



# Mental Health Act 2007

## 2007 CHAPTER 12

### PART 1

#### AMENDMENTS TO MENTAL HEALTH ACT 1983

### CHAPTER 3

#### SAFEGUARDS FOR PATIENTS

##### *Patient's nearest relative*

## **24 Discharge and variation of orders appointing nearest relative**

- (1) Section 30 of the 1983 Act (discharge and variation of orders under section 29) is amended as follows.
- (2) In subsection (1)—
  - (a) in paragraph (a), after “in any case, by” insert “ the patient or ”, and
  - (b) in paragraph (b), for “or paragraph (b)” substitute “ , (b) or (e) ”.
- (3) After that subsection insert—

“(1A) But, in the case of an order made on the ground specified in paragraph (e) of section 29(3) above, an application may not be made under subsection (1)(b) above by the person who was the nearest relative of the patient when the order was made except with leave of the county court.”
- (4) In subsection (2)—
  - (a) after “or on the application of” insert “ the patient or of ”, and
  - (b) for the words from “for the first-mentioned person” to the end substitute “ another person for the person having those functions ”.
- (5) After that subsection insert—

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**Changes to legislation:** There are currently no known outstanding effects for the Mental Health Act 2007, Section 24. (See end of Document for details)

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- “(2A) If the court decides to vary an order on an application under subsection (2) above, the following rules have effect for the purposes of substituting another person—
- (a) if a person is nominated in the application to act as the patient's nearest relative and that person is, in the opinion of the court, a suitable person to act as such and is willing to do so, the court shall specify that person (or, if there are two or more such persons, such one of them as the court thinks fit);
  - (b) otherwise, the court shall specify such person as is, in its opinion, a suitable person to act as the patient's nearest relative and is willing to do so.”
- (6) In subsection (4), for the words from “An order under” to “period is specified” substitute “ An order made on the ground specified in paragraph (c) or (d) of section 29(3) above shall, unless previously discharged under subsection (1) above, cease to have effect as follows ”.
- (7) After subsection (4A) (inserted by Schedule 3 to this Act) insert—
- “(4B) An order made on the ground specified in paragraph (a), (b) or (e) of section 29(3) above shall—
- (a) if a period was specified under section 29(5) above, cease to have effect on expiry of that period, unless previously discharged under subsection (1) above;
  - (b) if no such period was specified, remain in force until it is discharged under subsection (1) above.”

**Changes to legislation:**

There are currently no known outstanding effects for the Mental Health Act 2007, Section 24.