

Number 84

Patients' Entitlement to Vote in General Elections

With the forthcoming General Election, issues are likely to arise regarding the ability of patients to vote.

The following briefing summarises the Statutory Regulations.

The Representation of the People Act 2000 ("RPA 2000") provides that a person is entitled to vote if they are registered in the register of electors. A person is entitled to be registered in the register of electors of a constituency if they are resident there. They must also not be subject to any legal incapacity to vote – a person will be legally barred from voting under common law if they do not have the requisite capacity or if they are an offender detained in a mental hospital (or unlawfully at large when they should be so detained).¹

Generally, residents in mental hospitals may register to vote from there.

Under the RPA 2000,² a mental hospital is defined as "any establishment (or part of an establishment) maintained wholly or mainly for the reception and treatment of persons suffering from any form of mental disorder". This does not, therefore, include residential care establishments, although psychiatric wards in general hospitals appear to be covered by the amended definition which now includes "part of an establishment". All such patients (the RPA 2000 does not differentiate between voluntary and involuntary patients) shall be regarded as resident for voting purposes and be entitled to be registered for voting at the mental hospital, if the likely length of their stay is sufficient for them to be regarded as resident. The RPA 2000 provides no clarification as to what length of time is likely to be "sufficient" and this is, therefore, a subjective question to be decided on the facts of the individual case.

A patient may also be registered to vote at his home address or other "residence" and, if he has no other residence, may make a "declaration of local connection" under S7B. This specifies the address in the UK where he would reside if he were not at the mental hospital or, if none, a place where he has previously resided within the UK. This declaration must be sent to a registration officer within three months of the date of the declaration. Where such a declaration is in force, a patient shall be regarded as resident at the address specified within the declaration and entitled to register to vote there.

While a voluntary patient may leave the hospital to attend a polling station, patients detained under the MHA 1983 may only vote by post or by proxy (if so entitled)³. They may not vote by the grant of S.17.

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Out of office emergency advice available 24hrs on 07802 506 306.

Readers are advised to take specific advice before acting in reliance on the matters set out in this briefing.

Future editions can be received by email. Please e-mail: marketing@rlb-law.com or telephone 020 7227 7476.

¹ S.3 RPA 2000

² S.4 RRA 2000

³ S.5A Representation of the People Act 1985

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