects of the treatment; but
  - (b) that it is appropriate for the treatment to be given; and
  - (c) that giving him the treatment would not conflict with—
    - (i) an advance decision which the registered medical practitioner concerned is satisfied is valid and applicable; or
    - (ii) a decision made by a donee or deputy or by the Court of Protection.
- (6) Before giving a certificate under subsection (5) above the registered medical practitioner concerned shall consult two other persons who have been professionally concerned with the patient's medical treatment but, of those persons—

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- (a) one shall be a nurse and the other shall be neither a nurse nor a registered medical practitioner; and
  - (b) neither shall be the responsible clinician (if there is one) or the approved clinician in charge of the treatment in question.
- (7) This section shall not by itself confer sufficient authority for a patient who falls within section 56(5) above to be given a form of treatment to which this section applies if he is not capable of understanding the nature, purpose and likely effects of the treatment (and cannot therefore consent to it).
- (8) Before making any regulations for the purposes of this section, the appropriate national authority shall consult such bodies as appear to it to be concerned.
- (9) In this section—
- (a) a reference to an advance decision is to an advance decision (within the meaning of the Mental Capacity Act 2005) made by the patient;
  - (b) “valid and applicable”, in relation to such a decision, means valid and applicable to the treatment in question in accordance with section 25 of that Act;
  - (c) a reference to a donee is to a donee of a lasting power of attorney (within the meaning of section 9 of that Act) created by the patient, where the donee is acting within the scope of his authority and in accordance with that Act; and
  - (d) a reference to a deputy is to a deputy appointed for the patient by the Court of Protection under section 16 of that Act, where the deputy is acting within the scope of his authority and in accordance with that Act.
- (10) In this section, “the appropriate national authority” means—
- (a) in a case where the treatment in question would, if given, be given in England, the Secretary of State;
  - (b) in a case where the treatment in question would, if given, be given in Wales, the Welsh Ministers.]

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#### Textual Amendments

**F13** S. 58A inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 27, 56** (with Sch. 10); [S.I. 2008/1900](#), **art. 2(g)** (with art. 3, Sch.)

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

**C3** S. 58A excluded (W.) (3.11.2008) by [The Mental Health \(Hospital, Guardianship, Community Treatment and Consent to Treatment\) \(Wales\) Regulations 2008 \(S.I. 2008/2439\)](#), regs. 1, **38(3)**

## 59 Plans of treatment. **E+W**

Any consent or certificate under section 57 <sup>[F14]</sup>, 58 or 58A] above may relate to a plan of treatment under which the patient is to be given (whether within a specified period or otherwise) one or more of the forms of treatment to which that section applies.

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#### Textual Amendments

**F14** Words in s. 59 substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 28(3), 56** (with Sch. 10); [S.I. 2008/1900](#), **art. 2(g)** (with art. 3, Sch.)

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## 60 Withdrawal of consent. **E+W**

(1) Where the consent of a patient to any treatment has been given for the purposes of section 57 [F15, 58 or 58A] above, the patient may, subject to section 62 below, 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.

[F16(1A) Subsection (1B) below applies where—

- (a) the consent of a patient to any treatment has been given for the purposes of section 57, 58 or 58A above; but
- (b) before the completion of the treatment, the patient ceases to be capable of understanding its nature, purpose and likely effects.

(1B) The patient shall, subject to section 62 below, be treated as having withdrawn his consent, and those sections shall then apply as if the remainder of the treatment were a separate form of treatment.

(1C) Subsection (1D) below applies where—

- (a) a certificate has been given under section 58 or 58A above that a patient is not capable of understanding the nature, purpose and likely effects of the treatment to which the certificate applies; but
- (b) before the completion of the treatment, the patient becomes capable of understanding its nature, purpose and likely effects.

(1D) The certificate shall, subject to section 62 below, cease to apply to the treatment and those sections shall then apply as if the remainder of the treatment were a separate form of treatment.]

(2) Without prejudice to the application of [F17 subsections (1) to (1D)] 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, subject to section 62 below, at any time withdraw his consent to further treatment, or to further treatment of any description, under the plan.

### Textual Amendments

- F15** Words in s. 60 substituted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 28(4), 56 (with Sch. 10); S.I. 2008/1900, art. 2(g) (with art. 3, Sch.)
- F16** S. 60(1A)-(1D) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 29(2), 56 (with Sch. 10); S.I. 2008/1900, art. 2(g) (with art. 3, Sch.)
- F17** Words in s. 60(2) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 29(3), 56 (with Sch. 10); S.I. 2008/1900, art. 2(g) (with art. 3, Sch.)

## 61 Review of treatment. **E+W**

(1) Where a patient is given treatment in accordance with section 57(2) [F18, 58(3)(b) or 58A(4) or (5)] above [F19, or by virtue of section 62A below in accordance with a Part 4A certificate (within the meaning of that section) [F20 that falls within section 64C(4) below],] a report on the treatment and the patient's condition shall be given [F21 by the approved clinician in charge of the treatment] to [F22 the regulatory authority]—

- (a) on the next occasion on which the [F23 responsible clinician] furnishes a report [F24 under section 20(3) [F25, 20A(4) or 21B(2) above in respect] of the patient]; and

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- (b) at any other time if so required by [<sup>F22</sup>the regulatory authority].
- (2) In relation to a patient who is subject to a restriction order [<sup>F26</sup>, limitation direction] or restriction direction subsection (1) above shall have effect as if paragraph (a) required the report to be made—
- (a) in the case of treatment in the period of six months beginning with the date of the order or direction, at the end of that period;
- (b) in the case of treatment at any subsequent time, on the next occasion on which the [<sup>F27</sup>responsible clinician] makes a report in respect of the patient under section 41(6) [<sup>F28</sup>, 45B(3)] or 49(3) above.
- (3) [<sup>F22</sup>The regulatory authority] may at any time give notice <sup>F29</sup> . . . directing that, subject to section 62 below, a certificate given in respect of a patient under subsection 57(2) [<sup>F30</sup>, 58(3)(b) or 58A(4) or (5)] above shall not apply to treatment given to him [<sup>F31</sup>(whether in England or Wales)] after a date specified in the notice and sections 57 [<sup>F32</sup>, 58 and 58A] above shall then apply to any such treatment as if that certificate has not been given.
- [<sup>F33</sup>(3A) The notice under subsection (3) above shall be given to the approved clinician in charge of the treatment.]

#### Textual Amendments

- F18** Words in s. 61(1) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 28\(5\)\(a\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(g\)](#) (with art. 3, Sch.)
- F19** Words in s. 61(1) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 34\(3\)\(a\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(j\)](#) (with art. 3, Sch.)
- F20** Words in s. 61(1) inserted (1.6.2012) by [Health and Social Care Act 2012 \(c. 7\), ss. 299\(7\)](#), 306(4); [S.I. 2012/1319, art. 2\(2\)](#)
- F21** Words in s. 61(1) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 12\(4\)\(a\)\(i\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(b\)](#) (with art. 3, Sch.)
- F22** Words in s. 61 substituted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), ss. 52, 170, Sch. 3 para. 4\(2\)](#); [S.I. 2009/462, art. 2, Sch. 1 para. 33](#)
- F23** Words in s. 61(1)(a) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 12\(4\)\(a\)\(ii\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(b\)](#) (with art. 3, Sch.)
- F24** Words in s. 61(1)(a) substituted (1.4.1996) by [1995 c. 52, ss. 2\(5\), 7\(2\)](#)
- F25** Words in s. 61(1)(a) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 34\(3\)\(b\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(j\)](#) (with art. 3, Sch.)
- F26** Words in s. 61(2) inserted (1.10.1997) by [1997 c. 43, s. 55, Sch. 4 para. 12\(7\)\(a\)](#); [S.I. 1997/2200, art. 2](#)
- F27** Words in s. 61(2)(b) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 12\(4\)\(b\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(b\)](#) (with art. 3, Sch.)
- F28** Words in s. 61(2) inserted (1.10.1997) by [1997 c. 43, s. 55, Sch. 4 para. 12\(7\)\(b\)](#); [S.I. 1997/2200, art. 2](#)
- F29** Words in s. 61(3) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 12\(4\)\(c\), 55, 56, Sch. 11 Pt. 3](#) (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(b\)\(p\)](#) (with art. 3, Sch.)
- F30** Words in s. 61(3) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 28\(5\)\(b\)\(i\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(g\)](#) (with art. 3, Sch.)
- F31** Words in s. 61(3) inserted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\), ss. 52, 170, Sch. 3 para. 4\(3\)](#); [S.I. 2009/462, art. 2, Sch. 1 para. 33](#)
- F32** Words in s. 61(3) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 28\(5\)\(b\)\(ii\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(g\)](#) (with art. 3, Sch.)

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**F33** S. 61(3A) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 12(4)(d)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(b)** (with art. 3, Sch.)

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

**C4** S. 61(1): functions transferred (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), **ss. 52(1)(c)**, 170 (with s. 96); S.I. 2009/462, **art. 2**, Sch. 1 para. 20

**C5** S. 61(3): functions transferred (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), **ss. 52(1)(d)**, 170 (with s. 96); S.I. 2009/462, **art. 2**, Sch. 1 para. 20

**62 Urgent treatment. E+W**

(1) Sections 57 and 58 above shall not apply to any treatment—

- (a) which is immediately necessary to save the patient's life;
- (b) which (not being irreversible) is immediately necessary to prevent a serious deterioration of his condition; or
- (c) which (not being irreversible or hazardous) is immediately necessary to alleviate serious suffering by the patient; or
- (d) which (not being irreversible or hazardous) is immediately necessary and represents the minimum interference necessary to prevent the patient from behaving violently or being a danger to himself or to others.

[<sup>F34</sup>(1A) Section 58A above, in so far as it relates to electro-convulsive therapy by virtue of subsection (1)(a) of that section, shall not apply to any treatment which falls within paragraph (a) or (b) of subsection (1) above.

(1B) Section 58A above, in so far as it relates to a form of treatment specified by virtue of subsection (1)(b) of that section, shall not apply to any treatment which falls within such of paragraphs (a) to (d) of subsection (1) above as may be specified in regulations under that section.

(1C) For the purposes of subsection (1B) above, the regulations—

- (a) may make different provision for different cases (and may, in particular, make different provision for different forms of treatment);
- (b) may make provision which applies subject to specified exceptions; and
- (c) may include transitional, consequential, incidental or supplemental provision.]

(2) Sections 60 and 61(3) above shall not preclude the continuation of any treatment or of treatment under any plan pending compliance with section 57 [<sup>F35</sup>, 58 or 58A] above if the [<sup>F36</sup>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.

(3) For the purposes of this section treatment is irreversible if it has unfavourable irreversible physical or psychological consequences and hazardous if it entails significant physical hazard.

**Textual Amendments**

**F34** S. 62(1A)-(1C) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 28(6)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(g)** (with art. 3, Sch.)



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- F35** Words in s. 62(2) substituted (3/11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 28\(7\), 56](#) (with Sch. 10); S.I. 2008/1900, [art. 2\(g\)](#) (with art. 3, Sch.)
- F36** Words in s. 62(2) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 12\(5\), 56](#) (with Sch. 10); S.I. 2008/1900, [art. 2\(b\)](#) (with art. 3, Sch.)

[<sup>F37</sup>**62A Treatment on recall of community patient or revocation of order** **E+W**]

- (1) This section applies where—
  - (a) a community patient is recalled to hospital under section 17E above; or
  - (b) a patient is liable to be detained under this Act following the revocation of a community treatment order under section 17F above in respect of him.
- (2) For the purposes of section 58(1)(b) above, the patient is to be treated as if he had remained liable to be detained since the making of the community treatment order.
- (3) But section 58 above does not apply to treatment given to the patient if—
  - (a) the certificate requirement is met for the purposes of section 64C or 64E below; or
  - (b) as a result of section 64B(4) or 64E(4) below, the certificate requirement would not apply (were the patient a community patient not recalled to hospital under section 17E above).
- (4) Section 58A above does not apply to treatment given to the patient if there is authority to give the treatment, and the certificate requirement is met, for the purposes of section 64C or 64E below.
- (5) In a case where this section applies [<sup>F38</sup>and the Part 4A certificate falls within section 64C(4) below], the certificate requirement is met only in so far as—
  - (a) the Part 4A certificate expressly provides that it is appropriate for one or more specified forms of treatment to be given to the patient in that case (subject to such conditions as may be specified); or
  - (b) a notice having been given under subsection (5) of section 64H below, treatment is authorised by virtue of subsection (8) of that section.
- (6) Subsection (5)(a) above shall not preclude the continuation of any treatment, or of treatment under any plan, pending compliance with section 58 or 58A above [<sup>F39</sup>or 64B or 64E below] if the approved clinician in charge of the treatment considers that the discontinuance of the treatment, or of the treatment under the plan, would cause serious suffering to the patient.

[ In a case where this section applies and the certificate requirement is no longer met

<sup>F40</sup>(6A) 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 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.]
- (7) In a case where subsection (1)(b) above applies, subsection (3) above only applies pending compliance with section 58 above.
- (8) In subsection (5) above—

“ Part 4A certificate ” has the meaning given in section 64H below; and

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“ specified ”, in relation to a Part 4A certificate, means specified in the certificate. ]

#### Textual Amendments

- F37** S. 62A inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 34(4)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(j)** (with art. 3, Sch.)
- F38** Words in s. 62A(5) inserted (1.6.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 299(8)**, 306(4); S.I. 2012/1319, art. 2(2)
- F39** Words in s. 62A(6) inserted (1.6.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 299(9)**, 306(4); S.I. 2012/1319, art. 2(2)
- F40** S. 62A(6A) inserted (1.6.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 299(10)**, 306(4); S.I. 2012/1319, art. 2(2)

### 63 Treatment not requiring consent. **E+W**

The consent of a patient shall not be required for any medical treatment given to him for the mental disorder from which he is suffering [<sup>F41</sup>, not being a form of treatment to which section 57, 58 or 58A above applies,] if the treatment is given by or under the direction of the [<sup>F42</sup>approved clinician in charge of the treatment] .

#### Textual Amendments

- F41** Words in s. 63 substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 28(8)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(g)** (with art. 3, Sch.)
- F42** Words in s. 63 substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 12(6)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(b)** (with art. 3, Sch.)

### 64 Supplementary provisions for Part IV. **E+W**

- (1) In this Part of this Act [<sup>F43</sup>“the responsible clinician” means the approved clinician with overall responsibility for the case] of the patient in question and “hospital” includes a [<sup>F44</sup>registered establishment].
- [<sup>F45</sup>(1A) References in this Part of this Act to the approved clinician in charge of a patient's treatment shall, where the treatment in question is a form of treatment to which section 57 above applies, be construed as references to the person in charge of the treatment.]
- [<sup>F46</sup>(1B) References in this Part of this Act to the approved clinician in charge of a patient's treatment shall, where the treatment in question is a form of treatment to which section 58A above applies and the patient falls within section 56(5) above, be construed as references to the person in charge of the treatment.
- (1C) Regulations made by virtue of section 32(2)(d) above apply for the purposes of this Part as they apply for the purposes of Part 2 of this Act.]
- (2) Any certificate for the purposes of this Part of this Act shall be in such form as may be prescribed by regulations made by the Secretary of State.
- [<sup>F47</sup>(3) For the purposes of this Part of this Act, it is appropriate for treatment to be given to a patient if the treatment is appropriate in his case, taking into account the nature and

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degree of the mental disorder from which he is suffering and all other circumstances of his case.]

#### Textual Amendments

- F43** Words in s. 64(1) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 12\(7\)\(a\)](#), 56 (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(g\)](#) (with [art. 3](#), [Sch.](#))
- F44** Words in s. 64(1) substituted (1.4.2002) by 2000 c. 14, s. 116, [Sch. 4 para. 9\(2\)](#); S.I. 2001/4150, [art. 3\(3\)](#) (subject to transitional provisions in [art. 4](#) and S.I. 2002/1493, [art. 4](#)); S.I. 2002/920, [art. 3\(3\)\(d\)](#) (with transitional provisions in [Schs. 1-3](#) and [art. 3\(4\)-\(10\)](#))
- F45** S. 64(1A) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 12\(7\)\(b\)](#), 56 (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(b\)](#) (with [art. 3](#), [Sch.](#))
- F46** S. 64(1B)(1C) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 28\(9\)](#), 56 (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(g\)](#) (with [art. 3](#), [Sch.](#))
- F47** S. 64(3) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 6\(3\)](#), 56 (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(b\)](#) (with [art. 3](#), [Sch.](#))

**Changes to legislation:**

Mental Health Act 1983, Part IV is up to date with all changes known to be in force on or before 07 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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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\(3\)](#)