MHA changes and Coronavirus

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Mental health and mental capacity

10 Temporary modification of mental health and mental capacity legislation

(1) Schedule 8 contains temporary modifications of the Mental Health Act 1983, and related provision.

(2) Schedule 9 contains temporary modifications of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13), the Criminal Procedure (Scotland) Act 1995 and related subordinate legislation.

(3) Schedule 10 contains temporary modifications of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)), and related provision.

(4) Schedule 11 contains temporary modifications of the Mental Capacity Act (Northern Ireland) 2016 (c. 18 (N.I.)), and related provision.

- N.B. Changes not yet in Force in England and Wales
General Guidance

• Emergency Powers (when in force - not yet!) should only be used when there is a strong justification for doing so

• I.e. where use of usual MHA procedure is impractical or would involve undesirable delay

• Reasons justifying their use should be recorded
Sections 2, 3, 5(4), and 5(2)

• Where it is considered impractical or would involve undesirable delay:

• Section 2 and 3 one (instead of two) registered medical practitioner plus AMHP

• 5(4) 12 hours instead of 6 hours

• 5(2) 120 hours instead of 72 hours and any registered medical practitioner or AC can submit the report (instead of clinician in charge of patient’s treatment)
Part 3- Criminal justice

- Section 35(7)- period of remand to hospital for report on mental condition
- Section 36(6)- period of remand to hospital for treatment
- No longer capped at 12 weeks in total
Sections 36, 37, 38, 45A, 51

- Evidence of only one medical practitioner needed (instead of two)

- Evidence must be given orally

- Secretary of State can transfer a prisoner to hospital on basis of one medical practitioner report (not two) and Hospital has 28 instead of 14 days to receive the pt.
s. 135 and 136

- Person can be held at place of safety for up to 36 hours instead of 24 hours.
s.58 Administration of medicine for more than 3 months

- Treating AC or RC can provide certificate that medication is appropriate instead of the SOAD.
- Treating clinician or SOAD can consult with one other who is involved in pt’s Rx, instead of 2- they should not be a nurse, doctor or the RC.
Tribunal Changes- In force

• No Pre Hearing Examinations

• Judge only unless Judge decides otherwise

• Tribunal on the papers in certain cases

• Telephone/video hearings where tribunals are taking place in person
SOADs

- Summary of care records to be sent with request e.g. admission report, CPA/CTP report, recent tribunal or manager’s report
- All consultations with professionals and patient by telephone or video call
- Electronic copies of certificates
Thank-you

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