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SCHEDULES

SCHEDULE 1

Authorisation by panel of certain serious interventions

Part 2

Applications for authorisation

Applications for authorisation

2.—(1) An application under this Schedule may be made where one or more measures mentioned in sub-paragraph (2) are proposed in relation to a person who is 16 or over ("P").

(2) Those measures are—

(a) the provision to P of particular treatment which is relevant treatment (as defined by paragraph 4);

(b) the detention of P in circumstances amounting to a deprivation of liberty in a particular place in which appropriate care or treatment is available for P;

(c) the imposition on P of a requirement to attend at a particular place at particular times or intervals for the purpose of being given particular treatment that would or might be treatment with serious consequences ("an attendance requirement");

(d) the imposition on P of a community residence requirement.

(3) An application under this Schedule is an application to the relevant trust for authorisation of one or more measures mentioned in sub-paragraph (2) which are proposed.

(4) In this Schedule "the relevant trust" means—

(a) if the application requests authorisation of the detention of P in a particular place in circumstances amounting to a deprivation of liberty, the HSC trust in whose area the place is situated;

(b) if the application requests authorisation of the provision of particular treatment or authorisation of an attendance requirement, and head (a) does not apply, the HSC trust in whose area the treatment would be provided;

(c) if the application requests authorisation of a community residence requirement and head (b) does not apply, the HSC trust in whose area the

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place where P would be required by the community residence requirement to live is situated.

Commencement Information

I1 Sch. 1 para. 2(1)(2)(b)(3)(4)(b) in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(4), **Sch. Pt. 4** (with art. 3) (as amended by S.R. 2019/190, art. 2)

Applications: supplementary

3.—(1) An application may not be made for authorisation of the detention of P in a hospital where the proposed detention could be authorised under Schedule 2 (short-term detention for examination etc).

(2) But sub-paragraph (1) does not apply if the application also requests authorisation of another measure or measures mentioned in paragraph 2(2).

(3) An application may be made in respect of a person who is under 16 but who will be 16 or over when the proposed measure would be carried out.

(4) An application may be made in respect of a measure or measures mentioned in paragraph 2(2) where the measure, or any of the measures, has already begun (for example, because it was begun in an emergency) and is proposed to be continued.

(5) For the purposes of paragraph 2(2)(b) it does not matter whether P is or is not already resident in the place (or, if the place is a hospital, an in-patient in the hospital) at the time when the detention is proposed.

(6) Regulations may provide that an application for authorisation of the detention of P in circumstances amounting to a deprivation of liberty in a particular place—

(a) may be made only if the place is of a prescribed description; or

(b) may not be made if the place is of a prescribed description.

(7) In this paragraph "application" means an application under this Schedule.

Commencement Information

I2 Sch. 1 para. 3 in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(4), **Sch. Pt. 4** (with art. 3) (as amended by S.R. 2019/190, art. 2)

PROSPECTIVE

Paragraph 2: meaning of "relevant treatment"

4 For the purposes of paragraph 2 treatment which is proposed to be provided to P is "relevant treatment" if—

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(a) it would or might be treatment with serious consequences (see section 21);

(b) the applicant reasonably believes that P lacks capacity in relation to the treatment; and

(c) either of the following applies—

(i) P's nominated person has reasonably objected to the proposal to provide the treatment and has not withdrawn that objection; or

(ii) the applicant reasonably believes that it is likely that the provision of the treatment would be such that authorisation is needed by reason of section 20 (resistance etc by P to provision of certain treatment).

Who may make application

5.—(1) Any application under this Schedule must be made by a person who—

(a) is of a prescribed description; and

(b) is unconnected with P (see section 304).

(2) Regulations under sub-paragraph (1)(a) may in particular prescribe, as a description of persons who may make an application under this Schedule—

(a) an approved social worker;

(b) a person of a prescribed description who is designated by the managing authority of a hospital or care home in which P is an in-patient or resident as a person who may make applications under this Schedule;

(c) a person of a prescribed description who is designated by an appropriate person (as defined by the regulations) as a person who may make applications under this Schedule.

Commencement Information

I3 Sch. 1 para. 5 in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(4), **Sch. Pt. 4** (with art. 3) (as amended by S.R. 2019/190, art. 2)

Contents of application

6.—(1) An application under this Schedule must—

(a) be in the prescribed form;

(b) include a medical report (see paragraph 7);

(c) include a care plan (see paragraph 8);

(d) include prescribed information about the views, on prescribed matters, of P's nominated person and any prescribed person; and

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(e) include any other prescribed information.

(2) If—

(a) the application requests authorisation of a measure within paragraph 2(2)(b) or (d) (deprivation of liberty or community residence requirement), and

(b) in the opinion of the person making the application, if the measure were authorised under paragraph 15, P would lack (or would probably lack) capacity in relation to whether an application under section 45 in respect of the authorisation should be made,

the application must contain a statement of that opinion.

Commencement Information

I4 Sch. 1 para. 6 in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(4), **Sch. Pt. 4** (with art. 3) (as amended by S.R. 2019/190, art. 2)

Medical report

7.—(1) The medical report must be in the prescribed form and must—

(a) be made by a medical practitioner who is unconnected with P and is permitted by regulations under section 300 to make the report;

(b) include the required statement; and

(c) include any prescribed information.

(2) The "required statement" is a statement by the person making the medical report that—

(a) in that person's opinion, the criteria for authorisation are met in relation to the measure for which the application requests authorisation; or

(b) if the application requests authorisation for more than one measure, in that person's opinion the criteria for authorisation are met in relation to each such measure.

(3) The criteria for authorisation are set out in Part 3 of this Schedule.

(4) The maker of the medical report must have examined P not more than two days before the date when the report is made.

(5) See also sections 54 and 55 (involvement of nominated person and independent mental capacity advocate).

Commencement Information

I5 Sch. 1 para. 7 in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(4), **Sch. Pt. 4** (with art. 3) (as amended by S.R. 2019/190, art. 2)

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Care plan

8 The care plan must be in the prescribed form and must include—

(a) prescribed information about the measure or measures for which the application requests authorisation;

(b) such other information relating to what is proposed as may be prescribed.

Commencement Information

I6 Sch. 1 para. 8 in operation at 2.12.2019 for specified purposes by S.R. 2019/163, art. 2(4), **Sch. Pt. 4** (with art. 3) (as amended by S.R. 2019/190, art. 2)

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