



Mental Health Act 1983

1983 CHAPTER 20

PART V

MENTAL HEALTH REVIEW TRIBUNALS

Applications and references concerning Part II patients

66 Applications to tribunals.

(1) Where—

- (a) a patient is admitted to a hospital in pursuance of an application for admission for assessment; or
- (b) a patient is admitted to a hospital in pursuance of an application for admission for treatment; or
- (c) a patient is received into guardianship in pursuance of a guardianship application; or
- [^{F1}(ca) a community treatment order is made in respect of a patient; or
- (cb) a community treatment order is revoked under section 17F above in respect of a patient; or]
- (d) ^{F2}
- (e) a patient is transferred from guardianship to a hospital in pursuance of regulations made under section 19 above; or
- (f) a report is furnished under section 20 above in respect of a patient and the patient is not discharged [^{F3}under section 23 above] ; or
- [^{F4}(fza) a report is furnished under section 20A above in respect of a patient and the patient is not discharged under section 23 above; or]
- [^{F5}(fa) a report is furnished under subsection (2) of section 21B above in respect of a patient and subsection (5) of that section applies (or subsections (5) and (6) (b) of that section apply) in the case of the report; or]
- [^{F6}(faa) a report is furnished under subsection (2) of section 21B above in respect of a community patient and subsection (6A) of that section applies (or subsections (6A) and (6B)(b) of that section apply) in the case of the report; or]

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- (fb) ^{F7}
- (g) a report is furnished under section 25 above in respect of a patient who is detained in pursuance of an application for admission for treatment [^{F8}or a community patient] ; or
- (ga) ^{F9}
- (gb) ^{F9}
- (gc) ^{F9}
- (h) an order is made under section 29 above [^{F10}on the ground specified in paragraph (c) or (d) of subsection (3) of that section] in respect of a patient who is or subsequently becomes liable to be detained or subject to guardianship under Part II of this Act [^{F11}or who is a community patient] ,
an application may be made to [^{F12}the appropriate tribunal] within the relevant period—
- (i) by the patient (except in the cases mentioned in paragraphs (g) and (h) above
^{F13}
- (ii) in the cases mentioned in paragraphs (g) and (h) above, by his nearest relative.
- (2) In subsection (1) above “the relevant period” means—
- (a) in the case mentioned in paragraph (a) of that subsection, 14 days beginning with the day on which the patient is admitted as so mentioned;
- (b) in the case mentioned in paragraph (b) of that subsection, six months beginning with the day on which the patient is admitted as so mentioned;
- (c) in the [^{F14}case mentioned in paragraph (c)] of that subsection, six months beginning with the day on which the application is accepted;
- [^{F15}(ca) in the case mentioned in paragraph (ca) of that subsection, six months beginning with the day on which the community treatment order is made;
- (cb) in the case mentioned in paragraph (cb) of that subsection, six months beginning with the day on which the community treatment order is revoked;]
- (d) [^{F16}in the case mentioned in paragraph (g)]^{F17} . . . of that subsection, 28 days beginning with the day on which the applicant is informed that the report has been furnished;
- (e) in the case mentioned in paragraph (e) of that subsection, six months beginning with the day on which the patient is transferred;
- (f) in the case mentioned in paragraph (f) [^{F18}or (fa) of that subsection, the period or periods] for which authority for the patient’s detention or guardianship is renewed by virtue of the report;
- [^{F19}(fza) in the cases mentioned in paragraphs (fza) and (faa) of that subsection, the period or periods for which the community treatment period is extended by virtue of the report;]
- (fa) ^{F20}
- (g) in the case mentioned in paragraph (h) of that subsection, 12 months beginning with the date of the order, and in any subsequent period of 12 months during which the order continues in force.
- [^{F21}(2A) Nothing in subsection (1)(b) above entitles a community patient to make an application by virtue of that provision even if he is admitted to a hospital on being recalled there under section 17E above.]
- (3) Section 32 above shall apply for the purposes of this section as it applies for the purposes of Part II of this Act.

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[^{F22}(4) In this Act “the appropriate tribunal” means the First-tier Tribunal or the Mental Health Review Tribunal for Wales.

(5) For provision determining to which of those tribunals applications by or in respect of a patient under this Act shall be made, see section 77(3) and (4) below.]

Textual Amendments

- F1** S. 66(1)(ca)(cb) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, **Sch. 3 para. 18(2)(a)** (with Sch. 10); S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)
- F2** S. 66(1)(d) and word "or" at end of paragraph 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.)
- F3** Words in s. 66(1)(f) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, **Sch. 3 para. 18(2)(b)** (with Sch. 10); S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)
- F4** S. 66(1)(fza) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, **Sch. 3 para. 18(2)(c)** (with Sch. 10); S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)
- F5** S. 66(1)(fa)(fb) inserted (1.4.1996) by 1995 c. 52, **ss. 2(6)(a)**, 7(2)
- F6** S. 66(1)(faa) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, **Sch. 3 para. 18(2)(d)** (with Sch. 10); S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)
- F7** S. 66(1)(fb) and word "or" at end of paragraph repealed (3.11.2005) 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.)
- F8** Words in s. 66(1)(g) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, **Sch. 3 para. 18(2)(e)** (with Sch. 10); S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)
- F9** S. 66(1)(ga)(gb)(gc) and the word "or" at the end of each paragraph repealed (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 55, 56, **Sch. 11 Pt. 5** (with Sch. 10); S.I. 2008/1210, **art. 2(d)** (with art. 4)
- F10** Words in s. 66(1)(h) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 25, 56** (with Sch. 10); S.I. 2008/1900, **art. 2(f)** (with art. 3, Sch.)
- F11** Words in S. 66(1)(h) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, **Sch. 3 para. 18(2)(f)** (with Sch. 10); S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)
- F12** Words in s. 66(1) substituted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 6, **Sch. 3 para. 46(a)**
- F13** Words in s. 66(1)(i) repealed (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 55, 56, **Sch. 11 Pt. 5** (with Sch. 10); S.I. 2008/1210, **art. 2(d)** (with art. 4)
- F14** Words in s. 66(2)(c) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 36(3)**, 56 (with Sch. 10); S.I. 2008/1210, **art. 2(e)** (with art. 4)
- F15** S. 66(2)(ca)(cb) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, **Sch. 3 para. 18(3)(a)** (with Sch. 10); S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)
- F16** Words in s. 66(2)(d) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 1, 56, **Sch. 1 para. 13** (with Sch. 10); S.I. 2008/1210, **art. 2(a)** (with art. 4)
- F17** Words in s. 66(2)(d) repealed (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 55, 56, **Sch. 11 Pt. 5** (with Sch. 10); S.I. 2008/1210, **art. 2(d)** (with art. 4)
- F18** Words in s. 66(2)(f) substituted (1.4.1996) by 1995 c. 52, **ss. 2(6)(b)**, 7(2),
- F19** S. 66(2)(fza) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, **Sch. 3 para. 18(3)(b)** (with Sch. 10); S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)
- F20** S. 66(2)(fa) repealed (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 55, 56, **Sch. 11 Pt. 5** (with Sch. 10); S.I. 2008/1210, **art. 2(d)** (with art. 4)
- F21** S. 66(2A) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, **Sch. 3 para. 18(4)** (with Sch. 10); S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)
- F22** S. 66(4)(5) inserted (3.11.2008) by The Transfer of Tribunal Functions Order 2008 (S.I. 2008/2833), art. 6, **Sch. 3 para. 46(b)**

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Modifications etc. (not altering text)

- C1** S. 66 modified (3.11.2008) by [The Mental Health Act 2007 \(Commencement No. 6 and After-care under Supervision: Savings, Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/1210\)](#), [art. 6\(f\)](#)

67 References to tribunals by Secretary of State concerning Part II patients.

- (1) The Secretary of State may, if he thinks fit, at any time refer to [^{F23}the appropriate tribunal] the case of any patient who is liable to be detained or subject to guardianship [^{F24} . . . under Part II of this Act [^{F25}or of any community patient] .
- (2) For the purpose of furnishing information for the purposes of a reference under subsection (1) above any registered medical practitioner [^{F26}or approved clinician] authorised by or on behalf of the patient may, at any reasonable time, visit the patient and examine him in private and require the production of and inspect any records relating to the detention or treatment of the patient in any hospital [^{F27}or to any after-care services provided for the patient under section 117 below].
- (3) Section 32 above shall apply for the purposes of this section as it applies for the purposes of Part II of this Act.

Textual Amendments

- F23** Words in s. 67(1) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), [art. 6](#), [Sch. 3 para. 47](#)
- F24** Words in s. 67(1) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 55, 56](#), [Sch. 11 Pt. 5](#) (with [Sch. 10](#)); [S.I. 2008/1210](#), [art. 2\(d\)](#) (with [art. 4](#))
- F25** Words in s. 67(1) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 32, 56](#), [Sch. 3 para. 19](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(i\)](#) (with [art. 3](#), [Sch.](#))
- F26** Words in s. 67(2) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 13\(2\)\(a\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(b\)](#) (with [art. 3](#), [Sch.](#))
- F27** Words in s. 67(2) inserted (1.4.1996) by [1995 c. 52](#), [ss. 1\(2\), 7\(2\)](#), [Sch. 1](#), [para. 8\(3\)](#)

Modifications etc. (not altering text)

- C2** S. 67(1) modified (3.11.2008) by [The Mental Health Act 2007 \(Commencement No. 6 and After-care under Supervision: Savings, Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/1210\)](#), [art. 6\(g\)](#)

[^{F28}68 Duty of managers of hospitals to refer cases to tribunal.

- (1) This section applies in respect of the following patients—
 - (a) a patient who is admitted to a hospital in pursuance of an application for admission for assessment;
 - (b) a patient who is admitted to a hospital in pursuance of an application for admission for treatment;
 - (c) a community patient;
 - (d) a patient whose community treatment order is revoked under section 17F above;
 - (e) a patient who is transferred from guardianship to a hospital in pursuance of regulations made under section 19 above.

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- (2) On expiry of the period of six months beginning with the applicable day, the managers of the hospital shall refer the patient's case to [^{F29}the appropriate tribunal].
- (3) But they shall not do so if during that period—
 - (a) any right has been exercised by or in respect of the patient by virtue of any of paragraphs (b), (ca), (cb), (e), (g) and (h) of section 66(1) above;
 - (b) a reference has been made in respect of the patient under section 67(1) above, not being a reference made while the patient is or was liable to be detained in pursuance of an application for admission for assessment; or
 - (c) a reference has been made in respect of the patient under subsection (7) below.
- (4) A person who applies to a tribunal but subsequently withdraws his application shall be treated for these purposes as not having exercised his right to apply, and if he withdraws his application on a date after expiry of the period mentioned in subsection (2) above, the managers shall refer the patient's case as soon as possible after that date.
- (5) In subsection (2) above, “the applicable day” means—
 - (a) in the case of a patient who is admitted to a hospital in pursuance of an application for admission for assessment, the day on which the patient was so admitted;
 - (b) in the case of a patient who is admitted to a hospital in pursuance of an application for admission for treatment—
 - (i) the day on which the patient was so admitted; or
 - (ii) if, when he was so admitted, he was already liable to be detained in pursuance of an application for admission for assessment, the day on which he was originally admitted in pursuance of the application for admission for assessment;
 - (c) in the case of a community patient or a patient whose community treatment order is revoked under section 17F above, the day mentioned in subparagraph (i) or (ii), as the case may be, of paragraph (b) above;
 - (d) in the case of a patient who is transferred from guardianship to a hospital, the day on which he was so transferred.
- (6) The managers of the hospital shall also refer the patient's case to [^{F30}the appropriate tribunal] if a period of more than three years (or, if the patient has not attained the age of 18 years, one year) has elapsed since his case was last considered by such a tribunal, whether on his own application or otherwise.
- (7) If, in the case of a community patient, the community treatment order is revoked under section 17F above, the managers of the hospital shall also refer the patient's case to [^{F31}the appropriate tribunal] as soon as possible after the order is revoked.
- (8) For the purposes of furnishing information for the purposes of a reference under this section, a registered medical practitioner or approved clinician authorised by or on behalf of the patient may at any reasonable time—
 - (a) visit and examine the patient in private; and
 - (b) require the production of and inspect any records relating to the detention or treatment of the patient in any hospital or any after-care services provided for him under section 117 below.
- (9) Reference in this section to the managers of the hospital—

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- (a) in relation to a community patient, is to the managers of the responsible hospital;
- (b) in relation to any other patient, is to the managers of the hospital in which he is liable to be detained.]

Textual Amendments

- F28** Ss. 68, 68A substituted (3.11.2008) for s. 68 by [Mental Health Act 2007 \(c. 12\)](#), **ss. 37(3)**, 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(1)** (with [art. 3](#), [Sch.](#))
- F29** Words in s. 68(2) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), [art. 6](#), **Sch. 3 para. 48**
- F30** Words in s. 68(6) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), [art. 6](#), **Sch. 3 para. 48**
- F31** Words in s. 68(7) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), [art. 6](#), **Sch. 3 para. 48**

[^{F32}68A Power to reduce periods under section 68

- (1) The appropriate national authority may from time to time by order amend subsection (2) or (6) of section 68 above so as to substitute for a period mentioned there such shorter period as is specified in the order.
- (2) The order may include such transitional, consequential, incidental or supplemental provision as the appropriate national authority thinks fit.
- (3) The order may, in particular, make provision for a case where—
 - (a) a patient in respect of whom subsection (1) of section 68 above applies is, or is about to be, transferred from England to Wales or from Wales to England; and
 - (b) the period by reference to which subsection (2) or (6) of that section operates for the purposes of the patient's case is not the same in one territory as it is in the other.
- (4) A patient is transferred from one territory to the other if—
 - (a) he is transferred from a hospital, or from guardianship, in one territory to a hospital in the other in pursuance of regulations made under section 19 above;
 - (b) he is removed under subsection (3) of that section from a hospital or accommodation in one territory to a hospital or accommodation in the other;
 - (c) he is a community patient responsibility for whom is assigned from a hospital in one territory to a hospital in the other in pursuance of regulations made under section 19A above;
 - (d) on the revocation of a community treatment order in respect of him under section 17F above he is detained in a hospital in the territory other than the one in which the responsible hospital was situated; or
 - (e) he is transferred or removed under section 123 below from a hospital in one territory to a hospital in the other.
- (5) Provision made by virtue of subsection (3) above may require or authorise the managers of a hospital determined in accordance with the order to refer the patient's case to [^{F33}the appropriate tribunal].
- (6) In so far as making provision by virtue of subsection (3) above, the order—
 - (a) may make different provision for different cases;

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- (b) may make provision which applies subject to specified exceptions.
- (7) Where the appropriate national authority for one territory makes an order under subsection (1) above, the appropriate national authority for the other territory may by order make such provision in consequence of the order as it thinks fit.
- (8) An order made under subsection (7) above may, in particular, make provision for a case within subsection (3) above (and subsections (4) to (6) above shall apply accordingly).
- (9) In this section, “the appropriate national authority” means—
 - (a) in relation to a hospital in England, the Secretary of State;
 - (b) in relation to a hospital in Wales, the Welsh Ministers.]

Textual Amendments

- F32** Ss. 68, 68A substituted (3.11.2008) for s. 68 by [Mental Health Act 2007 \(c. 12\)](#), **ss. 37(3)**, 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(1)** (with [art. 3](#), [Sch.](#))
- F33** Words in s. 68A(5) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), [art. 6](#), **Sch. 3 para. 49**

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