



# Mental Health Act 1983

## 1983 CHAPTER 20

### PART V

#### MENTAL HEALTH REVIEW TRIBUNALS

##### *Applications and references concerning Part III patients*

#### **69 Applications to tribunals concerning patients subject to hospital and guardianship orders**

- (1) Without prejudice to any provision of section 66(1) above as applied by section 40(4) above, an application to a Mental Health Review Tribunal may also be made—
  - (a) in respect of a patient admitted to a hospital in pursuance of a hospital order, by the nearest relative of the patient in the period between the expiration of six months and the expiration of 12 months beginning with the date of the order and in any subsequent period of 12 months; and
  - (b) in respect of a patient placed under guardianship by a guardianship order—
    - (i) by the patient, within the period of six months beginning with the date of the order;
    - (ii) by the nearest relative of the patient, within the period of 12 months beginning with the date of the order and in any subsequent period of 12 months.
- (2) Where a person detained in a hospital—
  - (a) is treated as subject to a hospital order or transfer direction by virtue of section 41(5) above, 82(2) or 85(2) below, section 73(2) of the Mental Health (Scotland) Act 1960 or section 5(1) of the Criminal Procedure (Insanity) Act 1964 ; or
  - (b) is subject to a direction having the same effect as a hospital order by virtue of section 46(3), 47(3) or 48(3) above,

then, without prejudice to any provision of Part II of this Act as applied by section 40 above, that person may make an application to a Mental Health Review Tribunal in the period of six months beginning with the date of the order or direction mentioned

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*Status: This is the original version (as it was originally enacted).*

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in paragraph (a) above or, as the case may be, the date of the direction mentioned in paragraph (b) above.

#### **70 Applications to tribunals concerning restricted patients**

A patient who is a restricted patient within the meaning of section 79 below and is detained in a hospital may apply to a Mental Health Review Tribunal—

- (a) in the period between the expiration of six months and the expiration of 12 months beginning with the date of the relevant hospital order or transfer direction; and
- (b) in any subsequent period of 12 months.

#### **71 References by Secretary of State concerning restricted patients**

- (1) The Secretary of State may at any time refer the case of a restricted patient to a Mental Health Review Tribunal.
- (2) The Secretary of State shall refer to a Mental Health Review Tribunal the case of any restricted patient detained in a hospital whose case has not been considered by such a tribunal, whether on his own application or otherwise, within the last three years.
- (3) The Secretary of State may by order vary the length of the period mentioned in subsection (2) above.
- (4) Any reference under subsection (1) above in respect of a patient who has been conditionally discharged and not recalled to hospital shall be made to the tribunal for the area in which the patient resides.
- (5) Where a person who is treated as subject to a hospital order and a restriction order by virtue of an order under section 5(1) of the Criminal Procedure (Insanity) Act 1964 does not exercise his right to apply to a Mental Health Review Tribunal in the period of six months beginning with the date of that order, the Secretary of State shall at the expiration of that period refer his case to a tribunal.
- (6) For the purposes of subsection (5) above a person who applies to a tribunal but subsequently withdraws his application shall be treated as not having exercised his right to apply, and where a patient withdraws his application on a date after the expiration of the period there mentioned the Secretary of State shall refer his case as soon as possible after that date.