

SCHEDULES

SCHEDULE 3

SUPERVISED COMMUNITY TREATMENT: FURTHER AMENDMENTS TO 1983 ACT

Applications and references to Mental Health Review Tribunal

- 18 (1) Section 66 (applications to tribunals) is amended as follows.
- (2) In subsection (1)—
- (a) after paragraph (c) insert—
 - “(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”
 - (b) in paragraph (f), after “discharged” insert “ under section 23 above ”,
 - (c) after that paragraph insert—
 - “(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”
 - (d) after paragraph (fa) insert—
 - “(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”
 - (e) in paragraph (g), after “treatment” insert “ or a community patient ”, and
 - (f) in paragraph (h), after “this Act” insert “ or who is a community patient ”.
- (3) In subsection (2)—
- (a) after paragraph (c) insert—
 - “(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;”, and
 - (b) after paragraph (f) insert—
 - “(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;”.
- (4) After subsection (2) insert—

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“(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.”

19 In section 67 (references to tribunals by Secretary of State concerning Part 2 patients), in subsection (1), at the end insert “ or of any community patient ”.

20 In section 69 (applications to tribunals concerning patients subject to hospital and guardianship orders)—

(a) in subsection (1), for paragraph (a) substitute—

“(a) in respect of a patient liable to be detained in pursuance of a hospital order or a community patient who was so liable immediately before he became a community patient, by the nearest relative of the patient in any period in which an application may be made by the patient under any such provision as so applied;”,

(b) in subsection (2)(b), omit the words “45B(2), 46(3),”, and

(c) after subsection (2) insert—

“(3) The provisions of section 66 above as applied by section 40(4) above are subject to subsection (4) below.

(4) If the initial detention period has not elapsed when the relevant application period begins, the right of a hospital order patient to make an application by virtue of paragraph (ca) or (cb) of section 66(1) above shall be exercisable only during whatever remains of the relevant application period after the initial detention period has elapsed.

(5) In subsection (4) above—

(a) “hospital order patient” means a patient who is subject to a hospital order, excluding a patient of a kind mentioned in paragraph (a) or (b) of subsection (2) above;

(b) “the initial detention period”, in relation to a hospital order patient, means the period of six months beginning with the date of the hospital order; and

(c) “the relevant application period” means the relevant period mentioned in paragraph (ca) or (cb), as the case may be, of section 66(2) above.”

21 (1) Section 72 (powers of tribunals) is amended as follows.

(2) In subsection (1)—

(a) after “this Act” insert “ or is a community patient ”, and

(b) after paragraph (b) insert—

“(c) the tribunal shall direct the discharge of a community patient if they are not satisfied—

(i) that he is then suffering from mental disorder or mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment; or

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- (ii) that it is necessary for his health or safety or for the protection of other persons that he should receive such treatment; or
- (iii) that it is necessary that the responsible clinician should be able to exercise the power under section 17E(1) above to recall the patient to hospital; or
- (iv) that appropriate medical treatment is available for him; or
- (v) in the case of an application by virtue of paragraph (g) of section 66(1) above, that the patient, if discharged, would be likely to act in a manner dangerous to other persons or to himself.”

(3) After subsection (1) insert—

“(1A) In determining whether the criterion in subsection (1)(c)(iii) above is met, the tribunal shall, in particular, consider, having regard to the patient's history of mental disorder and any other relevant factors, what risk there would be of a deterioration of the patient's condition if he were to continue not to be detained in a hospital (as a result, for example, of his refusing or neglecting to receive the medical treatment he requires for his mental disorder).”

(4) For subsection (3A) substitute—

“(3A) Subsection (1) above does not require a tribunal to direct the discharge of a patient just because they think it might be appropriate for the patient to be discharged (subject to the possibility of recall) under a community treatment order; and a tribunal—

- (a) may recommend that the responsible clinician consider whether to make a community treatment order; and
- (b) may (but need not) further consider the patient's case if the responsible clinician does not make an order.”

Commencement Information

- II** Sch. 3 para. 21 not in force at Royal Assent see s. 56(1); Sch. 3 para. 21(4) in force at 3.11.2008 by S.I. 2008/1210, arts. 1(1)(b), 2(b) (with art. 4); Sch. 3 in force insofar as not already in force at 3.11.2008 by S.I. 2008/1900, arts. 1(1), 2(i) (with art. 3, Sch.)

- 22 In section 76 (visiting and examination of patients), in subsection (1), after “this Act” insert “ or a community patient, ”.
- 23 In section 77 (general provisions concerning tribunal applications), in subsection (3) for the words from “to the tribunal” to the end substitute—
- “(a) in the case of a patient who is liable to be detained in a hospital, to the tribunal for the area in which that hospital is situated;
 - (b) in the case of a community patient, to the tribunal for the area in which the responsible hospital is situated;
 - (c) in the case of a patient subject to guardianship, to the tribunal for the area in which the patient is residing.”

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Commencement Information

- I2** [Sch. 3 para. 23](#) not in force at Royal Assent see [s. 56\(1\)](#); [Sch. 3 para. 23](#) in force at 3.11.2008 by [S.I. 2008/1210](#), arts. 1(1)(b), **2(b)** (with art. 4)

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