



Mental Health (Amendment) Act 1982

1982 CHAPTER 51

PART IV

REMOVAL OF PATIENTS TO AND FROM THE UNITED KINGDOM

35 Removal of alien patients etc.

- (1) Section 90 of the principal Act (removal of alien patients etc.) shall not apply to any patient unless he is detained pursuant to—
 - (a) an application under section 26 of the principal Act or section 12 of the Mental Health Act (Northern Ireland) 1961;
 - (b) a hospital order under section 60 of the principal Act or section 48 of the said Act of 1961; or
 - (c) an order or direction under either of those Acts having the like effect as such a hospital order.
- (2) The Secretary of State shall not exercise his powers under the said section 90 in the case of any patient except with the approval of a Mental Health Review Tribunal or, as the case may be, of the Mental Health Review Tribunal for Northern Ireland.
- (3) Where the Secretary of State exercises his powers under the said section 90 in respect of a patient who is detained pursuant to a hospital order under section 60 of the principal Act and in respect of whom a restriction order is in force, those orders shall, notwithstanding section 95 of that Act, continue in force so as to apply to the patient if he returns to England and Wales at any time before the end of the period for which those orders would have continued in force.
- (4) In paragraph (b) of the said section 90 for the words " a mental hospital or institution within the meaning of the Mental Health (Northern Ireland) Act 1948 " there shall be substituted the words " a hospital within the meaning of the Mental Health Act (Northern Ireland) 1961 ".

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

36 Removal of patients to Channel Islands or Isle of Man

If it appears to the Secretary of State, in the case of a patient who is for the time being liable to be detained or subject to guardianship under the principal Act, that it is in the interests of the patient to remove him to any of the Channel Islands or to the Isle of Man, and that arrangements have been made for admitting him to a hospital or, as the case may be, for receiving him into guardianship there, the Secretary of State may authorise his removal to the island in question and may give any necessary directions for his conveyance to his destination.

37 Patients removed from Channel Islands or Isle of Man

- (1) This section applies to any patient who is removed to England and Wales from any of the Channel Islands or the Isle of Man under a provision corresponding to section 36 above and who immediately before his removal was liable to be detained or subject to guardianship in the island in question under a provision corresponding to an enactment contained in the principal Act.
- (2) Where the patient is admitted to a hospital in England and Wales he shall be treated as if on the date of his admission he had been so admitted in pursuance of an application made, or an order or direction made or given, on that date under the corresponding enactment contained in the principal Act and, where he is subject to an order or direction restricting his discharge, as if he were subject to a restriction order or restriction direction.
- (3) Where the patient is received into guardianship in England and Wales, he shall be treated as if on the date on which he arrives at the place where he is to reside he had been so received in pursuance of an application, order or direction under the corresponding enactment contained in the principal Act and as if the application had been accepted or, as the case may be, the order or direction had been made or given on that date.
- (4) Where the patient was immediately before his removal liable to be detained by virtue of a transfer direction given while he was serving a sentence of imprisonment imposed by a court in the island in question, he shall be treated as if the sentence had been imposed by a court in England and Wales.
- (5) Where the patient was immediately before his removal subject to an order or direction restricting his discharge, being an order or direction of limited duration, the restriction order or restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order or direction would have expired if he had not been removed.
- (6) While being conveyed to the hospital referred to in subsection (2) or, as the case may be, the place referred to in subsection (3) above, the patient shall be deemed to be in legal custody, and section 140 of the principal Act (retaking of patients escaping from custody) shall apply to him as if he were in legal custody by virtue of section 139 of that Act.
- (7) In the case of a patient removed from the Isle of Man the reference in subsection (4) above to a person serving a sentence of imprisonment includes a reference to a person detained as mentioned in section 60 (6) (a) of the Mental Health Act 1974 (an Act of Tynwald).

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

38 Patients absconding from hospital in Channel Islands or Isle of Man

Any person (other than a person subject to guardianship) who under any provision corresponding to section 40 or 140 of the principal Act may be taken into custody in any of the Channel Islands or the Isle of Man, may be taken into custody in, and returned to the island in question from, England and Wales by a mental welfare officer or constable.