



Mental Health Act 1983

1983 CHAPTER 20

PART VIII

MISCELLANEOUS FUNCTIONS OF LOCAL AUTHORITIES AND THE SECRETARY OF STATE

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 [^{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 or]^{F4}... [^{F5}Local Health Board] and of the local social services authority to provide [^{F6}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 or]^{F4}... [^{F5}Local Health Board] and the local social services authority are satisfied that the person concerned is no longer in need of such services [^{F8}; but they shall not be so satisfied in the case of a [^{F9}community patient while he remains such a patient.] .]

^{F10}(2A) ^{F11}

(2B) 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),

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- (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] 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] 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]” means the [^{F20}clinical commissioning group or]^{F19}...[^{F5}Local Health Board], and “the local social services authority” means the local social services authority [^{F21}—
- (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.]

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[^{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 The References to **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 (19.1.2010) 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)
- F16** Words in s. 117(2D) substituted (1.4.2015) by **Care Act 2014 (c. 23)**, **ss. 75(2)**, 127(1); S.I. 2015/993, art. 7(1)(a) (with transitional provisions in S.I. 2015/995)
- F17** Words in s. 117(3) substituted (28.6.1995 for certain purposes, otherwise 1.4.1996) by 1995 c. 17, ss. 2(1), 9(3), **Sch. 1**, Pt. III, para. 107(8)(b) (with ss. 2(3), 8)
- F18** Words in s. 117(3) 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(4)(a)**, 306(1)(d), (4); S.I. 2012/2657, art. 2(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F19** Words in s. 117(3) 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(4)(b), 306(1)(d), (4)**; S.I. 2012/2657, art. 2(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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- F20** Words in s. 117(3) 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(4)(c), 306(1)(d), (4)**; S.I. 2012/2657, art. 2(4); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F21** S. 117(3)(a)-(c) inserted (1.4.2015) by [Care Act 2014 \(c. 23\)](#), **ss. 75(3), 127(1)** (with s. 75(12)); S.I. 2015/993, art. 7(1)(a) (with transitional provisions in S.I. 2015/995)
- F22** S. 117(4)(5) inserted (1.4.2015) by [Care Act 2014 \(c. 23\)](#), **ss. 75(4), 127(1)** (with s. 75(12)); S.I. 2015/993, art. 7(1)(a) (with art. 7(2)) (with transitional provisions in S.I. 2015/995)
- F23** S. 117(6) inserted (1.4.2015) by [Care Act 2014 \(c. 23\)](#), **ss. 75(5), 127(1)**; S.I. 2015/993, art. 7(1)(a) (with transitional provisions in S.I. 2015/995)

Modifications etc. (not altering text)

- C1** S. 117(2)(2A): functions of local authority may be responsibility of an executive of the authority (1.4.2000) by virtue of [S.I. 2000/695](#), reg. 3(2)(b), **Sch. 2**
- C2** S. 117(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(j)**

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