



# Mental Health Act 1983

## 1983 CHAPTER 20

### [<sup>F1</sup>PART 4A

#### TREATMENT OF COMMUNITY PATIENTS NOT RECALLED TO HOSPITAL

VALID FROM 03/11/2008

#### [<sup>F1</sup> <sup>F2</sup>64G] **Emergency treatment for patients lacking capacity or competence**

- (1) A person is also authorised to give relevant treatment to a patient as mentioned in section 64C(2)(c) or 64E(6)(b) above if the conditions in subsections (2) to (4) below are met.
- (2) The first condition is that, when giving the treatment, the person reasonably believes that the patient lacks capacity to consent to it or, as the case may be, is not competent to consent to it.
- (3) The second condition is that the treatment is immediately necessary.
- (4) The third condition is that if it is necessary to use force against the patient in order to give the treatment—
  - (a) the treatment needs to be given in order to prevent harm to the patient; and
  - (b) the use of such force is a proportionate response to the likelihood of the patient's suffering harm, and to the seriousness of that harm.
- (5) Subject to subsections (6) to (8) below, treatment is immediately necessary if—
  - (a) it is immediately necessary to save the patient's life; or
  - (b) it is immediately necessary to prevent a serious deterioration of the patient's condition and is not irreversible; or
  - (c) it is immediately necessary to alleviate serious suffering by the patient and is not irreversible or hazardous; or

*Status: Point in time view as at 04/11/1994. This version of this provision is not valid for this point in time.*

*Changes to legislation: Mental Health Act 1983, Section 64G is up to date with all changes known to be in force on or before 20 March 2024. 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)*

- (d) it is immediately necessary, represents the minimum interference necessary to prevent the patient from behaving violently or being a danger to himself or others and is not irreversible or hazardous.
- (6) Where the treatment is section 58A type treatment by virtue of subsection (1)(a) of that section, treatment is immediately necessary if it falls within paragraph (a) or (b) of subsection (5) above.
- (7) Where the treatment is section 58A type treatment by virtue of subsection (1)(b) of that section, treatment is immediately necessary if it falls within such of paragraphs (a) to (d) of subsection (5) above as may be specified in regulations under section 58A above.
- (8) For the purposes of subsection (7) above, the regulations—
  - (a) may make different provision for different cases (and may, in particular, make different provision for different forms of treatment);
  - (b) may make provision which applies subject to specified exceptions; and
  - (c) may include transitional, consequential, incidental or supplemental provision.
- (9) Subsection (3) of section 62 above applies for the purposes of this section as it applies for the purposes of that section.]]

#### Textual Amendments

- F1** Pt. 4A (ss. 64A-64K) inserted (1.4.2008 for s. 64H for certain purposes, otherwise 3.11.2008 for ss. 64A-64K) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 35\(1\)](#), [56](#) (with [Sch. 10](#)); [S.I. 2008/745](#), arts. 2(d), 3(e); [S.I. 2008/1900](#), [art. 2\(k\)](#) (with art. 3, Sch.)
- F2** Pt. 4A (ss. 64A-64K) inserted (1.4.2008 for s. 64H for certain purposes, otherwise 3.11.2008 for ss. 64A-64K) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 35\(1\)](#), [56](#) (with [Sch. 10](#)); [S.I. 2008/745](#), {arts. 2(d), 3(e)}; [S.I. 2008/1900](#), [art. 2\(k\)](#) (with art. 3, Sch.)

**Status:**

Point in time view as at 04/11/1994. This version of this provision is not valid for this point in time.

**Changes to legislation:**

Mental Health Act 1983, Section 64G is up to date with all changes known to be in force on or before 20 March 2024. 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.