

**Changes to legislation:** Mental Health Act 1983, Part II is up to date with all changes known to be in force on or before 07 November 2023. 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. (See end of Document for details) View outstanding changes

## SCHEDULES

### SCHEDULE 1

#### APPLICATION OF CERTAIN PROVISIONS TO PATIENTS SUBJECT TO HOSPITAL AND GUARDIANSHIP ORDERS

#### PART II

##### PATIENTS SUBJECT TO SPECIAL RESTRICTIONS

1 Sections <sup>F1</sup>... 32 and 76 shall apply in relation to the patient without modification.

##### Textual Amendments

**F1** Words in Sch. 1 Pt. 2 para. 1 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 39(3)(b); [S.I. 2012/1319](#), [art. 2\(3\)](#)

2 Sections [<sup>F2</sup>17, 18, 19], 22, 23 and 34 shall apply in relation to the patient with the modifications specified in paragraphs 3 to 8 below.

##### Textual Amendments

**F2** Words in [Sch. 1 Pt. 2 para. 2](#) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 32, 56, [Sch. 3 para. 37\(2\)](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(i\)](#) (with [art. 3](#), [Sch.](#))

3 In section 17—

(a) in subsection (1) after the word “may” there shall be inserted the words “with the consent of the Secretary of State”;

[<sup>F3</sup>(aa) subsections (2A) and (2B) shall be omitted;]

(b) in subsection (4) after the words [<sup>F4</sup>“the responsible clinician” and after the words “that clinician”] there shall be inserted the words “or the Secretary of State”; and

(c) in subsection (5) after the word “recalled” there shall be inserted the words [<sup>F5</sup>“by the responsible clinician”], and for the words from “he has ceased” to the end of the subsection there shall be substituted the words “the expiration of the period of [<sup>F6</sup>twelve] months beginning with the first day of his absence on leave”.

##### Textual Amendments

**F3** [Sch. 1 Pt. 2 para. 3\(aa\)](#) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 33(3), 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(j\)](#) (with [art. 3](#), [Sch.](#))

**F4** Words in [Sch. 1 Pt. 2 para. 3\(b\)](#) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 11(8)(a), 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(b\)](#) (with [art. 3](#), [Sch.](#))

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- F5** Words in **Sch. 1 Pt. 2 para. 3(c)** substituted (3.11.2008) by **Mental Health Act 2007 (c. 12), ss. 11(8)(b), 56** (with **Sch. 10**); **S.I. 2008/1900, art. 2(b)** (with **art. 3, Sch.**)
- F6** Words in **Sch. 1, Pt. II, para. 3(c)** substituted (1.4.1996 with application as mentioned in s. 3(3) of substituting Act) by **1995 c. 52, ss. 3(2)(3), 7(2)**

- 4 In section 18 there shall be omitted—
- (a) in subsection (1) the words “subject to the provisions of this section”; and
  - (b) subsections (3), (4) and (5).
- 5 In section 19—
- (a) in subsection (1) after the word “may” in paragraph (a) there shall be inserted the words “with the consent of the Secretary of State”, and the words from “or into” to the end of the subsection shall be omitted;<sup>F7</sup> . . .
  - (b) in subsection (2) for the words from “as follows” to the end of the subsection there shall be substituted the words “as if the order or direction under Part III of this Act by virtue of which he was liable to be detained before being transferred were an order or direction for his admission or removal to the hospital to which he is transferred”; <sup>F8</sup>and
  - (c) in subsection (3) after the words “may at any time” there shall be inserted the words “, with the consent of the Secretary of State,.”]

#### Textual Amendments

- F7** Words in **Sch. 1 Pt. II** immediately following para. 5(a) repealed (1.10.1997) by **1997 c. 43, ss. 49(4) (a), 56(2), Sch. 6; S.I. 1997/2200, art. 2**
- F8** **Sch. 1 Pt. II para. 5(c)** and the word “and” immediately preceding it inserted (1.10.1997) by **1997 c. 43, s. 49(4)(b); S.I. 1997/2200, art. 2**

- <sup>F9</sup>6 In section 22, subsections (1) and (5) shall not apply.]

#### Textual Amendments

- F9** **Sch. 1 Pt. 2 para. 6** substituted (3.11.2008) by **Mental Health Act 2007 (c. 12), ss. 32, 56, Sch. 3 para. 37(3)** (with **Sch. 10**); **S.I. 2008/1900, art. 2(i)** (with **art. 3, Sch.**)

- 7 In section 23—
- (a) in subsection (1) references to guardianship shall be omitted and after the word “made” there shall be inserted the words “with the consent of the Secretary of State and” and
  - (b) in subsection (2)—
    - (i) in paragraph (a) the words “for assessment or” and “or by the nearest relative of the patient” shall be omitted; and
    - (ii) paragraph (b) shall be omitted.
- 8 In section 34, in subsection (1) the definition of “the nominated medical attendant” and subsection (3) shall be omitted.

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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\(3\)](#)