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Mental Health Act 1983

1983 CHAPTER 20

PART II

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Position of patients subject to detention or guardianship

16 Reclassification of patients.

- (1) If in the case of a patient who is for the time being detained in a hospital in pursuance of an application for admission for treatment, or subject to guardianship in pursuance of a guardianship application, it appears to the appropriate medical officer that the patient is suffering from a form of mental disorder other than the form or forms specified in the application, he may furnish to the managers of the hospital, or to the guardian, as the case may be, a report to that effect; and where a report is so furnished, the application shall have effect as if that other form of mental disorder were specified in it.
- (2) Where a report under subsection (1) above in respect of a patient detained in a hospital is to the effect that he is suffering from psychopathic disorder or mental impairment but not from mental illness or severe mental impairment the appropriate medical officer shall include in the report a statement of his opinion whether further medical treatment in hospital is likely to alleviate or prevent a deterioration of the patient's condition; and if he states that in his opinion such treatment is not likely to have that effect the authority of the managers to detain the patient shall cease.
- (3) Before furnishing a report under subsection (1) above the appropriate medical officer shall consult one or more other persons who have been professionally concerned with the patient's medical treatment.
- (4) Where a report is furnished under this section in respect of a patient, the managers or guardian shall cause the patient and the nearest relative to be informed.
- (5) In this section "appropriate medical officer" means—

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- (a) in the case of a patient who is subject to the guardianship of a person other than a local social services authority, the nominated medical attendant of the patient; and
- (b) in any other case, the responsible medical officer.

17 Leave of absence from hospital.

- (1) The responsible medical officer may grant to any patient who is for the time being liable to be detained in a hospital under this Part of this Act leave to be absent from the hospital subject to such conditions (if any) as that officer considers necessary in the interests of the patient or for the protection of other persons.
- (2) Leave of absence may be granted to a patient under this section either indefinitely or on specified occasions or for any specified period; and where leave is so granted for a specified period, that period may be extended by further leave granted in the absence of the patient.
- (3) Where it appears to the responsible medical officer that it is necessary so to do in the interests of the patient or for the protection of other persons, he may, upon granting leave of absence under this section, direct that the patient remain in custody during his absence; and where leave of absence is so granted the patient may be kept in the custody of any officer on the staff of the hospital, or of any other person authorised in writing by the managers of the hospital or, if the patient is required in accordance with conditions imposed on the grant of leave of absence to reside in another hospital, of any officer on the staff of that other hospital.
- (4) In any case where a patient is absent from a hospital in pursuance of leave of absence granted under this section, and it appears to the responsible medical officer that it is necessary so to do in the interests of the patient's health or safety or for the protection of other persons, that officer may, subject to subsection (5) below, by notice in writing given to the patient or to the person for the time being in charge of the patient, revoke the leave of absence and recall the patient to the hospital.
- (5) A patient to whom leave of absence is granted under this section shall not be recalled under subsection (4) above after he has ceased to be liable to be detained under this Part of this Act; and without prejudice to any other provision of this Part of this Act any such patient shall cease to be so liable at the expiration of the period of six months beginning with the first day of his absence on leave unless either—
 - (a) he has returned to the hospital, or has been transferred to another hospital under the following provisions of this Act, before the expiration of that period; or
 - (b) he is absent without leave at the expiration of that period.

VALID FROM 03/11/2008

[^{F1}17A Community treatment orders

- (1) The responsible clinician may by order in writing discharge a detained patient from hospital subject to his being liable to recall in accordance with section 17E below.
- (2) A detained patient is a patient who is liable to be detained in a hospital in pursuance of an application for admission for treatment.

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- (3) An order under subsection (1) above is referred to in this Act as a “community treatment order”.
- (4) The responsible clinician may not make a community treatment order unless—
- (a) in his opinion, the relevant criteria are met; and
 - (b) an approved mental health professional states in writing—
 - (i) that he agrees with that opinion; and
 - (ii) that it is appropriate to make the order.
- (5) The relevant criteria are—
- (a) the patient is suffering from mental disorder of a nature or degree which makes it appropriate for him to receive medical treatment;
 - (b) it is necessary for his health or safety or for the protection of other persons that he should receive such treatment;
 - (c) subject to his being liable to be recalled as mentioned in paragraph (d) below, such treatment can be provided without his continuing to be detained in a hospital;
 - (d) it is necessary that the responsible clinician should be able to exercise the power under section 17E(1) below to recall the patient to hospital; and
 - (e) appropriate medical treatment is available for him.
- (6) In determining whether the criterion in subsection (5)(d) above is met, the responsible clinician 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 not 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).
- (7) In this Act—
- “community patient” means a patient in respect of whom a community treatment order is in force;
 - “the community treatment order”, in relation to such a patient, means the community treatment order in force in respect of him; and
 - “the responsible hospital”, in relation to such a patient, means the hospital in which he was liable to be detained immediately before the community treatment order was made, subject to section 19A below.

Textual Amendments

- F1** Ss. 17A-17G inserted (1.4.2008 s. 17F for certain purposes, otherwise 3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 32(2)**, 56 (with Sch. 10); S.I. 2008/745, **art. 2(c)(i)**; S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)

Modifications etc. (not altering text)

- C1** S. 17A modified (3.11.2008) by [The Mental Health Act 2007 \(Commencement No. 6 and After-care under Supervision: Savings, Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/1210\)](#), **art. 6(b)**
- C2** S. 17A(7) modified (3.11.2008) by [The Mental Health Act 2007 \(Commencement No. 6 and After-care under Supervision: Savings, Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/1210\)](#), **art. 11(a)**

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VALID FROM 03/11/2008

17B Conditions

- (1) A community treatment order shall specify conditions to which the patient is to be subject while the order remains in force.
- (2) But, subject to subsection (3) below, the order may specify conditions only if the responsible clinician, with the agreement of the approved mental health professional mentioned in section 17A(4)(b) above, thinks them necessary or appropriate for one or more of the following purposes—
 - (a) ensuring that the patient receives medical treatment;
 - (b) preventing risk of harm to the patient's health or safety;
 - (c) protecting other persons.
- (3) The order shall specify—
 - (a) a condition that the patient make himself available for examination under section 20A below; and
 - (b) a condition that, if it is proposed to give a certificate under Part 4A of this Act in his case, he make himself available for examination so as to enable the certificate to be given.
- (4) The responsible clinician may from time to time by order in writing vary the conditions specified in a community treatment order.
- (5) He may also suspend any conditions specified in a community treatment order.
- (6) If a community patient fails to comply with a condition specified in the community treatment order by virtue of subsection (2) above, that fact may be taken into account for the purposes of exercising the power of recall under section 17E(1) below.
- (7) But nothing in this section restricts the exercise of that power to cases where there is such a failure.

Textual Amendments

- F1** Ss. 17A-17G inserted (1.4.2008 s. 17F for certain purposes, otherwise 3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 32\(2\), 56](#) (with [Sch. 10](#)); [S.I. 2008/745](#), [art. 2\(c\)\(i\)](#); [S.I. 2008/1900](#), [art. 2\(i\)](#) (with [art. 3, Sch.](#))

Modifications etc. (not altering text)

- C3** [S. 17B\(2\)](#) modified (3.11.2008) by [The Mental Health Act 2007 \(Commencement No. 6 and After-care under Supervision: Savings, Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/1210\)](#), [art. 6\(c\)](#)

VALID FROM 03/11/2008

17C Duration of community treatment order

A community treatment order shall remain in force until—

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- (a) the period mentioned in section 20A(1) below (as extended under any provision of this Act) expires, but this is subject to sections 21 and 22 below;
 - (b) the patient is discharged in pursuance of an order under section 23 below or a direction under section 72 below;
 - (c) the application for admission for treatment in respect of the patient otherwise ceases to have effect; or
 - (d) the order is revoked under section 17F below,
- whichever occurs first.

Textual Amendments

- F1** Ss. 17A-17G inserted (1.4.2008 s. 17F for certain purposes, otherwise 3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 32\(2\)](#), 56 (with [Sch. 10](#)); S.I. 2008/745, [art. 2\(c\)\(i\)](#); S.I. 2008/1900, [art. 2\(i\)](#) (with [art. 3](#), [Sch.](#))

Modifications etc. (not altering text)

- C4** [S. 17C](#) modified (3.11.2008) by [The Mental Health Act 2007 \(Commencement No. 6 and After-care under Supervision: Savings, Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/1210\)](#), [art. 11\(b\)](#)

VALID FROM 03/11/2008

17D Effect of community treatment order

- (1) The application for admission for treatment in respect of a patient shall not cease to have effect by virtue of his becoming a community patient.
- (2) But while he remains a community patient—
 - (a) the authority of the managers to detain him under section 6(2) above in pursuance of that application shall be suspended; and
 - (b) reference (however expressed) in this or any other Act, or in any subordinate legislation (within the meaning of the Interpretation Act 1978), to patients liable to be detained, or detained, under this Act shall not include him.
- (3) And section 20 below shall not apply to him while he remains a community patient.
- (4) Accordingly, authority for his detention shall not expire during any period in which that authority is suspended by virtue of subsection (2)(a) above.

Textual Amendments

- F1** Ss. 17A-17G inserted (1.4.2008 s. 17F for certain purposes, otherwise 3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 32\(2\)](#), 56 (with [Sch. 10](#)); S.I. 2008/745, [art. 2\(c\)\(i\)](#); S.I. 2008/1900, [art. 2\(i\)](#) (with [art. 3](#), [Sch.](#))

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Modifications etc. (not altering text)

- C5** S. 17D modified (3.11.2008) by [The Mental Health Act 2007 \(Commencement No. 6 and After-care under Supervision: Savings, Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/1210\)](#), [art. 11\(c\)](#)

VALID FROM 03/11/2008

17E Power to recall to hospital

- (1) The responsible clinician may recall a community patient to hospital if in his opinion—
 - (a) the patient requires medical treatment in hospital for his mental disorder; and
 - (b) there would be a risk of harm to the health or safety of the patient or to other persons if the patient were not recalled to hospital for that purpose.
- (2) The responsible clinician may also recall a community patient to hospital if the patient fails to comply with a condition specified under section 17B(3) above.
- (3) The hospital to which a patient is recalled need not be the responsible hospital.
- (4) Nothing in this section prevents a patient from being recalled to a hospital even though he is already in the hospital at the time when the power of recall is exercised; references to recalling him shall be construed accordingly.
- (5) The power of recall under subsections (1) and (2) above shall be exercisable by notice in writing to the patient.
- (6) A notice under this section recalling a patient to hospital shall be sufficient authority for the managers of that hospital to detain the patient there in accordance with the provisions of this Act.

Textual Amendments

- F1** Ss. 17A-17G inserted (1.4.2008 s. 17F for certain purposes, otherwise 3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 32\(2\)](#), [56](#) (with [Sch. 10](#)); [S.I. 2008/745](#), [art. 2\(c\)\(i\)](#); [S.I. 2008/1900](#), [art. 2\(i\)](#) (with [art. 3](#), [Sch.](#))

VALID FROM 01/04/2008

17F Powers in respect of recalled patients

- (1) This section applies to a community patient who is detained in a hospital by virtue of a notice recalling him there under section 17E above.
- (2) The patient may be transferred to another hospital in such circumstances and subject to such conditions as may be prescribed in regulations made by the Secretary of State (if the hospital in which the patient is detained is in England) or the Welsh Ministers (if that hospital is in Wales).

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- (3) If he is so transferred to another hospital, he shall be treated for the purposes of this section (and section 17E above) as if the notice under that section were a notice recalling him to that other hospital and as if he had been detained there from the time when his detention in hospital by virtue of the notice first began.
- (4) The responsible clinician may by order in writing revoke the community treatment order if—
 - (a) in his opinion, the conditions mentioned in section 3(2) above are satisfied in respect of the patient; and
 - (b) an approved mental health professional states in writing—
 - (i) that he agrees with that opinion; and
 - (ii) that it is appropriate to revoke the order.
- (5) The responsible clinician may at any time release the patient under this section, but not after the community treatment order has been revoked.
- (6) If the patient has not been released, nor the community treatment order revoked, by the end of the period of 72 hours, he shall then be released.
- (7) But a patient who is released under this section remains subject to the community treatment order.
- (8) In this section—
 - (a) “the period of 72 hours” means the period of 72 hours beginning with the time when the patient's detention in hospital by virtue of the notice under section 17E above begins; and
 - (b) references to being released shall be construed as references to being released from that detention (and accordingly from being recalled to hospital).

Textual Amendments

- F1** Ss. 17A-17G inserted (1.4.2008 s. 17F for certain purposes, otherwise 3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 32\(2\)](#), 56 (with [Sch. 10](#)); S.I. 2008/745, [art. 2\(c\)\(i\)](#); S.I. 2008/1900, [art. 2\(i\)](#) (with art. 3, Sch.)

VALID FROM 03/11/2008

17G Effect of revoking community treatment order

- (1) This section applies if a community treatment order is revoked under section 17F above in respect of a patient.
- (2) Section 6(2) above shall have effect as if the patient had never been discharged from hospital by virtue of the community treatment order.
- (3) The provisions of this or any other Act relating to patients liable to be detained (or detained) in pursuance of an application for admission for treatment shall apply to the patient as they did before the community treatment order was made, unless otherwise provided.

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- (4) If, when the order is revoked, the patient is being detained in a hospital other than the responsible hospital, the provisions of this Part of this Act shall have effect as if—
- (a) the application for admission for treatment in respect of him were an application for admission to that other hospital; and
 - (b) he had been admitted to that other hospital at the time when he was originally admitted in pursuance of the application.
- (5) But, in any case, section 20 below shall have effect as if the patient had been admitted to hospital in pursuance of the application for admission for treatment on the day on which the order is revoked.]

Textual Amendments

- F1** Ss. 17A-17G inserted (1.4.2008 s. 17F for certain purposes, otherwise 3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 32(2), 56** (with [Sch. 10](#)); S.I. 2008/745, **art. 2(c)(i)**; S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)

Modifications etc. (not altering text)

- C6** S. 17G modified (3.11.2008) by [The Mental Health Act 2007 \(Commencement No. 6 and After-care under Supervision: Savings, Modifications and Transitional Provisions\) Order 2008 \(S.I. 2008/1210\)](#), **art. 11(d)**

18 Return and readmission of patients absent without leave.

- (1) Where a patient who is for the time being liable to be detained under this Part of this Act in a hospital—
- (a) absents himself from the hospital without leave granted under section 17 above; or
 - (b) fails to return to the hospital on any occasion on which, or at the expiration of any period for which, leave of absence was granted to him under that section, or upon being recalled under that section; or
 - (c) absents himself without permission from any place where he is required to reside in accordance with conditions imposed on the grant of leave of absence under that section,

he may, subject to the provisions of this section, be taken into custody and returned to the hospital or place by any approved social worker, by any officer on the staff of the hospital, by any constable, or by any person authorised in writing by the managers of the hospital.

- (2) Where the place referred to in paragraph (c) of subsection (1) above is a hospital other than the one in which the patient is for the time being liable to be detained, the references in that subsection to an officer on the staff of the hospital and the managers of the hospital shall respectively include references to an officer on the staff of the first-mentioned hospital and the managers of that hospital.
- (3) Where a patient who is for the time being subject to guardianship under this Part of this Act absents himself without the leave of the guardian from the place at which he is required by the guardian to reside, he may, subject to the provisions of this section, be taken into custody and returned to that place by any officer on the staff of a local

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social services authority, by any constable, or by any person authorised in writing by the guardian or a local social services authority.

- (4) A patient shall not be taken into custody under this section after the expiration of the period of 28 days beginning with the first day of his absence without leave; and a patient who has not returned or been taken into custody under this section within the said period shall cease to be liable to be detained or subject to guardianship, as the case may be, at the expiration of that period.
- (5) A patient shall not be taken into custody under this section if the period for which he is liable to be detained is that specified in section 2(4), 4(4) or 5(2) or (4) above and that period has expired.
- (6) In this Act “absent without leave” means absent from any hospital or other place and liable to be taken into custody and returned under this section, and related expressions shall be construed accordingly.

Extent Information

E1 For extent of s. 18 see [ss. 146, 147](#)

19 Regulations as to transfer of patients.

- (1) In such circumstances and subject to such conditions as may be prescribed by regulations made by the Secretary of State—
 - (a) a patient who is for the time being liable to be detained in a hospital by virtue of an application under this Part of this Act may be transferred to another hospital or into the guardianship of a local social services authority or of any person approved by such an authority;
 - (b) a patient who is for the time being subject to the guardianship of a local social services authority or other person by virtue of an application under this Part of this Act may be transferred into the guardianship of another local social services authority or person, or be transferred to a hospital.
- (2) Where a patient is transferred in pursuance of regulations under this section, the provisions of this Part of this Act (including this subsection) shall apply to him as follows, that is to say—
 - (a) in the case of a patient who is liable to be detained in a hospital by virtue of an application for admission for assessment or for treatment and is transferred to another hospital, as if the application were an application for admission to that other hospital and as if the patient had been admitted to that other hospital at the time when he was originally admitted in pursuance of the application;
 - (b) in the case of a patient who is liable to be detained in a hospital by virtue of such an application and is transferred into guardianship, as if the application were a guardianship application duly accepted at the said time;
 - (c) in the case of a patient who is subject to guardianship by virtue of a guardianship application and is transferred into the guardianship of another authority or person, as if the application were for his reception into the guardianship of that authority or person and had been accepted at the time when it was originally accepted;
 - (d) in the case of a patient who is subject to guardianship by virtue of a guardianship application and is transferred to a hospital, as if the guardianship

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application were an application for admission to that hospital for treatment and as if the patient had been admitted to the hospital at the time when the application was originally accepted.

- (3) Without prejudice to subsections (1) and (2) above, any patient, who is for the time being liable to be detained under this Part of this Act in a hospital vested in the Secretary of State for the purposes of his functions under the^{M1}National Health Service Act 1977 or any accommodation used under Part I of that Act by the managers of such a hospital [^{F2}or in a hospital vested in a National Health Service trust], may at any time be removed to any other such hospital or accommodation [^{F3}which is managed by the managers of, or is vested in the National Health Service trust for, the first-mentioned hospital]; and paragraph (a) of subsection (2) above shall apply in relation to a patient so removed as it applies in relation to a patient transferred in pursuance of regulations made under this section.
- (4) Regulations made under this section may make provision for regulating the conveyance to their destination of patients authorised to be transferred or removed in pursuance of the regulations or under subsection (3) above.

Textual Amendments

- F2** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 66\(1\), Sch. 9 para. 24\(2\)](#)
- F3** Words substituted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 66\(1\), Sch. 9 para. 24\(2\)](#)

Marginal Citations

- M1** 1977 c. 49.

VALID FROM 01/04/2008

[^{F4}19A Regulations as to assignment of responsibility for community patients

- (1) Responsibility for a community patient may be assigned to another hospital in such circumstances and subject to such conditions as may be prescribed by regulations made by the Secretary of State (if the responsible hospital is in England) or the Welsh Ministers (if that hospital is in Wales).
- (2) If responsibility for a community patient is assigned to another hospital—
- (a) the application for admission for treatment in respect of the patient shall have effect (subject to section 17D above) as if it had always specified that other hospital;
 - (b) the patient shall be treated as if he had been admitted to that other hospital at the time when he was originally admitted in pursuance of the application (and as if he had subsequently been discharged under section 17A above from there); and
 - (c) that other hospital shall become “the responsible hospital” in relation to the patient for the purposes of this Act.]

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Textual Amendments

- F4** S. 19A inserted (1.4.2008 for certain purposes, otherwise 3.11.2008) by [Mental Health Act 2007](#) (c. 12), ss. 32, 56, [Sch. 3 para. 4](#) (with [Sch. 10](#)); S.I. 2008/745, [art. 2\(c\)\(ii\)](#); S.I. 2008/1900, [art. 2\(i\)](#) (with [art. 3](#), [Sch.](#))

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