



MENTAL HEALTH RIGHTS, DETENTION & AFTERCARE

Understanding Mental Health Act Sections

A practical guide to commonly encountered sections, their purpose, duration and key differences.

The key idea

A 'section' is a specific legal power or provision within the Mental Health Act. Different sections do very different things: some allow assessment or treatment, some are short holding powers, and others concern leave, courts or police powers.

What does a Mental Health Act section mean?

The Mental Health Act contains many numbered sections. The number tells you which legal provision is being used, but it does not by itself describe a person's diagnosis or how unwell they are. Each section has its own purpose, criteria, procedures and safeguards.

Current law and reform

The **Mental Health Act 2025** amends the 1983 Act, but its major reforms are being commenced in stages. This guide describes the sections as they operate in **September 2026** and does not present uncommenced reforms as current practice.

Three useful questions

When somebody says they are 'on a section', it can help to ask: **Which section?** What does that section legally allow? And what rights or safeguards apply to the person under it?

Not every section means long-term detention

Some sections last only hours, some allow assessment for weeks, some allow treatment for months, and some do not themselves amount to a hospital detention power at all.

This guide focuses on commonly encountered provisions

It covers civil assessment and treatment sections, hospital holding powers, leave and community treatment, police powers and several court-related sections. It is an introduction rather than an exhaustive guide to every provision in the Act.

Rights remain important

Whichever power is being used, the person should be given appropriate information about their legal status and relevant rights. Advocacy and legal advice may be particularly important where detention or treatment is disputed.

Section 2 - admission for assessment

Section 2 allows a person to be detained in hospital for assessment of their mental disorder, and for treatment during that assessment period where the Act permits it.

Usual maximum period

Section 2 can last for up to **28 days**. It is primarily an assessment power rather than a renewable long-term treatment section.

Why might Section 2 be used?

It may be used where assessment in hospital is considered necessary and the statutory criteria are met. The application ordinarily involves an Approved Mental Health Professional or the person's Nearest Relative and medical recommendations meeting the Act's requirements.

Tribunal rights

A person detained under Section 2 has a right to apply to the First-tier Tribunal within the relevant statutory time limit. Because Section 2 is short, seeking advice promptly can matter.

Section 2 compared with Section 3

Section 2 is principally for assessment; Section 3 is for treatment where the legal treatment criteria are met. A person does not automatically move from Section 2 to Section 3, although a Section 3 application may be considered where continued detention for treatment is necessary.

Remember

Being detained for assessment does not remove the person's rights to information, advocacy, appropriate involvement in care and access to routes for challenging detention.

Section 3 - admission for treatment

Section 3 allows detention in hospital for treatment for mental disorder where the statutory criteria are satisfied and appropriate medical treatment is available.

Initial period

Under the law currently operating in September 2026, Section 3 can initially authorise detention for up to **6 months**. It can then be renewed in accordance with the Act if the criteria continue to be met.

Why is Section 3 significant?

Section 3 is a treatment section and generally involves a longer potential period of detention than Section 2. It is also one of the qualifying routes associated with entitlement to **Section 117 aftercare** following discharge.

Aftercare

A person who has been detained under a qualifying treatment section may have statutory Section 117 aftercare rights. We will cover this in detail in the dedicated aftercare resource.

Review and discharge

The responsible clinician, hospital managers and First-tier Tribunal can have roles in ending detention. Under the current framework, the Nearest Relative may also have particular discharge powers, subject to statutory rules and possible restrictions.

2025 reforms

The 2025 Act contains future changes to detention criteria and detention periods. Where those provisions have not yet commenced, this guide continues to describe the current operational rules.

Section 4 - emergency admission

Section 4 provides an emergency route to hospital for assessment where the situation is sufficiently urgent that waiting for the usual Section 2 process would involve undesirable delay.

Short emergency power

Section 4 can authorise detention for up to **72 hours**. It is not intended to replace the ordinary Section 2 assessment process simply because it is quicker.

How is it different from Section 2?

A Section 4 application can proceed on the basis of one medical recommendation where the statutory emergency conditions are met, rather than the usual two medical recommendations associated with Section 2.

May be converted

Where the additional medical recommendation is obtained and the legal requirements are satisfied, the person's detention can continue as Section 2 rather than simply remaining an emergency Section 4 admission.

Emergency does not remove safeguards

The urgency of the situation does not make rights irrelevant. The person should still receive information about their legal status and appropriate support.

Different from police powers

Section 4 is an admission power. It should not be confused with Sections 135 or 136, which concern police powers and places of safety.

Section 5 - hospital holding powers

Section 5 powers can be used when a person is already an **inpatient** in hospital and an urgent need arises to prevent them leaving while a Mental Health Act assessment is arranged.

Section 5(2) - doctor or approved clinician

Section 5(2) can allow an informal inpatient to be held for up to **72 hours** by the doctor or approved clinician in charge of their treatment, or a nominated deputy, while further assessment takes place.

Section 5(4) - nurse's holding power

Certain nurses can use Section 5(4) to hold an informal inpatient for up to **6 hours** until a doctor or approved clinician who can consider Section 5(2) arrives.

What happens next?

A holding power is temporary. The purpose is to allow time for appropriate assessment; it is not a substitute for a longer detention section. The person may subsequently remain informal, be discharged, or be detained under another section if the legal criteria are met.

Important distinction

Section 5 does not apply simply because somebody is physically inside a hospital. The statutory conditions for the particular holding power must apply.

Can a person appeal a Section 5 holding power?

Because these are very short holding powers, the usual Tribunal application route for longer detention sections does not operate in the same way. The person should nevertheless be informed of their status and can seek advocacy or legal advice.

Section 17 and Section 17A

Not every important Mental Health Act section is a new detention power. Sections 17 and 17A concern how an existing detention or treatment framework can operate outside the hospital.

Section 17 - leave

A responsible clinician can grant a detained patient **leave of absence** from hospital. Leave can be for a particular purpose or period and may have conditions attached.

What happens while on Section 17 leave?

The person remains detained under their underlying section even while authorised to be away from the hospital. The responsible clinician can revoke leave and require the person to return where the legal requirements are met.

Section 17A - Community Treatment Order

A **Community Treatment Order (CTO)** allows certain patients who have been detained for treatment to live in the community subject to the statutory CTO framework and conditions.

Recall

A patient on a CTO can be recalled to hospital in circumstances set out by the Act. Recall is different from beginning a completely new Section 2 or Section 3 detention.

Future reform

The Mental Health Act 2025 contains reforms to CTOs, including stronger criteria and safeguards. Implementation is phased, so current operational rules should be checked against commencement dates.

Sections 135 and 136 - police powers

Sections 135 and 136 are often discussed together, but they apply in different circumstances.

Section 135 - warrant

Section 135 allows a magistrate to issue a warrant enabling police to enter specified premises in circumstances set out by the Act, including to remove a person to a place of safety for assessment or arrangements for care.

Why a warrant?

Section 135 can be relevant where access to private premises is required. The precise subsection and purpose matter, because Section 135 also contains powers concerning people already liable to be detained.

Section 136 - public place

Section 136 allows police to remove a person from a place to which the public has access to a place of safety where the statutory mental-health emergency criteria are met.

How long can somebody be kept?

The current framework generally allows detention at a place of safety for assessment for up to **24 hours**, with a limited extension to a maximum of **36 hours** where the statutory conditions for extension are met.

Not the same as Section 2

Being taken to a place of safety under Section 135 or 136 does not automatically mean the person has then been detained under Section 2 or Section 3. A separate assessment and legal decision are required.

Court-related sections: 35, 36, 37 and 41

Part III of the Mental Health Act contains powers concerning people involved in criminal proceedings or under sentence. These provisions are different from ordinary civil admission under Sections 2 and 3.

Section 35

A court can remand an accused person to hospital for a report on their mental condition where the statutory requirements are met. This is a court power connected with assessment and reporting.

Section 36

The Crown Court can remand an accused person to hospital for **treatment** in specified circumstances. It is distinct from Section 35 and has its own criteria.

Section 37

Instead of imposing another sentence or disposal, a criminal court can make a **hospital order** where the statutory requirements are met. This authorises detention for treatment.

Section 41

For specified cases, the Crown Court can add a **restriction order** to a Section 37 hospital order. This creates additional controls around leave, transfer and discharge and involves the Secretary of State and/or Tribunal.

Specialist legal advice can be important

Forensic sections can have complex consequences and may interact with criminal proceedings, restricted-patient rules and conditional discharge. People subject to these provisions should have access to appropriate legal information and representation.

Other sections you may hear about

Section 7 - guardianship

Guardianship can provide a community-based legal framework with specified powers relating to matters such as residence and access, but it does not give the same powers as hospital detention.

Section 37/41

This shorthand means a hospital order under Section 37 combined with restrictions under Section 41. It is commonly encountered in forensic mental health services.

Sections 47 and 48

These provisions concern transfer to hospital of people in prison or certain other forms of custody. Additional restrictions can apply through Section 49.

Section 117

Section 117 is not a detention section. It creates a statutory duty to provide **aftercare** for people who have ceased to be detained under certain qualifying sections.

Why the section number matters

Two people in the same hospital may have very different legal statuses and rights. One may be informal, another detained under Section 2, another under Section 3, and another subject to a court order. The section determines which legal rules apply.

Ask for the exact status

If somebody is unsure, they can ask staff which section or legal authority applies, request written information about it and speak with an Independent Mental Health Advocate or specialist solicitor where eligible.

A quick comparison

Section 2	Assessment. Up to 28 days under the current framework. Civil detention with Tribunal and advocacy rights.
Section 3	Treatment. Initially up to 6 months under the current framework, with statutory renewal processes. Can lead to Section 117 aftercare entitlement.
Section 4	Emergency admission for assessment. Up to 72 hours where the specific urgent criteria apply.
Section 5(2)	Hospital holding power. Up to 72 hours for an informal inpatient while assessment is arranged.
Section 5(4)	Nurse's holding power. Up to 6 hours for an informal inpatient pending medical assessment.
Section 17	Leave. Authorised absence from hospital while the underlying detention continues.
Section 17A	Community Treatment Order. A statutory community framework for qualifying patients previously detained for treatment.
Sections 135/136	Police/place-of-safety powers. Used in different circumstances to enable urgent mental-health assessment and arrangements.

Practical reminders

- Ask for the exact section rather than relying only on the word 'sectioned'.
- Section 2 is principally assessment; Section 3 is treatment.
- Sections 4 and 5 are short-term powers and should not be confused with longer detention sections.
- Section 17 is leave from an existing detention; Section 17A is the CTO framework.
- Sections 135 and 136 are police/place-of-safety powers, not automatic Section 2 or 3 admissions.
- Court-related sections have different rules from civil detention and may require specialist legal advice.
- Section 117 concerns aftercare rather than detention.
- Rights, advocacy and routes to challenge depend on the person's precise legal status.

A useful starting question

When a section number is mentioned, ask: **What does this section legally allow, how long can it operate, what happens next, and what rights does the person have while it is being used?**

About this resource

This PDF provides general educational information about commonly encountered Mental Health Act provisions in England. It is not a substitute for the Act, statutory guidance or individual legal advice. The Mental Health Act 2025 is being implemented in stages, so later commencement changes should be checked.

Information reviewed: 24 September 2026

References & further information

Mental Health Act 1983. The principal legislation containing the sections described in this guide.

Department of Health and Social Care. *Mental Health Act 1983: Code of Practice.* Statutory guidance on how professionals should exercise functions under the Act.

Department of Health and Social Care. *Mental Health Act 1983: Reference Guide.* Detailed explanation of the structure and operation of the Act.

NHS. *Mental Health Act.* Public information on detention, Sections 2 and 3, hospital holding powers, police powers, Section 17 leave and patient rights.

Mental Health Act 2025. Amending legislation whose reforms are being brought into force in stages.

Next in this collection

The next resource will focus on **Your Rights When Detained:** information, advocacy, communication, treatment, leave, review, Tribunal rights and ways to raise concerns or challenge detention.