



Mental Health (Patients in the Community) Act 1995

1995 CHAPTER 52

England and Wales

1 After-care under supervision.

- (1) After section 25 of the ^{M1}Mental Health Act 1983 there shall be inserted the following sections—

“ After-care under supervision

25A Application for supervision.

- (1) Where a patient—
- (a) is liable to be detained in a hospital in pursuance of an application for admission for treatment; and
 - (b) has attained the age of 16 years,
- an application may be made for him to be supervised after he leaves hospital, for the period allowed by the following provisions of this Act, with a view to securing that he receives the after-care services provided for him under section 117 below.
- (2) In this Act an application for a patient to be so supervised is referred to as a “supervision application”; and where a supervision application has been duly made and accepted under this Part of this Act in respect of a patient and he has left hospital, he is for the purposes of this Act “subject to after-care under supervision” (until he ceases to be so subject in accordance with the provisions of this Act).
- (3) A supervision application shall be made in accordance with this section and sections 25B and 25C below.

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- (4) A supervision application may be made in respect of a patient only on the grounds that—
- (a) he is suffering from mental disorder, being mental illness, severe mental impairment, psychopathic disorder or mental impairment;
 - (b) there would be a substantial risk of serious harm to the health or safety of the patient or the safety of other persons, or of the patient being seriously exploited, if he were not to receive the after-care services to be provided for him under section 117 below after he leaves hospital; and
 - (c) his being subject to after-care under supervision is likely to help to secure that he receives the after-care services to be so provided.
- (5) A supervision application may be made only by the responsible medical officer.
- (6) A supervision application in respect of a patient shall be addressed to the Health Authority which will have the duty under section 117 below to provide after-care services for the patient after he leaves hospital.
- (7) Before accepting a supervision application in respect of a patient a Health Authority shall consult the local social services authority which will also have that duty.
- (8) Where a Health Authority accept a supervision application in respect of a patient the Health Authority shall—
- (a) inform the patient both orally and in writing—
 - (i) that the supervision application has been accepted; and
 - (ii) of the effect in his case of the provisions of this Act relating to a patient subject to after-care under supervision (including, in particular, what rights of applying to a Mental Health Review Tribunal are available);
 - (b) inform any person whose name is stated in the supervision application in accordance with sub-paragraph (i) of paragraph (e) of section 25B(5) below that the supervision application has been accepted; and
 - (c) inform in writing any person whose name is so stated in accordance with sub-paragraph (ii) of that paragraph that the supervision application has been accepted.
- (9) Where a patient in respect of whom a supervision application is made is granted leave of absence from a hospital under section 17 above (whether before or after the supervision application is made), references in—
- (a) this section and the following provisions of this Part of this Act; and
 - (b) Part V of this Act,
- to his leaving hospital shall be construed as references to his period of leave expiring (otherwise than on his return to the hospital or transfer to another hospital).

25B Making of supervision application.

- (1) The responsible medical officer shall not make a supervision application unless—

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- (a) subsection (2) below is complied with; and
 - (b) the responsible medical officer has considered the matters specified in subsection (4) below.
- (2) This subsection is complied with if—
- (a) the following persons have been consulted about the making of the supervision application—
 - (i) the patient;
 - (ii) one or more persons who have been professionally concerned with the patient's medical treatment in hospital;
 - (iii) one or more persons who will be professionally concerned with the after-care services to be provided for the patient under section 117 below; and
 - (iv) any person who the responsible medical officer believes will play a substantial part in the care of the patient after he leaves hospital but will not be professionally concerned with any of the after-care services to be so provided;
 - (b) such steps as are practicable have been taken to consult the person (if any) appearing to be the nearest relative of the patient about the making of the supervision application; and
 - (c) the responsible medical officer has taken into account any views expressed by the persons consulted.
- (3) Where the patient has requested that paragraph (b) of subsection (2) above should not apply, that paragraph shall not apply unless—
- (a) the patient has a propensity to violent or dangerous behaviour towards others; and
 - (b) the responsible medical officer considers that it is appropriate for steps such as are mentioned in that paragraph to be taken.
- (4) The matters referred to in subsection (1)(b) above are—
- (a) the after-care services to be provided for the patient under section 117 below; and
 - (b) any requirements to be imposed on him under section 25D below.
- (5) A supervision application shall state—
- (a) that the patient is liable to be detained in a hospital in pursuance of an application for admission for treatment;
 - (b) the age of the patient or, if his exact age is not known to the applicant, that the patient is believed to have attained the age of 16 years;
 - (c) that in the opinion of the applicant (having regard in particular to the patient's history) all of the conditions set out in section 25A(4) above are complied with;
 - (d) the name of the person who is to be the community responsible medical officer, and of the person who is to be the supervisor, in relation to the patient after he leaves hospital; and
 - (e) the name of—
 - (i) any person who has been consulted under paragraph (a)(iv) of subsection (2) above; and
 - (ii) any person who has been consulted under paragraph (b) of that subsection.

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- (6) A supervision application shall be accompanied by—
- (a) the written recommendation in the prescribed form of a registered medical practitioner who will be professionally concerned with the patient's medical treatment after he leaves hospital or, if no such practitioner other than the responsible medical officer will be so concerned, of any registered medical practitioner; and
 - (b) the written recommendation in the prescribed form of an approved social worker.
- (7) A recommendation under subsection (6)(a) above shall include a statement that in the opinion of the medical practitioner (having regard in particular to the patient's history) all of the conditions set out in section 25A(4) above are complied with.
- (8) A recommendation under subsection (6)(b) above shall include a statement that in the opinion of the social worker (having regard in particular to the patient's history) both of the conditions set out in section 25A(4)(b) and (c) above are complied with.
- (9) A supervision application shall also be accompanied by—
- (a) a statement in writing by the person who is to be the community responsible medical officer in relation to the patient after he leaves hospital that he is to be in charge of the medical treatment provided for the patient as part of the after-care services provided for him under section 117 below;
 - (b) a statement in writing by the person who is to be the supervisor in relation to the patient after he leaves hospital that he is to supervise the patient with a view to securing that he receives the after-care services so provided;
 - (c) details of the after-care services to be provided for the patient under section 117 below; and
 - (d) details of any requirements to be imposed on him under section 25D below.
- (10) On making a supervision application in respect of a patient the responsible medical officer shall—
- (a) inform the patient both orally and in writing;
 - (b) inform any person who has been consulted under paragraph (a)(iv) of subsection (2) above; and
 - (c) inform in writing any person who has been consulted under paragraph (b) of that subsection,
- of the matters specified in subsection (11) below.
- (11) The matters referred to in subsection (10) above are—
- (a) that the application is being made;
 - (b) the after-care services to be provided for the patient under section 117 below;
 - (c) any requirements to be imposed on him under section 25D below; and
 - (d) the name of the person who is to be the community responsible medical officer, and of the person who is to be the supervisor, in relation to the patient after he leaves hospital.

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25C Supervision applications: supplementary.

- (1) Subject to subsection (2) below, a supervision application, and the recommendation under section 25B(6)(a) above accompanying it, may describe the patient as suffering from more than one of the following forms of mental disorder, namely, mental illness, severe mental impairment, psychopathic disorder and mental impairment.
- (2) A supervision application shall be of no effect unless the patient is described in the application and the recommendation under section 25B(6)(a) above accompanying it as suffering from the same form of mental disorder, whether or not he is also described in the application or the recommendation as suffering from another form.
- (3) A registered medical practitioner may at any reasonable time visit a patient and examine him in private for the purpose of deciding whether to make a recommendation under section 25B(6)(a) above.
- (4) An approved social worker may at any reasonable time visit and interview a patient for the purpose of deciding whether to make a recommendation under section 25B(6)(b) above.
- (5) For the purpose of deciding whether to make a recommendation under section 25B(6) above in respect of a patient, a registered medical practitioner or an approved social worker may require the production of and inspect any records relating to the detention or treatment of the patient in any hospital or to any after-care services provided for the patient under section 117 below.
- (6) If, within the period of 14 days beginning with the day on which a supervision application has been accepted, the application, or any recommendation accompanying it, is found to be in any respect incorrect or defective, the application or recommendation may, within that period and with the consent of the Health Authority which accepted the application, be amended by the person by whom it was made or given.
- (7) Where an application or recommendation is amended in accordance with subsection (6) above it shall have effect, and shall be deemed to have had effect, as if it had been originally made or given as so amended.
- (8) A supervision application which appears to be duly made and to be accompanied by recommendations under section 25B(6) above may be acted upon without further proof of—
 - (a) the signature or qualification of the person by whom the application or any such recommendation was made or given; or
 - (b) any matter of fact or opinion stated in the application or recommendation.
- (9) A recommendation under section 25B(6) above accompanying a supervision application in respect of a patient shall not be given by—
 - (a) the responsible medical officer;
 - (b) a person who receives or has an interest in the receipt of any payments made on account of the maintenance of the patient; or

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- (c) a close relative of the patient, of any person mentioned in paragraph (a) or (b) above or of a person by whom the other recommendation is given under section 25B(6) above for the purposes of the application.
- (10) In subsection (9)(c) above “close relative” means husband, wife, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister or sister-in-law.

25D Requirements to secure receipt of after-care under supervision.

- (1) Where a patient is subject to after-care under supervision (or, if he has not yet left hospital, is to be so subject after he leaves hospital), the responsible after-care bodies have power to impose any of the requirements specified in subsection (3) below for the purpose of securing that the patient receives the after-care services provided for him under section 117 below.
- (2) In this Act “the responsible after-care bodies”, in relation to a patient, means the bodies which have (or will have) the duty under section 117 below to provide after-care services for the patient.
- (3) The requirements referred to in subsection (1) above are—
 - (a) that the patient reside at a specified place;
 - (b) that the patient attend at specified places and times for the purpose of medical treatment, occupation, education or training; and
 - (c) that access to the patient be given, at any place where the patient is residing, to the supervisor, any registered medical practitioner or any approved social worker or to any other person authorised by the supervisor.
- (4) A patient subject to after-care under supervision may be taken and conveyed by, or by any person authorised by, the supervisor to any place where the patient is required to reside or to attend for the purpose of medical treatment, occupation, education or training.
- (5) A person who demands—
 - (a) to be given access to a patient in whose case a requirement has been imposed under subsection (3)(c) above; or
 - (b) to take and convey a patient in pursuance of subsection (4) above, shall, if asked to do so, produce some duly authenticated document to show that he is a person entitled to be given access to, or to take and convey, the patient.

25E Review of after-care under supervision etc.

- (1) The after-care services provided (or to be provided) under section 117 below for a patient who is (or is to be) subject to after-care under supervision, and any requirements imposed on him under section 25D above, shall be kept under review, and (where appropriate) modified, by the responsible after-care bodies.
- (2) This subsection applies in relation to a patient who is subject to after-care under supervision where he refuses or neglects—

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- (a) to receive any or all of the after-care services provided for him under section 117 below; or
 - (b) to comply with any or all of any requirements imposed on him under section 25D above.
- (3) Where subsection (2) above applies in relation to a patient, the responsible after-care bodies shall review, and (where appropriate) modify—
 - (a) the after-care services provided for him under section 117 below; and
 - (b) any requirements imposed on him under section 25D above.
- (4) Where subsection (2) above applies in relation to a patient, the responsible after-care bodies shall also—
 - (a) consider whether it might be appropriate for him to cease to be subject to after-care under supervision and, if they conclude that it might be, inform the community responsible medical officer; and
 - (b) consider whether it might be appropriate for him to be admitted to a hospital for treatment and, if they conclude that it might be, inform an approved social worker.
- (5) The responsible after-care bodies shall not modify—
 - (a) the after-care services provided (or to be provided) under section 117 below for a patient who is (or is to be) subject to after-care under supervision; or
 - (b) any requirements imposed on him under section 25D above, unless subsection (6) below is complied with.
- (6) This subsection is complied with if—
 - (a) the patient has been consulted about the modifications;
 - (b) any person who the responsible after-care bodies believe plays (or will play) a substantial part in the care of the patient but is not (or will not be) professionally concerned with the after-care services provided for the patient under section 117 below has been consulted about the modifications;
 - (c) such steps as are practicable have been taken to consult the person (if any) appearing to be the nearest relative of the patient about the modifications; and
 - (d) the responsible after-care bodies have taken into account any views expressed by the persons consulted.
- (7) Where the patient has requested that paragraph (c) of subsection (6) above should not apply, that paragraph shall not apply unless—
 - (a) the patient has a propensity to violent or dangerous behaviour towards others; and
 - (b) the community responsible medical officer (or the person who is to be the community responsible medical officer) considers that it is appropriate for steps such as are mentioned in that paragraph to be taken.
- (8) Where the responsible after-care bodies modify the after-care services provided (or to be provided) for the patient under section 117 below or any requirements imposed on him under section 25D above, they shall—
 - (a) inform the patient both orally and in writing;

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- (b) inform any person who has been consulted under paragraph (b) of subsection (6) above; and
 - (c) inform in writing any person who has been consulted under paragraph (c) of that subsection,
- that the modifications have been made.

(9) Where—

- (a) a person other than the person named in the supervision application becomes the community responsible medical officer when the patient leaves hospital; or
- (b) when the patient is subject to after-care under supervision, one person ceases to be, and another becomes, the community responsible medical officer,

the responsible after-care bodies shall comply with subsection (11) below.

(10) Where—

- (a) a person other than the person named in the supervision application becomes the supervisor when the patient leaves hospital; or
- (b) when the patient is subject to after-care under supervision, one person ceases to be, and another becomes, the supervisor,

the responsible after-care bodies shall comply with subsection (11) below.

(11) The responsible after-care bodies comply with this subsection if they—

- (a) inform the patient both orally and in writing;
- (b) inform any person who they believe plays a substantial part in the care of the patient but is not professionally concerned with the after-care services provided for the patient under section 117 below; and
- (c) unless the patient otherwise requests, take such steps as are practicable to inform in writing the person (if any) appearing to be the nearest relative of the patient,

of the name of the person who becomes the community responsible medical officer or the supervisor.

25F Reclassification of patient subject to after-care under supervision.

- (1) If it appears to the community responsible medical officer that a patient subject to after-care under supervision is suffering from a form of mental disorder other than the form or forms specified in the supervision application made in respect of the patient, he may furnish a report to that effect to the Health Authority which have the duty under section 117 below to provide after-care services for the patient.
- (2) Where a report is so furnished the supervision application shall have effect as if that other form of mental disorder were specified in it.
- (3) Unless no-one other than the community responsible medical officer is professionally concerned with the patient's medical treatment, he shall consult one or more persons who are so concerned before furnishing a report under subsection (1) above.
- (4) Where a report is furnished under subsection (1) above in respect of a patient, the responsible after-care bodies shall—

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- (a) inform the patient both orally and in writing; and
 - (b) unless the patient otherwise requests, take such steps as are practicable to inform in writing the person (if any) appearing to be the nearest relative of the patient,
- that the report has been furnished.

25G Duration and renewal of after-care under supervision.

- (1) Subject to sections 25H and 25I below, a patient subject to after-care under supervision shall be so subject for the period—
 - (a) beginning when he leaves hospital; and
 - (b) ending with the period of six months beginning with the day on which the supervision application was accepted,but shall not be so subject for any longer period except in accordance with the following provisions of this section.
- (2) A patient already subject to after-care under supervision may be made so subject—
 - (a) from the end of the period referred to in subsection (1) above, for a further period of six months; and
 - (b) from the end of any period of renewal under paragraph (a) above, for a further period of one year,and so on for periods of one year at a time.
- (3) Within the period of two months ending on the day on which a patient who is subject to after-care under supervision would (in default of the operation of subsection (7) below) cease to be so subject, it shall be the duty of the community responsible medical officer—
 - (a) to examine the patient; and
 - (b) if it appears to him that the conditions set out in subsection (4) below are complied with, to furnish to the responsible after-care bodies a report to that effect in the prescribed form.
- (4) The conditions referred to in subsection (3) above are that—
 - (a) the patient is suffering from mental disorder, being mental illness, severe mental impairment, psychopathic disorder or mental impairment;
 - (b) there would be a substantial risk of serious harm to the health or safety of the patient or the safety of other persons, or of the patient being seriously exploited, if he were not to receive the after-care services provided for him under section 117 below;
 - (c) his being subject to after-care under supervision is likely to help to secure that he receives the after-care services so provided.
- (5) The community responsible medical officer shall not consider whether the conditions set out in subsection (4) above are complied with unless—
 - (a) the following persons have been consulted—
 - (i) the patient;
 - (ii) the supervisor;

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- (iii) unless no-one other than the community responsible medical officer is professionally concerned with the patient's medical treatment, one or more persons who are so concerned;
 - (iv) one or more persons who are professionally concerned with the after-care services (other than medical treatment) provided for the patient under section 117 below; and
 - (v) any person who the community responsible medical officer believes plays a substantial part in the care of the patient but is not professionally concerned with the after-care services so provided;
 - (b) such steps as are practicable have been taken to consult the person (if any) appearing to be the nearest relative of the patient; and
 - (c) the community responsible medical officer has taken into account any relevant views expressed by the persons consulted.
- (6) Where the patient has requested that paragraph (b) of subsection (5) above should not apply, that paragraph shall not apply unless—
- (a) the patient has a propensity to violent or dangerous behaviour towards others; and
 - (b) the community responsible medical officer considers that it is appropriate for steps such as are mentioned in that paragraph to be taken.
- (7) Where a report is duly furnished under subsection (3) above, the patient shall be thereby made subject to after-care under supervision for the further period prescribed in that case by subsection (2) above.
- (8) Where a report is furnished under subsection (3) above, the responsible after-care bodies shall—
- (a) inform the patient both orally and in writing—
 - (i) that the report has been furnished; and
 - (ii) of the effect in his case of the provisions of this Act relating to making a patient subject to after-care under supervision for a further period (including, in particular, what rights of applying to a Mental Health Review Tribunal are available);
 - (b) inform any person who has been consulted under paragraph (a)(v) of subsection (5) above that the report has been furnished; and
 - (c) inform in writing any person who has been consulted under paragraph (b) of that subsection that the report has been furnished.
- (9) Where the form of mental disorder specified in a report furnished under subsection (3) above is a form of disorder other than that specified in the supervision application, that application shall have effect as if that other form of mental disorder were specified in it.
- (10) Where on any occasion a report specifying such a form of mental disorder is furnished under subsection (3) above the community responsible medical officer need not on that occasion furnish a report under section 25F above.

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25H Ending of after-care under supervision.

- (1) The community responsible medical officer may at any time direct that a patient subject to after-care under supervision shall cease to be so subject.
- (2) The community responsible medical officer shall not give a direction under subsection (1) above unless subsection (3) below is complied with.
- (3) This subsection is complied with if—
 - (a) the following persons have been consulted about the giving of the direction—
 - (i) the patient;
 - (ii) the supervisor;
 - (ii) unless no-one other than the community responsible medical officer is professionally concerned with the patient's medical treatment, one or more persons who are so concerned;
 - (iv) one or more persons who are professionally concerned with the after-care services (other than medical treatment) provided for the patient under section 117 below; and
 - (v) any person who the community responsible medical officer believes plays a substantial part in the care of the patient but is not professionally concerned with the after-care services so provided;
 - (b) such steps as are practicable have been taken to consult the person (if any) appearing to be the nearest relative of the patient about the giving of the direction; and
 - (c) the community responsible medical officer has taken into account any views expressed by the persons consulted.
- (4) Where the patient has requested that paragraph (b) of subsection (3) above should not apply, that paragraph shall not apply unless—
 - (a) the patient has a propensity to violent or dangerous behaviour towards others; and
 - (b) the community responsible medical officer considers that it is appropriate for steps such as are mentioned in that paragraph to be taken.
- (5) A patient subject to after-care under supervision shall cease to be so subject if he—
 - (a) is admitted to a hospital in pursuance of an application for admission for treatment; or
 - (b) is received into guardianship.
- (6) Where a patient (for any reason) ceases to be subject to after-care under supervision the responsible after-care bodies shall—
 - (a) inform the patient both orally and in writing;
 - (b) inform any person who they believe plays a substantial part in the care of the patient but is not professionally concerned with the after-care services provided for the patient under section 117 below; and
 - (c) take such steps as are practicable to inform in writing the person (if any) appearing to be the nearest relative of the patient,

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that the patient has ceased to be so subject.

- (7) Where the patient has requested that paragraph (c) of subsection (6) above should not apply, that paragraph shall not apply unless subsection (3)(b) above applied in his case by virtue of subsection (4) above.

25I Special provisions as to patients sentenced to imprisonment etc.

- (1) This section applies where a patient who is subject to after-care under supervision—
- (a) is detained in custody in pursuance of any sentence or order passed or made by a court in the United Kingdom (including an order committing or remanding him in custody); or
 - (b) is detained in hospital in pursuance of an application for admission for assessment.
- (2) At any time when the patient is detained as mentioned in subsection (1)(a) or (b) above he is not required—
- (a) to receive any after-care services provided for him under section 117 below; or
 - (b) to comply with any requirements imposed on him under section 25D above.
- (3) If the patient is detained as mentioned in paragraph (a) of subsection (1) above for a period of, or successive periods amounting in the aggregate to, six months or less, or is detained as mentioned in paragraph (b) of that subsection, and, apart from this subsection, he—
- (a) would have ceased to be subject to after-care under supervision during the period for which he is so detained; or
 - (b) would cease to be so subject during the period of 28 days beginning with the day on which he ceases to be so detained,
- he shall be deemed not to have ceased, and shall not cease, to be so subject until the end of that period of 28 days.
- (4) Where the period for which the patient is subject to after-care under supervision is extended by subsection (3) above, any examination and report to be made and furnished in respect of the patient under section 25G(3) above may be made and furnished within the period as so extended.
- (5) Where, by virtue of subsection (4) above, the patient is made subject to after-care under supervision for a further period after the day on which (apart from subsection (3) above) he would have ceased to be so subject, the further period shall be deemed to have commenced with that day.

25J Patients moving from Scotland to England and Wales.

- (1) A supervision application may be made in respect of a patient who is subject to a community care order under the ^{M2}Mental Health (Scotland) Act 1984 and who intends to leave Scotland in order to reside in England and Wales.
- (2) Sections 25A to 25I above, section 117 below and any other provision of this Act relating to supervision applications or patients subject to after-care under supervision shall apply in relation to a patient in respect of whom a

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supervision application is or is to be made by virtue of this section subject to such modifications as the Secretary of State may by regulations prescribe.”

- (2) Schedule 1 to this Act (supplementary provisions about after-care under supervision) shall have effect.

Marginal Citations

- M1** 1983 c. 20.
M2 1984 c. 36.

2 Absence without leave.

- (1) In section 18 of the ^{M3}Mental Health Act 1983 (return of patients absent without leave), for subsection (4) (which provides that a patient may not be taken into custody after the end of the period of 28 days beginning with the first day of his absence without leave) there shall be substituted the following subsection—

“(4) A patient shall not be taken into custody under this section after the later of—

- (a) the end of the period of six months beginning with the first day of his absence without leave; and
- (b) the end of the period for which (apart from section 21 below) he is liable to be detained or subject to guardianship;

and, in determining for the purposes of paragraph (b) above or any other provision of this Act whether a person who is or has been absent without leave is at any time liable to be detained or subject to guardianship, a report furnished under section 20 or 21B below before the first day of his absence without leave shall not be taken to have renewed the authority for his detention or guardianship unless the period of renewal began before that day.”

- (2) For section 21 of that Act (duration of authority for detention and guardianship: special provisions as to patients absent without leave) there shall be substituted the following sections—

“21 Special provisions as to patients absent without leave.

- (1) Where a patient is absent without leave—
- (a) on the day on which (apart from this section) he would cease to be liable to be detained or subject to guardianship under this Part of this Act; or
 - (b) within the period of one week ending with that day,
- he shall not cease to be so liable or subject until the relevant time.
- (2) For the purposes of subsection (1) above the relevant time—
- (a) where the patient is taken into custody under section 18 above, is the end of the period of one week beginning with the day on which he is returned to the hospital or place where he ought to be;
 - (b) where the patient returns himself to the hospital or place where he ought to be within the period during which he can be taken into custody under section 18 above, is the end of the period of one week beginning with the day on which he so returns himself; and

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- (c) otherwise, is the end of the period during which he can be taken into custody under section 18 above.

21A Patients who are taken into custody or return within 28 days.

- (1) This section applies where a patient who is absent without leave is taken into custody under section 18 above, or returns himself to the hospital or place where he ought to be, not later than the end of the period of 28 days beginning with the first day of his absence without leave.
- (2) Where the period for which the patient is liable to be detained or subject to guardianship is extended by section 21 above, any examination and report to be made and furnished in respect of the patient under section 20(3) or (6) above may be made and furnished within the period as so extended.
- (3) Where the authority for the detention or guardianship of the patient is renewed by virtue of subsection (2) above after the day on which (apart from section 21 above) that authority would have expired, the renewal shall take effect as from that day.

21B Patients who are taken into custody or return after more than 28 days.

- (1) This section applies where a patient who is absent without leave is taken into custody under section 18 above, or returns himself to the hospital or place where he ought to be, later than the end of the period of 28 days beginning with the first day of his absence without leave.
- (2) It shall be the duty of the appropriate medical officer, within the period of one week beginning with the day on which the patient is returned or returns himself to the hospital or place where he ought to be—
 - (a) to examine the patient; and
 - (b) if it appears to him that the relevant conditions are satisfied, to furnish to the appropriate body a report to that effect in the prescribed form; and where such a report is furnished in respect of the patient the appropriate body shall cause him to be informed.
- (3) Where the patient is liable to be detained (as opposed to subject to guardianship), the appropriate medical officer shall, before furnishing a report under subsection (2) above, consult—
 - (a) one or more other persons who have been professionally concerned with the patient's medical treatment; and
 - (b) an approved social worker.
- (4) Where the patient would (apart from any renewal of the authority for his detention or guardianship on or after the day on which he is returned or returns himself to the hospital or place where he ought to be) be liable to be detained or subject to guardianship after the end of the period of one week beginning with that day, he shall cease to be so liable or subject at the end of that period unless a report is duly furnished in respect of him under subsection (2) above.
- (5) Where the patient would (apart from section 21 above) have ceased to be liable to be detained or subject to guardianship on or before the day on which a report

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is duly furnished in respect of him under subsection (2) above, the report shall renew the authority for his detention or guardianship for the period prescribed in that case by section 20(2) above.

- (6) Where the authority for the detention or guardianship of the patient is renewed by virtue of subsection (5) above—
- (a) the renewal shall take effect as from the day on which (apart from section 21 above and that subsection) the authority would have expired; and
 - (b) if (apart from this paragraph) the renewed authority would expire on or before the day on which the report is furnished, the report shall further renew the authority, as from the day on which it would expire, for the period prescribed in that case by section 20(2) above.
- (7) Where the authority for the detention or guardianship of the patient would expire within the period of two months beginning with the day on which a report is duly furnished in respect of him under subsection (2) above, the report shall, if it so provides, have effect also as a report duly furnished under section 20(3) or (6) above; and the reference in this subsection to authority includes any authority renewed under subsection (5) above by the report.
- (8) Where the form of mental disorder specified in a report furnished under subsection (2) above is a form of disorder other than that specified in the application for admission for treatment or guardianship application concerned (and the report does not have effect as a report furnished under section 20(3) or (6) above), that application shall have effect as if that other form of mental disorder were specified in it.
- (9) Where on any occasion a report specifying such a form of mental disorder is furnished under subsection (2) above the appropriate medical officer need not on that occasion furnish a report under section 16 above.
- (10) In this section—
- “appropriate medical officer” has the same meaning as in section 16(5) above;
 - “the appropriate body” means—
 - (a) in relation to a patient who is liable to be detained in a hospital, the managers of the hospital; and
 - (b) in relation to a patient who is subject to guardianship, the responsible local social services authority; and
 - “the relevant conditions” means—
 - (a) in relation to a patient who is liable to be detained in a hospital, the conditions set out in subsection (4) of section 20 above; and
 - (b) in relation to a patient who is subject to guardianship, the conditions set out in subsection (7) of that section.”
- (3) In section 22 of that Act (special provisions as to patients sentenced to imprisonment etc.)—
- (a) in subsection (2) (detained patient in whose case application for admission for treatment or guardianship application does not cease to have effect), for the words “and 21” there shall be substituted “, 21 and 21A”; and
 - (b) after that subsection there shall be inserted the following subsection—

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- “(3) In its application by virtue of subsection (2) above section 18(4) above shall have effect with the substitution of the words “end of the period of 28 days beginning with the first day of his absence without leave.” for the words from “later of” onwards.”
- (4) In section 40 of that Act (effect of hospital orders and guardianship orders), after subsection (5) there shall be inserted the following subsection—
- “(6) Where—
- (a) a patient admitted to a hospital in pursuance of a hospital order is absent without leave;
 - (b) a warrant to arrest him has been issued under section 72 of the ^{M4}Criminal Justice Act 1967; and
 - (c) he is held pursuant to the warrant in any country or territory other than the United Kingdom, any of the Channel Islands and the Isle of Man,
- he shall be treated as having been taken into custody under section 18 above on first being so held.”
- (5) In section 61 of that Act (review of treatment), in subsection (1) (report on treatment and patient’s condition to be given to Secretary of State), in paragraph (a) (report to be given when report furnished under section 20(3)), for the words “in respect of the patient under section 20(3) above” there shall be substituted “ under section 20(3) or 21B(2) above renewing the authority for the detention of the patient ”.
- (6) In section 66 of that Act (applications to tribunals)—
- (a) in subsection (1) (cases where application may be made), after paragraph (f) there shall be inserted the following paragraphs—
 - “(fa) a report is furnished under subsection (2) of section 21B above in respect of a patient and subsection (5) of that section applies (or subsections (5) and (6)(b) of that section apply) in the case of the report; or
 - (fb) a report is furnished under subsection (2) of section 21B above in respect of a patient and subsection (8) of that section applies in the case of the report; or”;
 - (b) in subsection (2) (period within which application may be made), in paragraph (d), after “(d)” there shall be inserted “, (fb)” and, in paragraph (f), for the words “of that subsection, the period” there shall be substituted “ or (fa) of that subsection, the period or periods ”.
- (7) In section 68 of that Act (duty of managers of hospitals to refer cases to tribunal), in subsection (2) (reference where detention is renewed under section 20 and three years have elapsed since last consideration of case), after “20” there shall be inserted “ or 21B ”.
- (8) In Schedule 1 to that Act (application of provisions to patients subject to hospital and guardianship orders), in Part I (patients not subject to special restrictions), in paragraph 1 (provisions applying without modification), for “21,” there shall be substituted “ 21 to 21B, ”.

Marginal Citations

M3 1983 c. 20.

Status: Point in time view as at 01/04/1996.

Changes to legislation: There are currently no known outstanding effects for the Mental Health (Patients in the Community) Act 1995, Cross Heading: England and Wales. (See end of Document for details)

M4 1967 c. 80.

3 Leave of absence from hospital.

- (1) In section 17 of the ^{M5}Mental Health Act 1983 (leave of absence for patient liable to be detained in a hospital under Part II of that Act), in subsection (5), the words from “; and without prejudice” to the end (which cause a patient on leave of absence to cease to be liable to be so detained six months after the beginning of his absence even though he would not otherwise have by then ceased to be so liable) shall be omitted.
- (2) In Schedule 1 to that Act (application of provisions to patients subject to hospital and guardianship orders), in Part II (patients subject to special restrictions), in paragraph 3(c) (modifications of section 17(5)), for the word “six” there shall be substituted “twelve”.
- (3) Subsections (1) and (2) apply where leave of absence has been granted to a patient before the day on which this section comes into force (as well as where it is granted to a patient after that day).

Marginal Citations

M5 1983 c. 20.

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