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*Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 2007, Cross Heading: Independent mental health advocates. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 10

#### TRANSITIONAL PROVISIONS AND SAVINGS

##### *Independent mental health advocates*

- 8 (1) Section 30—
- (a) applies to a patient who is liable to be detained under the 1983 Act immediately before the commencement date as it applies to a patient who becomes so liable on or after that date;
  - (b) applies to a patient who is subject to guardianship under that Act immediately before the commencement date as it applies to a patient who becomes so subject on or after that date;
  - (c) applies to a patient who is a community patient under that Act immediately before the commencement date as it applies to a patient who becomes a community patient on or after that date.
- (2) For the purposes of the provisions inserted by that section, a patient is to be treated as a qualifying patient within section 130C(3) of the 1983 Act if—
- (a) not being a formal patient, he discussed before the commencement date with a registered medical practitioner or approved clinician the possibility of being given a form of treatment to which section 57 of that Act applies, and
  - (b) sub-paragraph (4) or (5) applies in relation to him.
- (3) A patient is also to be treated for those purposes as a qualifying patient within section 130C(3) of the 1983 Act if—
- (a) not having attained the age of 18 years and not being a formal patient, he discussed before the commencement date with a registered medical practitioner or approved clinician the possibility of being given a form of treatment to which section 58A of that Act applies, and
  - (b) sub-paragraph (4) or (5) applies in relation to him.
- (4) This sub-paragraph applies in relation to the patient if, immediately before the commencement date, he has yet to be informed whether or not the treatment is proposed in his case.
- (5) This sub-paragraph applies in relation to the patient if, immediately before the commencement date—
- (a) he has been informed that the treatment is proposed in his case,
  - (b) the proposal has not been withdrawn, and
  - (c) the treatment has not been completed or discontinued.
- (6) A qualifying patient in relation to whom sub-paragraph (4) applies and who is informed on or after the commencement date that the treatment is proposed in his case, or in relation to whom sub-paragraph (5) applies, remains a qualifying patient until—

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- (a) the proposal is withdrawn, or
  - (b) the treatment is completed or discontinued.
- (7) In relation to a patient who is a qualifying patient within section 130C(3) of the 1983 Act by virtue of this paragraph, the responsible person under section 130D of that Act is to be the person with overall responsibility for the patient's case (and subsection (2) (e) of that section is to be read accordingly).
- (8) Sub-paragraph (9) applies in relation to a patient—
  - (a) who is a qualifying patient within section 130C(2) of the 1983 Act by virtue of being a formal patient immediately before the commencement date, or
  - (b) who is a qualifying patient within section 130C(3) of that Act by virtue of this paragraph.
- (9) The steps to be taken under subsection (1) of section 130D of that Act are to be taken on, or as soon as practicable after, the commencement date (and subsection (3) of that section is to be read accordingly).
- (10) In this paragraph—
  - “approved clinician” has the same meaning as in the 1983 Act,
  - “the commencement date” means the date on which section 30 comes into force, and
  - “formal patient” means a patient who is—
    - (a) liable to be detained under the 1983 Act (otherwise than by virtue of section 4, 5(2) or (4), 135 or 136 of that Act),
    - (b) subject to guardianship under that Act, or
    - (c) a community patient under that Act.

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