



Mental Health Act 1983

1983 CHAPTER 20

PART V

MENTAL HEALTH REVIEW TRIBUNALS

Applications and references concerning Part III patients

69 Applications to tribunals concerning patients subject to hospital and guardianship orders.

- (1) Without prejudice to any provision of section 66(1) above as applied by section 40(4) above, an application to [^{F1}the appropriate tribunal] may also be made—
- [^{F2}(a) in respect of a patient liable to be detained in pursuance of a hospital order or a community patient who was so liable immediately before he became a community patient, by the nearest relative of the patient in any period in which an application may be made by the patient under any such provision as so applied;]
 - (b) in respect of a patient placed under guardianship by a guardianship order—
 - (i) by the patient, within the period of six months beginning with the date of the order;
 - (ii) by the nearest relative of the patient, within the period of 12 months beginning with the date of the order and in any subsequent period of 12 months.
- (2) Where a person detained in a hospital—
- (a) is treated as subject to a hospital order [^{F3}, hospital direction] or transfer direction by virtue of section 41(5) above [^{F4}or section 80B(2), 82(2) or 85(2) below.] ; or
 - (b) is subject to a direction having the same effect as a hospital order by virtue of section^{F5}. . . 47(3) or 48(3) above,

then, without prejudice to any provision of Part II of this Act as applied by section 40 above, that person may make an application to [^{F6}the appropriate tribunal] in the period of six months beginning with the date of the order or direction mentioned in

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paragraph (a) above or, as the case may be, the date of the direction mentioned in paragraph (b) above.

[^{F7}(3) The provisions of section 66 above as applied by section 40(4) above are subject to subsection (4) below.

(4) If the initial detention period has not elapsed when the relevant application period begins, the right of a hospital order patient to make an application by virtue of paragraph (ca) or (cb) of section 66(1) above shall be exercisable only during whatever remains of the relevant application period after the initial detention period has elapsed.

(5) In subsection (4) above—

- (a) “hospital order patient” means a patient who is subject to a hospital order, excluding a patient of a kind mentioned in paragraph (a) or (b) of subsection (2) above;
- (b) “the initial detention period”, in relation to a hospital order patient, means the period of six months beginning with the date of the hospital order; and
- (c) “the relevant application period” means the relevant period mentioned in paragraph (ca) or (cb), as the case may be, of section 66(2) above.]

Textual Amendments

- F1** Words in s. 69(1) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, **Sch. 3 para. 50**
- F2** S. 69(1)(a) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 32, 56, **Sch. 3 para. 20(a)** (with Sch. 10); S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)
- F3** Words in s. 69(2)(a) inserted (1.10.2007) by [Mental Health Act 2007 \(c. 12\)](#), ss. 39, 56, **Sch. 5 para. 18(a)** (with Sch. 10); S.I. 2007/2798, **art. 2(c)(vii)**
- F4** Words in s. 69(2)(a) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 39, 56, **Sch. 5 para. 18(b)** (with Sch. 10); S.I. 2008/1900, **art. 2(n)** (with art. 3, Sch.)
- F5** Words in s. 69(2)(b) repealed (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 32, 55, 56, Sch. 3 para. 20(b), **Sch. 11 Pt. 5** (with Sch. 10); S.I. 2008/1210, **art. 2(d)** (with art. 4)
- F6** Words in s. 69(2) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, **Sch. 3 para. 50**
- F7** S. 69(3)-(5) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 32, 56, **Sch. 3 para. 20(c)** (with Sch. 10); S.I. 2008/1900, **art. 2(i)** (with art. 3, Sch.)

70 Applications to tribunals concerning restricted patients.

A patient who is a restricted patient within the meaning of section 79 below and is detained in a hospital may apply to [^{F8}the appropriate tribunal]—

- (a) in the period between the expiration of six months and the expiration of 12 months beginning with the date of the relevant hospital order [^{F9}, hospital direction] or transfer direction; and
- (b) in any subsequent period of 12 months.

Textual Amendments

- F8** Words in s. 70 substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, **Sch. 3 para. 51**
- F9** Words in s. 70(a) inserted (1.10.1997) by [1997 c. 43, s. 55](#), **Sch. 4 para. 12(9)**; S.I. 1997/2200, art. 2

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71 References by Secretary of State concerning restricted patients.

- (1) The Secretary of State may at any time refer the case of a restricted patient to [^{F10}the appropriate tribunal].
- (2) The Secretary of State shall refer to [^{F10}the appropriate tribunal] the case of any restricted patient detained in a hospital whose case has not been considered by such a tribunal, whether on his own application or otherwise, within the last three years.
- (3) The Secretary of State may by order vary the length of the period mentioned in subsection (2) above.
- [^{F11}(3A) An order under subsection (3) above may include such transitional, consequential, incidental or supplemental provision as the Secretary of State thinks fit.]
- (4) Any reference under subsection (1) above in respect of a patient who has been conditionally discharged and not recalled to hospital shall be made to the tribunal for the area in which the patient resides.
- (5) ^{F12}
- (6) ^{F12}

Textual Amendments

- F10** Words in s. 71(1)(2) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, **Sch. 3 para. 52**
- F11** S. 71(3A) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. **37(4)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(I)** (with art. 3, Sch.)
- F12** S. 71(5)(6) repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58, 60, Sch. 10 para. 20, **Sch. 11** (with Sch. 12 para. 8); S.I. 2005/579, **art. 3(g)(i)(vi)(k)**

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