



Mental Health Act 1983

1983 CHAPTER 20

PART VI

REMOVAL AND RETURN OF PATIENTS WITHIN UNITED KINGDOM, ETC.

Return of patients absent without leave

87 Patients absent from hospitals in Northern Ireland.

(1) Any person who—

- (a) under [^{F1}Article 29 or 132 of the Mental Health (Northern Ireland) Order 1986] (which provide, respectively, for the retaking of patients absent without leave and for the retaking of patients escaping from custody); or
- (b) under the said [^{F1}Article 29 as applied by Article 31 of the said Order](which makes special provision as to persons sentenced to imprisonment),

may be taken into custody in Northern Ireland, may be taken into custody in, and returned to Northern Ireland from, England and Wales by an [^{F2}approved mental health professional] , by any constable or by any person authorised by or by virtue of the [^{F1}said Order] to take him into custody.

(2) This section does not apply to any person who is subject to guardianship.

Textual Amendments

F1 Words substituted by [S.I. 1986/596, art. 2\(15\)](#)

F2 Words in s. 87(1) substituted (3.11.2008 for E.W.) by [Mental Health Act 2007 \(c. 12\), ss. 21, 56, Sch. 2 para. 7\(f\)](#) (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(d\)](#) (with [art. 3, Sch.](#)); [S.I. 2008/2561, art. 2\(b\)](#) (with [art. 3, Sch.](#))

Changes to legislation: Mental Health Act 1983, Cross Heading: Return of patients absent without leave is up to date with all changes known to be in force on or before 24 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

[^{F3}88 Patients absent from hospitals in England and Wales.

- (1) Subject to the provisions of this section, any person who, under section 18 above or section 138 below or under the said section 18 as applied by section 22 above, may be taken into custody in England and Wales may be taken into custody in, and returned to England and Wales from, [^{F4}Northern Ireland].
- [^{F5}(2) For the purposes of the enactments referred to in subsection (1) above in their application by virtue of this section, the expression “constable” includes an officer or constable of the Police Service of Northern Ireland.]
- (3) For the purposes of the said enactments in their application by virtue of this section [^{F6}to Scotland or Northern Ireland], any reference to an [^{F7}approved mental health professional] shall be construed as including a reference—
 - (a) [^{F8}in Scotland, to any mental health officer within the meaning of the [^{F9}Mental Health (Care and Treatment)(Scotland) Act 2003];]
 - (b) [^{F10}in Northern Ireland,] to any [^{F11}approved social worker within the meaning of the Mental Health (Northern Ireland) Order 1986].
- (4) This section does not apply to any person who is subject to guardianship.]

Textual Amendments

- F3** S. 88 repealed (S.) (3.11.2008) by [Adult Support and Protection \(Scotland\) Act 2007](#) (asp. 10), **ss. 74, 79**; [S.S.I. 2008/49](#), **art. 2(2)** (as amended by [S.I. 2008/116](#), **art. 2(2)** and [S.S.I. 2008/314](#), **art. 3**)
- F4** Words in s. 88(1) substituted (28.10.2008 for E.W.) by [Mental Health Act 2007](#) (c. 12), **ss. 39, 56**, **Sch. 5 para. 14(2)** (with [Sch. 10](#)); [S.I. 2008/2788](#), **art. 2(a)**
- F5** S. 88(2) substituted (28.10.2008 for E.W.) by [Mental Health Act 2007](#) (c. 12), **ss. 39, 56**, **Sch. 5 para. 14(3)** (with [Sch. 10](#)); [S.I. 2008/2788](#), **art. 2(a)**
- F6** Words in s. 88(3) repealed (28.10.2008 for E.W.) by [Mental Health Act 2007](#) (c. 12), **ss. 39, 55, 56**, [Sch. 5 para. 14\(4\)\(a\)](#), **Sch. 11 Pt. 7** (with [Sch. 10](#)); [S.I. 2008.2788](#), {art. 2}
- F7** Words in s. 88(3) substituted (3.11.2008 for E.W.) by [Mental Health Act 2007](#) (c. 12), **ss. 21, 56**, **Sch. 2 para. 7(g)** (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(d)** (with [art. 3](#), [Sch.](#)); [S.I. 2008/2561](#), **art. 2(b)** (with [art. 3](#), [Sch.](#))
- F8** S. 88(3)(a) repealed (28.10.2008 for E.W.) by [Mental Health Act 2007](#) (c. 12), **ss. 39, 55, 56**, [Sch. 5 para. 14\(4\)\(b\)](#), **Sch. 11 Pt. 7** (with [Sch. 10](#)); [S.I. 2008/2788](#), **art. 2**
- F9** Words in s. 88(3)(a) substituted (S.) (27.9.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Modification of Enactments\) Order 2005](#) (S.S.I. 2005/465), **art. 2**, **Sch. 1 para. 13(3)** and words in s. 80(3)(a) substituted (E.W.) (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005](#) (S.I. 2005/2078), **art. 15**, **Sch. 1 para. 2(5)**
- F10** Words in s. 88(3)(b) repealed (28.10.2008 for E.W.) by [Mental Health Act 2007](#) (c. 12), **ss. 39, 55, 56**, [Sch. 5 para. 14\(4\)\(c\)](#), **Sch. 11 Pt. 7** (with [Sch. 10](#)); [S.I. 2008/2788](#), **art. 2(b)**
- F11** Words substituted by [S.I. 1986/596](#), **art. 2(16)**

89 Patients absent from hospitals in the Channel Islands or Isle of Man.

- (1) Any person who under any provision corresponding to section 18 above or 138 below 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 an [^{F12}approved mental health professional] or a constable.

Changes to legislation: *Mental Health Act 1983, Cross Heading: Return of patients absent without leave is up to date with all changes known to be in force on or before 24 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(2) This section does not apply to any person who is subject to guardianship.

Textual Amendments

F12 Words in s. 89(1) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 21, 56, [Sch. 2 para. 7\(h\)](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(d\)](#) (with [art. 3](#), [Sch.](#)); [S.I. 2008/2561](#), [art. 2\(b\)](#) (with [art. 3](#), [Sch.](#))

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View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [1996 c. 46 Sch. 2 para. 9](#)(replacing [1968 c 20 s. 23](#)) (Act applied (prosp.) by [1968 c. 20, s. 23\(4\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 9](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing [1957 c 53 s. 63](#)) (Act applied (prosp.) by [1957 c. 53, s. 63C\(6\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 4](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 19 s. 116](#)) (Act applied (prosp.) by [1955 c. 19, s. 116C\(6\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2 para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)](#))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 18 s 116](#)) (Act applied (prosp.) by [1955 c. 18, s. 116C\(6\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2 para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act power to applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing [1957 c 53 s. 63](#)) (Act: Power to apply conferred (prosp.) by [1957 c. 53, s. 63B\(4\)\(c\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 4](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act power to applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 19 s. 116](#)) (Act: Power to apply conferred (prosp.) by [1955 c. 19, s. 116B\(4\)\(c\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act power to applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 18 s 116](#)) (Act: Power to apply conferred (prosp.) by [1955 c. 18, s. 116B\(4\)\(c\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2 para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 74(8) inserted by [2015 c. 2 Sch. 3 para. 3\(3\)](#)