

23 - The Mental Health Act in England and Wales

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Prescribing psychotropics CHAPTER 14 The Mental Health Act in England and Wales The 1983 Mental Health Act (MHA) as amended by the 2007 MHA is the legislation within England and Wales that provides the framework for detaining and treating people with mental disorder in hospital. It also allows for the supervision of people in the community. Mental health law as it pertains to other countries is not covered in this book. The guidance here provides a quick summary of the sections that prescribers are likely to come across in their day-to-day work (Box 14.2). It is not an exhaustive list. The Act has a statutory Code of Practice for practitioners and Chapter 25 of the Code provides detailed guidance on the treatment rules of the Act.¹ The MHA can be accessed at www.legislation.gov.uk. The power to treat under S58 is only for treatment of mental disorder. Physical treatment (generally) is governed by the normal rules of consent or, if the person lacks capacity, the authority of the Mental Capacity Act. The Responsible Clinician (RC) is usually the patient's consultant. For the first 3 months of detention, the RC may give medication with or without consent to a person under one of the detention sections named for the treatment of their mental disorder. Thereafter, the patient's consent or a second opinion must be sought. The 3 months' countdown starts when medication for mental disorder is first administered while the patient is detained. This includes a patient detained under S2 who is then, without a break, detained under S3. For practical purposes the 3-month rule is usually calculated from the date of first detention. Box 14.2 Civil and forensic detention sections Section 2 Admission for assessment which lasts for up to 28 days Section 3 Admission for treatment which may last up to 6 months and is renewable Section 36 Remand to hospital for treatment Section 37 Hospital Order made by the courts (runs like an S3) Notional 37 Treat as if subject to S37. This term is used informally under a number of different circumstances. One example is where a patient was previously detained under S47/49 and their restriction order expires. Section 38 Interim Hospital Order Section 41 Restriction order: an order made by the Crown Court restricting discharge. Accompanies S37 and is written as S37/41. Section 47 Transfer to hospital of prisoners Section 49 A restriction order which usually accompanies S47 (written as S47/49) Section 48 Applies to unsentenced prisoners in need of urgent treatment and is accompanied by S49 (written as S48/49) Section 58 Treatment requiring consent or a second opinion Please note in law it is the Responsible Clinician (RC) who is accountable for the operation of S58

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