Changes to legislation: Mental Health Act 1983, Cross Heading: After-care is up to date with all changes known to be in force on or before 06 August 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Mental Health Act 1983

1983 CHAPTER 20

PART VIII

MISCELLANEOUS FUNCTIONS OF LOCAL AUTHORITIES AND THE SECRETARY OF STATE

After-care

Textual Amendments applied to the whole legislation
F1 For the words "Supreme Court Act 1981" there is substituted (1.10.2009) the words "Senior Courts Act 1981" by virtue of Constitutional Reform Act 2005 (c. 4), ss. 59, 148(1), Sch. 11 para. 1(2); S.I. 2009/1604, art. 2(d)

Non-textual amendments applied to the whole Legislation can be found in the Introduction

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 [F1 a hospital direction made under section 45A above or] a transfer direction made under section 47 or 48 above, and then cease to be detained and [F2 whether or not immediately after so ceasing] leave hospital.

(2) It shall be the duty of the [F3 clinical commissioning group of] [F4 Local Health Board] and of the local social services authority to provide [F5 or arrange for the provision of], in co-operation with relevant voluntary agencies, after-care services for any person to whom this section applies until such time as the [F7 clinical commissioning group of] [F8 Local Health Board] and the local social services authority are satisfied that the person concerned is no longer in need of such services [F9]; but they shall not be so satisfied in the case of a [F10 community patient while he remains such a patient.] .]
F19(2A) Section 32 above shall apply for the purposes of this section as it applies for the purposes of Part II of this Act.

F12(2C) References in this Act to after-care services provided for a patient under this section include references to services provided for the patient—
(a) in respect of which direct payments are made under F13—
   (i) sections 31 to 33 of the Care Act 2014 (as applied by Schedule 4 to that Act),
   (ii) sections 50, 51 and 53 of the Social Services and Well-being (Wales) Act 2014 (as applied by Schedule A1 to that Act), or
   (iii) regulations under F14 section 12A(4) of the National Health Service Act 2006, and
(b) which would be provided under this section apart from F14 those sections (as so applied) or F14 the regulations.

F15(2D) Subsection (2), in its application to the clinical commissioning group, has effect F16 as if the words “provide or” were omitted.

(2E) The Secretary of State may by regulations provide that the duty imposed on the clinical commissioning group by subsection (2) is, in the circumstances or to the extent prescribed by the regulations, to be imposed instead on another clinical commissioning group or the National Health Service Commissioning Board.

(2F) Where regulations under subsection (2E) provide that the duty imposed by subsection (2) is to be imposed on the National Health Service Commissioning Board, subsection (2D) has effect as if the reference to the clinical commissioning group were a reference to the National Health Service Commissioning Board.

(2G) Section 272(7) and (8) of the National Health Service Act 2006 applies to the power to make regulations under subsection (2E) as it applies to a power to make regulations under that Act.

(3) In this F17 section “the F18 clinical commissioning group or F19 ... F5 Local Health Board F18” means the F19 clinical commissioning group or F19 F5 Local Health Board, and “the local social services authority” means the local social services authority F5—
(a) if, immediately before being detained, the person concerned was ordinarily resident in England, for the area in England in which he was ordinarily resident;
(b) if, immediately before being detained, the person concerned was ordinarily resident in Wales, for the area in Wales in which he was ordinarily resident; or
(c) in any other case 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.

F22(4) Where there is a dispute about where a person was ordinarily resident for the purposes of subsection (3) above—
(a) if the dispute is between local social services authorities in England, section 40 of the Care Act 2014 applies to the dispute as it applies to a dispute about where a person was ordinarily resident for the purposes of Part 1 of that Act;
(b) if the dispute is between local social services authorities in Wales, section 195 of the Social Services and Well-being (Wales) Act 2014 applies to the dispute
as it applies to a dispute about where a person was ordinarily resident for the purposes of that Act;

(c) if the dispute is between a local social services authority in England and a local social services authority in Wales, it is to be determined by the Secretary of State or the Welsh Ministers.

(5) The Secretary of State and the Welsh Ministers shall make and publish arrangements for determining which of them is to determine a dispute under subsection (4)(c); and the arrangements may, in particular, provide for the dispute to be determined by whichever of them they agree is to do so.]

[F23(6) In this section, “after-care services”, in relation to a person, means services which have both of the following purposes—

(a) meeting a need arising from or related to the person's mental disorder; and

(b) reducing the risk of a deterioration of the person's mental condition (and, accordingly, reducing the risk of the person requiring admission to a hospital again for treatment for mental disorder).]

Textual Amendments

F1 Words in s. 117(1) inserted (1.10.1997) by 1997 c. 43, s. 55, Sch. 4, para. 12(17); S.I.1997/2200, art. 2(2)

F2 Words in s. 117(1) inserted (1.4.1996) by 1995 c. 52, ss. 1(2), 7(2), Sch. 1, para. 15(2)

F3 Words in s. 117(2) inserted (27.3.2012 for specified purposes, 1.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), ss. 40(2)(a), 306(1)(d), (4); S.I. 2012/2657, art. 2(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

F4 Words in s. 117(2) omitted (27.3.2012 for specified purposes, 1.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of Health and Social Care Act 2012 (c. 7), ss. 40(2)(b), 306(1)(4); S.I. 2012/2657, art. 2(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

F5 Words in s. 117(2)(2A)(3) substituted (1.4.2007) by Health Authorities Order 2007 (S.I. 2007/961), art. 3, Sch. para. 13(9)

F6 Words in s. 117(2) inserted (1.4.2015) by Care Act 2014 (c. 23), ss. 75(1), 127(1); S.I. 2015/993, art. 7(1)(a) (with transitional provisions in S.I. 2015/995)

F7 Words in s. 117(2) inserted (27.3.2012 for specified purposes, 1.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), ss. 40(2)(c), 306(1)(d), (4); S.I. 2012/2657, art. 2(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

F8 Words in s. 117(2) inserted (1.4.1996) by 1995 c. 52, ss. 1(2), 7(2), Sch. 1, para. 15(3)

F9 Words in s. 117(2) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, Sch. 3 para. 24 (with Sch. 10); S.I. 2008/1210, art. 2(b) (with art. 4)

F10 S. 117(2A)-(2B) inserted (1.4.1996) by 1995 c. 52, ss. 1(2), 7(2), Sch. 1, para. 15(4)

F11 S. 117(2A) repealed (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 55, 56, Sch. 11 Pt. 5 (with Sch. 10); S.I. 2008/1210, art. 2(d) (with art. 4)

F12 S. 117(2C) inserted (1.1.2010) by Health Act 2009 (c. 21), s. 40(1), Sch. 1 para. 3; S.I. 2010/30, art. 2(b)

F13 Words in s. 117(2C)(a) substituted (1.4.2015 for specified purposes, otherwise 6.4.2016) by Care Act 2014 (c. 23), ss. 75(11)(a), 127(1); S.I. 2015/993, art. 7(3) (with art. 7(4)) (with transitional provisions in S.I. 2015/995); S.I. 2016/464, art. 2(d)

F14 Words in s. 117(2C)(b) inserted (1.4.2015) by Care Act 2014 (c. 23), ss. 75(11)(b), 127(1); S.I. 2015/993, art. 7(3) (with transitional provisions in S.I. 2015/995)

F15 S. 117(2D)-(2G) inserted (27.3.2012 for specified purposes, 1.2.2013 for specified purposes, 1.4.2013 in so far as not already in force) by Health and Social Care Act 2012 (c. 7), ss. 40(3), 306(1)(d), (4); S.I. 2012/2657, art. 2(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
The Secretary of State may by regulations provide that where—

(a) the local social services authority under section 117 is, in discharging its duty under subsection (2) of that section, providing or arranging for the provision of accommodation for the person concerned;

(b) the person concerned expresses a preference for particular accommodation; and

(c) any prescribed conditions are met,

the local social services authority must provide or arrange for the provision of the person's preferred accommodation.

(2) Regulations under this section may provide for the person concerned, or a person of a prescribed description, to pay for some or all of the additional cost in prescribed cases.

(3) In subsection (2), “additional cost” means the cost of providing or arranging for the provision of the person's preferred accommodation less the amount that the local social services authority would expect to be the usual cost of providing or arranging for the provision of accommodation of that kind.

(4) The power to make regulations under this section—

(a) is exercisable only in relation to local social services authorities in England;

(b) includes power to make different provision for different cases or areas.
Section 117 does not authorise or require a local social services authority, in or in connection with the provision of services under that section, to provide or arrange for the provision of nursing care by a registered nurse.

In this section “nursing care by a registered nurse” means a service provided by a registered nurse involving—

(a) the provision of care, or

(b) the planning, supervision or delegation of the provision of care, other than a service which, having regard to its nature and the circumstances in which it is provided, does not need to be provided by a registered nurse.

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**Textual Amendments**

**F24**  S. 117A inserted (1.10.2014 for specified purposes, otherwise 1.4.2015) by Care Act 2014 (c. 23), ss. 75(6), 127(1); S.I. 2014/2473, art. 2(1)(u); S.I. 2015/993, art. 7(1)(b) (with transitional provisions in S.I. 2015/995)

**F25**  S. 117B inserted (1.4.2015) by The Care Act 2014 and Children and Families Act 2014 (Consequential Amendments) Order 2015 (S.I. 2015/914), art. 1(2), Sch. para. 28 (with arts. 1(3), 3)

**F26**  Words in s. 117B(1) omitted (6.4.2016) by virtue of The Social Services and Well-being (Wales) Act 2014 (Consequential Amendments) Regulations 2016 (No. 413), regs. 2(1), 36
Changes to legislation:
Mental Health Act 1983, Cross Heading: After-care is up to date with all changes known to be in force on or before 06 August 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the text and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

<table>
<thead>
<tr>
<th>Change</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act applied by 1996 c. 46 Sch. 2 para. 9(replacing 1968 c 20 s. 23)</td>
<td>(Act applied (prosp.) by 1968 c. 20, s. 23(4) (as substituted (prosp.) by 1996 c. 46, ss. 8, 36(2), Sch. 2, para. 9 which said amending provision was repealed (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(2), 60, Sch. 11; S.I. 2005/579, art. 3(h)(i)(ix)))</td>
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<tr>
<td>Act applied by 1996 c. 46 Sch. 2 para. 4(replacing 1957 c 53 s. 63)</td>
<td>(Act applied (prosp.) by 1957 c. 53, s. 63C(6) (as substituted (prosp.) by 1996 c. 46, ss. 8, 36(2), Sch. 2, para. 4 which said amending provision was repealed (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(2), 60, Sch. 11; S.I. 2005/579, art. 3(h)(i)(ix)))</td>
</tr>
<tr>
<td>Act applied by 1996 c. 46 Sch. 2 para. 1(replacing 1955 c 19 s. 116)</td>
<td>(Act applied (prosp.) by 1955 c. 19, s. 116C(6) (as substituted (prosp.) by 1996 c. 46, ss. 8, 36(2), Sch. 2 para. 1 which said amending provision was repealed (31.3.2005) by Domestic Violence, Crime and Victims Act 2004 (c. 28), ss. 58(2), 60, Sch. 11; S.I. 2005/579, art. 3(h)(i)(ix)))</td>
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<td>Act applied by 1996 c. 46 Sch. 2 para. 4(replacing 1957 c 53 s. 63)</td>
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</table>

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 74(8) inserted by 2015 c. 2 Sch. 3 para. 3(3)
- s. 114ZA(5)(6) inserted by S.I. 2018/893 reg. 39(5) (This amendment comes into force on the date that 2017 c. 16, s. 39(1) comes into force. That provision is not yet in force.)