

Section 3 of the Mental Health Act 1983

Section 3 of the Mental Health act allows people to be detained in hospital for treatment. A team of qualified mental health professionals have decided that such treatment is necessary for your health, your safety or for the protection of other people.

How long can I be detained

You can initially be detained for up to 6 months, but you may be discharged before this time is up. If the Doctors and Healthcare Professionals feel that you need to remain in hospital any longer, detention under s3 can be renewed for a further 6 months.

After the first year, detention can be renewed for further periods of one year at a time.

A s3 can only be renewed if you have been given an assessment by the doctor responsible for your care in hospital, during the two months before your s3 is due to end.

How a s3 happens

To be detained under a s3:

- An application must be made to the detaining hospital by an Approved Mental Health Professional (AMHP), or by your nearest relative.
- You must be seen by two separate doctors. One of these must have had specialist training to assess whether someone should be detained under the Mental Health Act.
- The doctors must have seen you within 5 days of each other.
- Admission to hospital must be arranged within 14 days of the last doctor's examination.

Your Rights

You have the following rights when you are detained under section 3:

- You can have the right to appeal against detention to a Mental Health Tribunal once during the first six months of detention.
- If your s3 is renewed, you can appeal once during the second six months. You can then appeal once during each yearly period.
- You have the right to apply for discharge to the Mental Health Act managers at any time whilst you are detained.
- You can ask for the help of an Independent Mental Health Advocate who can assist you to raise any issues you have with your care and treatment.
- You have the right to free and independent legal advice and representation if you choose to apply for a Mental Health Tribunal. Whether or not you will be charged for advice and representation in other areas of your detention will depend on your financial circumstances.
- You have the right to be treated the least restrictive way necessary to meet your mental health needs.

You should be given a Patient Rights Leaflet by a member of the hospital staff which explains your legal rights. Other leaflets concerning such things as leave and medication should also be available on the ward.



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Can I be treated against my will

You can be treated against your will for the first three months of your detention. After this time you have to be seen by a Second Opinion Appointed Doctor (SOAD). A SOAD will give you an assessment to see if they think the treatment is needed. This means that after 3 months, treatment should only be given without your consent if the SOAD has approved it.

You cannot be given certain treatments without your consent unless specific criteria are fulfilled. These treatments include electroconvulsive therapy (ECT). If you are unhappy about your treatment you should talk to your named nurse or psychiatrist. An Independent Mental Health Advocate (IMHA) or a solicitor may be able to help you put your case forward.

An application has been made for you to be detained in hospital by a team of mental health professionals, because they are satisfied that you need to be in hospital because of the type of illness you might have and/or the severity of that illness. They must also believe you need to be in hospital for your health or safety or for the protection of other people and that any necessary treatment needs to be carried out in hospital, even though it might be against your wishes.

Can I leave the ward at any time

Only your doctor can give permission for you to leave even for a short time. This is done under S.17 of the Mental Health Act. Leave is time restricted and can be subject to conditions, such as being escorted by a nurse. If you do not keep to the time limits or restrictions you can be brought back to hospital, by the Police if necessary.

How can I be discharged

Your doctor can discharge you at any time.

Your nearest relative can order your discharge. If they do this your doctor has 72 hours to agree (and you will be discharged), or disagree (and you will remain detained). Your nearest relative can only ask for your discharge once during the 6 month period. Before taking any action, we recommend that your nearest relative takes legal advice. We would be happy to speak to them further if you and they would like us to.

The Hospital Managers can discharge you. They review reports, usually prepared by your doctor, social worker and nurse and ask them questions and should also speak to you to find out what your wishes are. They can also adjourn for further information or make informal recommendations about your case.

The Tribunal can discharge you. The Tribunal is an independent panel of 3 people, a lawyer, psychiatrist and a lay-person. Reports will be provided by your doctor and nurses. The Tribunal will also ask your doctor, social worker and nurse questions and speak to you to find out your wishes. The Tribunal can make a number of decisions, including: a) discharging you (immediately or delayed for a period of time), b) adjourning for further information; c) make recommendations about leave in the community or transfer to another hospital or into guardianship.

It is important to note that neither the Hospital Managers or the Tribunal can make any orders about your treatment. This means, amongst other things, that they cannot make your doctor stop giving you medication, or start giving you a different type of medication.



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