



# Mental Health Act 2007

## 2007 CHAPTER 12

### PART 1

#### AMENDMENTS TO MENTAL HEALTH ACT 1983

### CHAPTER 4

#### SUPERVISED COMMUNITY TREATMENT

#### **34 Consent to treatment**

- (1) Part 4 of the 1983 Act (consent to treatment) is amended as follows.
- (2) For section 56 substitute—

#### **“56 Patients to whom Part 4 applies**

- (1) Section 57 and, so far as relevant to that section, sections 59 to 62 below apply to any patient.
- (2) Subject to that and to subsection (5) below, this Part of this Act applies to a patient only if he falls within subsection (3) or (4) below.
- (3) A patient falls within this subsection if he is liable to be detained under this Act but not if—
  - (a) he is so liable by virtue of an emergency application and the second medical recommendation referred to in section 4(4)(a) above has not been given and received;
  - (b) he is so liable by virtue of section 5(2) or (4) or 35 above or section 135 or 136 below or by virtue of a direction for his detention in a place of safety under section 37(4) or 45A(5) above; or
  - (c) he has been conditionally discharged under section 42(2) above or section 73 or 74 below and he is not recalled to hospital.

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*Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 2007, Section 34. (See end of Document for details)*

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- (4) A patient falls within this subsection if—
  - (a) he is a community patient; and
  - (b) he is recalled to hospital under section 17E above.
- (5) Section 58A and, so far as relevant to that section, sections 59 to 62 below also apply to any patient who—
  - (a) does not fall within subsection (3) above;
  - (b) is not a community patient; and
  - (c) has not attained the age of 18 years.”
- (3) In section 61 (review of treatment), in subsection (1)—
  - (a) before “a report on” insert “, or by virtue of section 62A below in accordance with a Part 4A certificate (within the meaning of that section), ”, and
  - (b) in paragraph (a) for “or 21B(2) above renewing the authority for the detention” substitute “, 20A(4) or 21B(2) above in respect ”.
- (4) After section 62 insert—

**“62A Treatment on recall of community patient or revocation of order**

- (1) This section applies where—
  - (a) a community patient is recalled to hospital under section 17E above; or
  - (b) a patient is liable to be detained under this Act following the revocation of a community treatment order under section 17F above in respect of him.
- (2) For the purposes of section 58(1)(b) above, the patient is to be treated as if he had remained liable to be detained since the making of the community treatment order.
- (3) But section 58 above does not apply to treatment given to the patient if—
  - (a) the certificate requirement is met for the purposes of section 64C or 64E below; or
  - (b) as a result of section 64B(4) or 64E(4) below, the certificate requirement would not apply (were the patient a community patient not recalled to hospital under section 17E above).
- (4) Section 58A above does not apply to treatment given to the patient if there is authority to give the treatment, and the certificate requirement is met, for the purposes of section 64C or 64E below.
- (5) In a case where this section applies, the certificate requirement is met only in so far as—
  - (a) the Part 4A certificate expressly provides that it is appropriate for one or more specified forms of treatment to be given to the patient in that case (subject to such conditions as may be specified); or
  - (b) a notice having been given under subsection (5) of section 64H below, treatment is authorised by virtue of subsection (8) of that section.
- (6) Subsection (5)(a) above shall not preclude the continuation of any treatment, or of treatment under any plan, pending compliance with section 58 or 58A

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above if the approved clinician in charge of the treatment considers that the discontinuance of the treatment, or of the treatment under the plan, would cause serious suffering to the patient.

(7) In a case where subsection (1)(b) above applies, subsection (3) above only applies pending compliance with section 58 above.

(8) In subsection (5) above—

“Part 4A certificate” has the meaning given in section 64H below;  
and

“specified”, in relation to a Part 4A certificate, means specified in the certificate.”

**Changes to legislation:**

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