



# Mental Health (Amendment) Act 1982

## 1982 CHAPTER 51

### PART III

#### PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS ETC.

##### *Transfer directions*

#### **22 Removal to hospital of persons serving sentences of imprisonment etc.**

For section 72(1)(b) of the principal Act (removal to hospital of persons serving sentences of imprisonment etc.) there shall be substituted—

- “(b) that the mental disorder from which that person is suffering is of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment and, in the case of psychopathic disorder or mental impairment, that such treatment is likely to alleviate or prevent a deterioration of his condition;”.

#### **23 Removal to hospital of other prisoners**

- (1) Section 73 of the principal Act (removal to hospital of other prisoners) shall be amended as follows.
- (2) In subsection (1) for the words " which warrants the detention of the patient in a hospital for medical treatment" there shall be substituted the words " which makes it appropriate for him to be detained in a hospital for medical treatment and that the patient is in urgent need of such treatment ".
- (3) For paragraphs (a), (b) and (c) of subsection (2) there shall be substituted—

“(a) persons detained in a prison or remand centre, not being persons serving a sentence of imprisonment or persons falling within the following paragraphs of this subsection;”.
- (4) For paragraph (f) of subsection (2) there shall be substituted—

“(f) persons detained under the Immigration Act 1971.”

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## 24 Persons under sentence

- (1) Section 75 of the principal Act (provisions applying where person under sentence has been transferred to hospital) shall be amended as follows.
- (2) In subsection (1) for the words " and the Secretary of State is notified by the responsible medical officer at any time before the expiration of that person's sentence that that person no longer requires treatment for mental disorder " there shall be substituted the words " and before the expiration of that person's sentence the Secretary of State is notified by the responsible medical officer, any other medical practitioner or a Mental Health Review Tribunal that that person no longer requires treatment in hospital for mental disorder or that no effective treatment for his disorder can be given in the hospital to which he has been removed ".
- (3) At the end of subsection (3) there shall be inserted the words " and that period shall be treated as expiring on the date on which he could have been discharged if he had not forfeited remission of any part of the sentence after his removal pursuant to the direction ".

## 25 Persons committed for trial etc.

- (1) Section 76 of the principal Act (provisions applying where person committed for trial etc. has been transferred to hospital) shall be amended as follows.
- (2) In subsection (2)(a)—
  - (a) for the words " the Secretary of State is notified by the responsible medical officer at any time before that person is brought before the court" there shall be substituted the words " the Secretary of State is notified by the responsible medical officer, any other medical practitioner or a Mental Health Review Tribunal at any time before that person's case is disposed of by the court ";
  - (b) for the words " that he no longer requires treatment for mental disorder " there shall be substituted the words " that he no longer requires treatment in hospital for mental disorder or that no effective treatment for his disorder can be given at the hospital to which he has been removed ".
- (3) After subsection (2)(a) there shall be inserted—
  - “(aa) if (no direction having been given under paragraph (a) of this subsection) that court is satisfied, on the written or oral evidence of the responsible medical officer, that that person no longer requires treatment in hospital for mental disorder or that no effective treatment for his disorder can be given at the hospital to which he has been removed, the court may order him to be remitted to any such place as aforesaid or released on bail and on his arrival at that place or, as the case may be, his release on bail the transfer direction shall cease to have effect;”.
- (4) In subsection (2) (b) for the words " (no direction having been given under paragraph (a) of this subsection) " there shall be substituted the words " (no direction or order having been given or made under paragraph (a) or (aa) of this subsection) ".
- (5) In subsection (3) for the words " on the oral evidence of at least two medical practitioners " there shall be substituted the words " on the written or oral evidence of at least two medical practitioners " and for the the words " which warrants the detention of the patient in a hospital for medical treatment" there shall be substituted

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the words " which makes it appropriate for the patient to be detained in a hospital for medical treatment " .

## **26 Persons remanded by magistrates' courts**

- (1) This section has effect where a transfer direction has been given in respect of a person remanded in custody by a magistrates' court; and that person is in this section referred to as " the accused " .
- (2) Subject to subsection (5) below, the transfer direction shall cease to have effect on the expiration of the period of remand unless the accused is committed in custody to the Crown Court for trial or to be otherwise dealt with.
- (3) Subject to subsection (4) below, the power of further remanding the accused under section 128 of the Magistrates' Courts Act 1980 may be exercised by the court without his being brought before the court; and if the court further remands the accused in custody (whether or not he is brought before the court) the period of remand shall, for the purposes of this section, be deemed not to have expired.
- (4) The court shall not under subsection (3) above further remand the accused in his absence unless he has appeared before the court within the previous six months.
- (5) If the magistrates' court is satisfied, on the written or oral evidence of the responsible medical officer—
  - (a) that the accused no longer requires treatment in hospital for mental disorder; or
  - (b) that no effective treatment for his disorder can be given in the hospital to which he has been removed,the court may direct that the transfer direction shall cease to have effect notwithstanding that the period of remand has not expired or that the accused is committed to the Crown Court as mentioned in subsection (2) above.
- (6) If the accused is committed to the Crown Court as mentioned in subsection (2) above and the transfer direction has not ceased to have effect under subsection (5) above, section 76 of the principal Act shall apply as if the transfer direction given in his case were a direction given in respect of a person falling within that section.
- (7) The magistrates' court may, in the absence of the accused, inquire as examining justices into an offence alleged to have been committed by him and commit him for trial in accordance with section 6 of the Magistrates' Courts Act 1980 if—
  - (a) the court is satisfied, on the written or oral evidence of the responsible medical officer, that the accused is unfit to take part in the proceedings ; and
  - (b) where the court proceeds under subsection (1) of that section, the accused is represented by counsel or a solicitor.

## **27 Civil prisoners and persons detained under the Immigration Act 1971**

- (1) Subject to subsection (2) below, a transfer direction given in respect of any such person as is described in paragraph (e) or (f) of section 73(2) of the principal Act (civil prisoners and persons detained under the Immigration Act 1971) shall cease to have effect on the expiration of the period during which he would, but for his removal to hospital, be liable to be detained in the place from which he was removed.
- (2) Where a transfer direction and a restriction direction have been given in respect of any such person as is mentioned in subsection (1) above, then, if the Secretary of

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State is notified by the responsible medical officer, any other medical practitioner or a Mental Health Review Tribunal at any time before the expiration of the period there mentioned—

- (a) that that person no longer requires treatment in hospital for mental disorder ; or
- (b) that no effective treatment for his disorder can be given in the hospital to which he has been removed,

the Secretary of State may by warrant direct that he be remitted to any place where he might have been detained if he had not been removed to hospital, and on his arrival at the place to which he is so remitted the transfer direction and the restriction direction shall cease to have effect.