

BRITISH ASSOCIATION OF SOCIAL WORKERS

Section 135

House of Lords Committee stage amendment briefing

Warrant to search for and remove patients

Chapter 8 - miscellaneous

In Section 135 of the 1983 Act:

Delete subsections 1 (a) and 1 (b) and substitute:

“(a) may be in need of care or treatment for his mental disorder and is living in any place within the jurisdiction of the justice, and:

(b) access to that place is necessary for the purpose of establishing whether or not he is in need of such care or treatment, and:

(c) it has not been possible to gain such access without a warrant”

Purpose of amendment

To clarify and update the provision for obtaining a warrant to enter premises, by force if necessary, in order to gain access to someone who is believed to be suffering from a mental disorder and to be in need of care and treatment.

Reason for amendment

The present Section 135 is based on the equivalent provisions in the 1890 Lunacy Act and the 1913 Mental Deficiency Act, and neither its language nor its criteria reflect the usage of post-1959 legislation. This amendment would remove stigmatising and inappropriate language and bring the criteria into line with the rest of the Act, and would also make it clear that it should be used only where attempts to obtain access without a warrant using non-forcible powers (see amendment to Section 13) have failed.