



Mental Health Act 2007

2007 CHAPTER 12

PART 1

AMENDMENTS TO MENTAL HEALTH ACT 1983

CHAPTER 3

SAFEGUARDS FOR PATIENTS

Consent to treatment

28 Section 27: supplemental

- (1) Part 4 of the 1983 Act (consent to treatment) is amended as follows.
- (2) In section 58 (treatment requiring consent or a second opinion)—
 - (a) in subsection (1)(b), after “section 57 above” insert “or section 58A(1)(b) below”, and
 - (b) in subsection (3)(b), before “has not consented to it” insert “being so capable”.
- (3) In section 59 (plans of treatment), for “or 58” substitute “, 58 or 58A”.
- (4) In section 60 (withdrawal of consent), for “or 58”, substitute “, 58 or 58A”.
- (5) In section 61 (review of treatment)—
 - (a) in subsection (1), for “or 58(3)(b)” substitute “, 58(3)(b) or 58A(4) or (5)”, and
 - (b) in subsection (3)—
 - (i) for “or 58(3)(b)” substitute “, 58(3)(b) or 58A(4) or (5)”, and
 - (ii) for “and 58” substitute “, 58 and 58A”.
- (6) In section 62 (urgent treatment), after subsection (1) insert—

Status: This is the original version (as it was originally enacted).

- “(1A) Section 58A above, in so far as it relates to electro-convulsive therapy by virtue of subsection (1)(a) of that section, shall not apply to any treatment which falls within paragraph (a) or (b) of subsection (1) above.
- (1B) Section 58A above, in so far as it relates to a form of treatment specified by virtue of subsection (1)(b) of that section, shall not apply to any treatment which falls within such of paragraphs (a) to (d) of subsection (1) above as may be specified in regulations under that section.
- (1C) For the purposes of subsection (1B) 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.”
- (7) In that section, in subsection (2), for “or 58” substitute “, 58 or 58A”.
- (8) In section 63 (treatment not requiring consent), for “, not being treatment falling within section 57 or 58 above,” substitute “, not being a form of treatment to which section 57, 58 or 58A above applies,”.
- (9) In section 64 (supplementary provisions), after subsection (1A) (inserted by section 12 of this Act) insert—
- “(1B) References in this Part of this Act to the approved clinician in charge of a patient’s treatment shall, where the treatment in question is a form of treatment to which section 58A above applies and the patient falls within section 56(5) above, be construed as references to the person in charge of the treatment.
- (1C) Regulations made by virtue of section 32(2)(d) above apply for the purposes of this Part as they apply for the purposes of Part 2 of this Act.”
- (10) In section 28 of the Mental Capacity Act 2005 (c. 9) (Mental Health Act matters), after subsection (1) insert—
- “(1A) Subsection (1) does not apply in relation to any form of treatment to which section 58A of that Act (electro-convulsive therapy, etc.) applies if the patient comes within subsection (7) of that section (informal patient under 18 who cannot give consent).”.