

Access to Medical Reports Act 1988 (c. 28)

1988 Chapter c. 28

An Act to establish a right of **access** by individuals to reports relating to themselves provided by medical practitioners for employment or insurance purposes and to make provision for related matters.

[29th July 1988]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Right of **access**. **1.** It shall be the right of an individual to have **access**, in accordance with the provisions of this Act, to any medical report relating to the individual which is to be, or has been, supplied by a medical practitioner for employment purposes or insurance purposes.

Interpretation. **2.**—(1) In this Act—
"the applicant" means the person referred to in section 3(1) below;
"care" includes examination, investigation or diagnosis for the purposes of, or in connection with, any form of medical treatment;
"employment purposes", in the case of any individual, means the purposes in relation to the individual of any person by whom he is or has been, or is seeking to be, employed (whether under a contract of service or otherwise);
"health professional" has the same meaning as in the [S.I. 1987/1903.] Data Protection (Subject **Access** Modification) (Health) Order 1987;
"insurance purposes", in the case of any individual, means the purposes in relation to the individual of any person carrying on an insurance business with whom the individual has entered into, or is seeking to enter into, a contract of insurance, and "insurance business" and "contract of insurance" have the same meaning as in the [1982 c. 50.] Insurance Companies Act 1982;
"medical practitioner" means a person registered under the [1983 c. 54.] **Medical** Act 1983;
"medical report", in the case of an individual, means a report relating to the physical or mental health of the individual prepared by a medical practitioner who is or has been responsible for the clinical care of the individual.

- (2) Any reference in this Act to the supply of a medical report for employment or insurance purposes shall be construed—
- (a) as a reference to the supply of such a report for employment or insurance purposes which are purposes of the person who is seeking to be supplied with it; or
 - (b) (in the case of a report that has already been supplied) as a reference to the supply of such a report for employment or insurance purposes which, at the time of its being supplied, were purposes of the person to whom it was supplied.

Consent to applications for medical reports for employment or insurance purposes.

3.—(1) A person shall not apply to a medical practitioner for a medical report relating to any individual to be supplied to him for employment or insurance purposes unless—

- (a) that person ("the applicant") has notified the individual that he proposes to make the application; and
- (b) the individual has notified the applicant that he consents to the making of the application.

(2) Any notification given under subsection (1)(a) above must inform the individual of his right to withhold his consent to the making of the application, and of the following rights under this Act, namely—

- (a) the rights arising under sections 4(1) to (3) and 6(2) below with respect to **access** to the report before or after it is supplied,
 - (b) the right to withhold consent under subsection (1) of section 5 below, and
 - (c) the right to request the amendment of the report under subsection (2) of that section,
- as well as of the effect of section 7 below.

Access to reports before they are supplied.

4.—(1) An individual who gives his consent under section 3 above to the making of an application shall be entitled, when giving his consent, to state that he wishes to have **access** to the report to be supplied in response to the application before it is so supplied; and, if he does so, the applicant shall—

- (a) notify the medical practitioner of that fact at the time when the application is made, and
 - (b) at the same time notify the individual of the making of the application;
- and each such notification shall contain a statement of the effect of subsection (2) below.

(2) Where a medical practitioner is notified by the applicant under subsection (1) above that the individual in question wishes to have **access** to the report before it is supplied, the practitioner shall not supply the report unless—

- (a) he has given the individual **access** to it and any requirements of section 5 below have been complied with, or

(b) the period of 21 days beginning with the date of the making of the application has elapsed without his having received any communication from the individual concerning arrangements for the individual to have **access** to it.

(3) Where a medical practitioner—

(a) receives an application for a medical report to be supplied for employment or insurance purposes without being notified by the applicant as mentioned in subsection (1) above, but

(b) before supplying the report receives a notification from the individual that he wishes to have **access** to the report before it is supplied,

the practitioner shall not supply the report unless—

(i) he has given the individual **access** to it and any requirements of section 5 below have been complied with, or

(ii) the period of 21 days beginning with the date of that notification has elapsed without his having received (either with that notification or otherwise) any communication from the individual concerning arrangements for the individual to have **access** to it.

(4) References in this section and section 5 below to giving an individual **access** to a medical report are references to—

(a) making the report or a copy of it available for his inspection; or

(b) supplying him with a copy of it;

and where a copy is supplied at the request, or otherwise with the consent, of the individual the practitioner may charge a reasonable fee to cover the costs of supplying it.

Consent to supplying of report and correction of errors.

5.—(1) Where an individual has been given **access** to a report under section 4 above the report shall not be supplied in response to the application in question unless the individual has notified the medical practitioner that he consents to its being so supplied.

(2) The individual shall be entitled, before giving his consent under subsection (1) above, to request the medical practitioner to amend any part of the report which the individual considers to be incorrect or misleading; and, if the individual does so, the practitioner—

(a) if he is to any extent prepared to accede to the individual's request, shall amend the report accordingly;

(b) if he is to any extent not prepared to accede to it but the individual requests him to attach to the report a statement of the individual's views in respect of any part of the report which he is declining to amend, shall attach such a statement to the report.

(3) Any request made by an individual under subsection (2) above shall be made in writing.

Retention of reports.

6.—(1) A copy of any medical report which a medical practitioner has supplied for employment or insurance purposes shall be retained by him for at least six months from the date on which it was supplied.

(2) A medical practitioner shall, if so requested by an individual, give the

individual **access** to any medical report relating to him which the practitioner has supplied for employment or insurance purposes in the previous six months.

(3) The reference in subsection (2) above to giving an individual **access** to a medical report is a reference to—

- (a) making a copy of the report available for his inspection; or
- (b) supplying him with a copy of it;

and where a copy is supplied at the request, or otherwise with the consent, of the individual the practitioner may charge a reasonable fee to cover the costs of supplying it.

Exemptions.

7.—(1) A medical practitioner shall not be obliged to give an individual **access**, in accordance with the provisions of section 4(4) or 6(3) above, to any part of a medical report whose disclosure would in the opinion of the practitioner be likely to cause serious harm to the physical or mental health of the individual or others or would indicate the intentions of the practitioner in respect of the individual.

(2) A medical practitioner shall not be obliged to give an individual **access**, in accordance with those provisions, to any part of a medical report whose disclosure would be likely to reveal information about another person, or to reveal the identity of another person who has supplied information to the practitioner about the individual, unless—

- (a) that person has consented; or
- (b) that person is a health professional who has been involved in the care of the individual and the information relates to or has been provided by the professional in that capacity.

(3) Where it appears to a medical practitioner that subsection (1) or (2) above is applicable to any part (but not the whole) of a medical report—

- (a) he shall notify the individual of that fact; and
- (b) references in the preceding sections of this Act to the individual being given **access** to the report shall be construed as references to his being given **access** to the remainder of it;

and other references to the report in sections 4(4), 5(2) and 6(3) above shall similarly be construed as references to the remainder of the report.

(4) Where it appears to a medical practitioner that subsection (1) or (2) above is applicable to the whole of a medical report—

- (a) he shall notify the individual of that fact; but
- (b) he shall not supply the report unless he is notified by the individual that the individual consents to its being supplied;

and accordingly, if he is so notified by the individual, the restrictions imposed by section 4(2) and (3) above on the supply of the report shall not have effect in relation to it.

Application to the court.

8.—(1) If a court is satisfied on the application of an individual that any person, in connection with a medical report relating to that individual, has failed or is likely to fail to comply with any requirement of this Act, the court may order that person to comply with that requirement.

(2) The jurisdiction conferred by this section shall be exercisable by a county court or, in Scotland, by the sheriff.

Notifications under this Act.

9. Any notification required or authorised to be given under this Act—
(a) shall be given in writing; and
(b) may be given by post.

Short title, commencement and extent.

10.—(1) This Act may be cited as the **Access to Medical Reports Act 1988**.

(2) This Act shall come into force on 1st January 1989.

(3) Nothing in this Act applies to a medical report prepared before the coming into force of this Act.

(4) This Act does not extend to Northern Ireland.