



# Mental Health Act 1983

## 1983 CHAPTER 20

### PART VIII

#### MISCELLANEOUS FUNCTIONS OF LOCAL AUTHORITIES AND THE SECRETARY OF STATE

##### *Approved social workers*

#### **114 Appointment of approved social workers**

- (1) A local social services authority shall appoint a sufficient number of approved social workers for the purpose of discharging the functions conferred on them by this Act.
- (2) No person shall be appointed by a local social services authority as an approved social worker unless he is approved by the authority as having appropriate competence in dealing with persons who are suffering from mental disorder.
- (3) In approving a person for appointment as an approved social worker a local social services authority shall have regard to such matters as the Secretary of State may direct.

#### **115 Powers of entry and inspection**

An approved social worker of a local social services authority may at all reasonable times after producing, if asked to do so, some duly authenticated document showing that he is such a social worker, enter and inspect any premises (not being a hospital) in the area of that authority in which a mentally disordered patient is living, if he has reasonable cause to believe that the patient is not under proper care.

##### *Visiting patients*

#### **116 Welfare of certain hospital patients**

- (1) Where a patient to whom this section applies is admitted to a hospital or nursing home in England and Wales (whether for treatment for mental disorder or for any other

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reason) then, without prejudice to their duties in relation to the patient apart from the provisions of this section, the authority shall arrange for visits to be made to him on behalf of the authority, and shall take such other steps in relation to the patient while in the hospital or nursing home as would be expected to be taken by his parents.

- (2) This section applies to—
- (a) a child or young person in respect of whom the rights and powers of a parent are vested in a local authority by virtue of—
    - (i) section 3 of the Child Care Act 1980 (which relates to the assumption by a local authority of parental rights and duties in relation to a child in their care),
    - (ii) section 10 of that Act (which relates to the powers and duties of local authorities with respect to persons committed to their care under the Children and Young Persons Act 1969), or
    - (iii) section 17 of the Social Work (Scotland) Act 1968 (which makes corresponding provision for Scotland);
  - (b) a person who is subject to the guardianship of a local social services authority under the provisions of this Act or the Mental Health (Scotland) Act 1960; or
  - (c) a person the functions of whose nearest relative under this Act or under the Mental Health (Scotland) Act 1960 are for the time being transferred to a local social services authority.

#### *After-care*

### **117 After-care**

- (1) This section applies to persons who are detained under section 3 above, or admitted to a hospital in pursuance of a hospital order made under section 37 above, or transferred to a hospital in pursuance of a transfer direction made under section 47 or 48 above, and then cease to be detained and leave hospital.
- (2) It shall be the duty of the District Health Authority and of the local social services authority to provide, in co-operation with relevant voluntary agencies, after-care services for any person to whom this section applies until such time as the District Health Authority and the local social services authority are satisfied that the person concerned is no longer in need of such services.
- (3) In this section " the District Health Authority " means the District Health Authority for the district, and " the local social services authority " means the local social services authority for the area in which the person concerned is resident or to which he is sent on discharge by the hospital in which he was detained.

#### *Functions of the Secretary of State*

### **118 Code of practice**

- (1) The Secretary of State shall prepare, and from time to time revise, a code of practice—
  - (a) for the guidance of registered medical practitioners, managers and staff of hospitals and mental nursing homes and approved social workers in relation to the admission of patients to hospitals and mental nursing homes under this Act; and

- (b) for the guidance of registered medical practitioners and members of other professions in relation to the medical treatment of patients suffering from mental disorder.
- (2) The code shall, in particular, specify forms of medical treatment in addition to any specified by regulations made for the purposes of section 57 above which in the opinion of the Secretary of State give rise to special concern and which should accordingly not be given by a registered medical practitioner unless the patient has consented to the treatment (or to a plan of treatment including that treatment) and a certificate in writing as to the matters mentioned in subsection (2)(a) and (b) of that section has been given by another registered medical practitioner, being a practitioner appointed for the purposes of this section by the Secretary of State.
  - (3) Before preparing the code or making any alteration in it the Secretary of State shall consult such bodies as appear to him to be concerned.
  - (4) The Secretary of State shall lay copies of the code and of any alteration in the code before Parliament; and if either House of Parliament passes a resolution requiring the code or any alteration in it to be withdrawn the Secretary of State shall withdraw the code or alteration and, where he withdraws the code, shall prepare a code in substitution for the one which is withdrawn.
  - (5) No resolution shall be passed by either House of Parliament under subsection (4) above in respect of a code or alteration after the expiration of the period of 40 days beginning with the day on which a copy of the code or alteration was laid before that House ; but for the purposes of this subsection no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
  - (6) The Secretary of State shall publish the code as for the time being in force.

### **119 Practitioners approved for purposes of Part IV and s. 118**

- (1) The Secretary of State may make such provision as he may with the approval of the Treasury determine for the payment of remuneration, allowances, pensions or gratuities to or in respect of registered medical practitioners appointed by him for the purposes of Part IV of this Act and section 118 above and to or in respect of other persons appointed for the purposes of section 57(2)(a) above.
- (2) A registered medical practitioner or other person appointed by the Secretary of State for the purposes of the provisions mentioned in subsection (1) above may, for the purpose of exercising his functions under those provisions, at any reasonable time—
  - (a) visit and interview and, in the case of a registered medical practitioner, examine in private any patient detained in a mental nursing home ; and
  - (b) require the production of and inspect any records relating to the treatment of the patient in that home.

### **120 General protection of detained patients**

- (1) The Secretary of State shall keep under review the exercise of the powers and the discharge of the duties conferred or imposed by this Act so far as relating to the detention of patients or to patients liable to be detained under this Act and shall make arrangements for persons authorised by him in that behalf—

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- (a) to visit and interview in private patients detained under this Act in hospitals and mental nursing homes; and
- (b) to investigate—
  - (i) any complaint made by a person in respect of a matter that occurred while he was detained under this Act in a hospital or mental nursing home and which he considers has not been satisfactorily dealt with by the managers of that hospital or mental nursing home; and
  - (ii) any other complaint as to the exercise of the powers or the discharge of the duties conferred or imposed by this Act in respect of a person who is or has been so detained.
- (2) The arrangements made under this section in respect of the investigation of complaints may exclude matters from investigation in specified circumstances and shall not require any person exercising functions under the arrangements to undertake or continue with any investigation where he does not consider it appropriate to do so.
- (3) Where any such complaint as is mentioned in subsection (1)(b)(ii) above is made by a Member of Parliament and investigated under the arrangements made under this section the results of the investigation shall be reported to him.
- (4) For the purpose of any such review as is mentioned in subsection (1) above or of carrying out his functions under arrangements made under this section any person authorised in that behalf by the Secretary of State may at any reasonable time—
  - (a) visit and interview and, if he is a registered medical practitioner, examine in private any patient in a mental nursing home; and
  - (b) require the production of and inspect any records relating to the detention or treatment of any person who is or has been detained in a mental nursing home.
- (5) The matters in respect of which regulations may be made under section 6 of the Nursing Homes Act 1975 shall include the keeping of records relating to the detention and treatment of persons detained under this Act in a mental nursing home.
- (6) The Secretary of State may make such provision as he may with the approval of the Treasury determine for the payment of remuneration, allowances, pensions or gratuities to or in respect of persons exercising functions in relation to any such review as is mentioned in subsection (1) above or functions under arrangements made under this section.
- (7) The powers and duties referred to in subsection (1) above do not include any power or duty conferred or imposed by Part VII of this Act

## **121 Mental Health Act Commission**

- (1) Without prejudice to section 126(3) of the National Health Service Act 1977 (power to vary or revoke orders or directions) there shall continue to be a special health authority known as the Mental Health Act Commission established under section 11 of that Act.
- (2) Without prejudice to the generality of his powers under section 13 of that Act, the Secretary of State shall direct the Commission to perform on his behalf—
  - (a) the function of appointing registered medical practitioners for the purposes of Part IV of this Act and section 118 above and of appointing other persons for the purposes of section 57(2)(a) above; and
  - (b) the functions of the Secretary of State under sections 61 and 120(1) and (4) above.

- (3) The registered medical practitioners and other persons appointed for the purposes mentioned in subsection (2)(a) above may include members of the Commission.
- (4) The Secretary of State may, at the request of or after consultation with the Commission and after consulting such other bodies as appear to him to be concerned, direct the Commission to keep under review the care and treatment, or any aspect of the care and treatment, in hospitals and mental nursing homes of patients who are not liable to be detained under this Act.
- (5) For the purpose of any such review as is mentioned in subsection (4) above any person authorised in that behalf by the Commission may at any reasonable time
  - (a) visit and interview and, if he is a registered medical practitioner, examine in private any patient in a mental nursing home; and
  - (b) require the production of and inspect any records relating to the treatment of any person who is or has been a patient in a mental nursing home.
- (6) The Secretary of State may make such provision as he may with the approval of the Treasury determine for the payment of remuneration, allowances, pensions or gratuities to or in respect of persons exercising functions in relation to any such review as is mentioned in subsection (4) above.
- (7) The Commission shall review any decision to withhold a postal packet (or anything contained in it) under subsection (1)(b) or (2) of section 134 below if an application in that behalf is made—
  - (a) in a case under subsection (1)(b), by the patient; or
  - (b) in a case under subsection (2), either by the patient or by the person by whom the postal packet was sent;and any such application shall be made within six months of the receipt by the applicant of the notice referred to in subsection (6) of that section.
- (8) On an application under subsection (7) above the Commission may direct that the postal packet which is the subject of the application (or anything contained in it) shall not be withheld and the managers in question shall comply with any such direction.
- (9) The Secretary of State may by regulations make provision with respect to the making and determination of applications under subsection (7) above, including provision for the production to the Commission of any postal packet which is the subject of such an application.
- (10) The Commission shall in the second year after its establishment and subsequently in every second year publish a report on its activities; and copies of every such report shall be sent by the Commission to the Secretary of State who shall lay a copy before each House of Parliament.
- (11) Paragraph 9 of Schedule 5 to the said Act of 1977 (pay and allowances for chairmen and members of health authorities) shall have effect in relation to the Mental Health Act Commission as if references in sub-paragraphs (1) and (2) to the chairman included references to any member and as if sub-paragraphs (4) and (5) were omitted.

## **122 Provision of pocket money for in-patients in hospital**

- (1) The Secretary of State may pay to persons who are receiving treatment as in-patients (whether liable to be detained or not) in special hospitals or other hospitals, being hospitals wholly or mainly used for the treatment of persons suffering from mental

disorder, such amounts as he thinks fit in respect of their occasional personal expenses where it appears to him that they would otherwise be without resources to meet those expenses.

- (2) For the purposes of the National Health Service Act 1977, the making of payments under this section to persons for whom hospital services are provided under that Act shall be treated as included among those services.

### **123 Transfers to and from special hospitals**

- (1) Without prejudice to any other provisions of this Act with respect to the transfer of patients, any patient who is for the time being liable to be detained in a special hospital under this Act (other than under section 35, 36 or 38 above) may, upon the directions of the Secretary of State, at any time be removed into any other special hospital.
- (2) Without prejudice to any such provision, the Secretary of State may give directions for the transfer of any patient who is for the time being liable to be so detained into a hospital which is not a special hospital.
- (3) Subsections (2) and (4) of section 19 above shall apply in relation to the transfer or removal of a patient under this section as they apply in relation to the transfer or removal of a patient from one hospital to another under that section.

### **124 Default powers of Secretary of State**

- (1) Where the Secretary of State is of the opinion, on complaint or otherwise, that a local social services authority have failed to carry out functions conferred or imposed on the authority by or under this Act or have in carrying out those functions failed to comply with any regulations relating to those functions, he may after such inquiry as he thinks fit make an order declaring the authority to be in default.
- (2) Subsections (3) to (5) of section 85 of the National Health Service Act 1977 (which relates to orders declaring, among others, a local social services authority to be in default under that Act) shall apply in relation to an order under this section as they apply in relation to an order under that section.

### **125 Inquiries**

- (1) The Secretary of State may cause an inquiry to be held in any case where he thinks it advisable to do so in connection with any matter arising under this Act.
- (2) Subsections (2) to (5) of section 250 of the Local Government Act 1972 shall apply to any inquiry held under this Act, except that no local authority shall be ordered to pay costs under subsection (4) of that section in the case of any inquiry unless the authority is a party to the inquiry.