



# Mental Health Act 1983

## 1983 CHAPTER 20

### PART VI

#### REMOVAL AND RETURN OF PATIENTS WITHIN UNITED KINGDOM, ETC.

##### *Removal to Scotland*

#### **80 Removal of patients to Scotland**

- (1) 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 this Act (otherwise than by virtue of section 35, 36 or 38 above), that it is in the interests of the patient to remove him to Scotland, 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 Scotland and may give any necessary directions for his conveyance to his destination.
- (2) Subject to the provisions of subsection (4) below, where a patient liable to be detained under this Act by virtue of an application, order or direction under any enactment in force in England and Wales is removed under this section and admitted to a hospital in Scotland, he shall be treated as if on the date of his admission he had been so admitted in pursuance of an application forwarded to the Health Board responsible for the administration of the hospital, or an order or direction made or given, on that date under the corresponding enactment in Scotland, and, where he is subject to a restriction order or restriction direction under any enactment in this Act, as if he were subject to an order or direction under the corresponding enactment in force in Scotland.
- (3) Where a patient subject to guardianship under this Act by virtue of an application, order or direction under any enactment in force in England and Wales is removed under this section and received into guardianship in Scotland, 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 in force in Scotland, and as if the application had been forwarded or, as the case may be, the order or direction had been made or given on that date.

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- (4) Where a person removed under this section was immediately before his removal liable to be detained by virtue of an application for admission for assessment under this Act, he shall, on his admission to a hospital in Scotland, be treated as if he had been admitted to the hospital in pursuance of an emergency recommendation under the Mental Health (Scotland) Act 1960 made on the date of his admission.
- (5) Where a patient removed under this section was immediately before his removal liable to be detained under this Act by virtue of a transfer direction given while he was serving a sentence of imprisonment (within the meaning of section 47(5) above) imposed by a court in England and Wales, he shall be treated as if the sentence had been imposed by a court in Scotland.
- (6) Where a person removed under this section was immediately before his removal subject to a restriction order or restriction direction of limited duration, the order or direction restricting his discharge to which he is subject by virtue of subsection (2) above shall expire on the date on which the restriction order or restriction direction would have expired if he had not been so removed.
- (7) In this section "hospital" has the same meaning as in the Mental Health (Scotland) Act 1960.

#### *Removal to and from Northern Ireland*

### **81 Removal of patients to Northern Ireland**

- (1) 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 this Act (otherwise than by virtue of section 35, 36 or 38 above), that it is in the interests of the patient to remove him to Northern Ireland, 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 Northern Ireland and may give any necessary directions for his conveyance to his destination.
- (2) Subject to the provisions of subsections (4) and (5) below, where a patient liable to be detained under this Act by virtue of an application, order or direction under any enactment in force in England and Wales is removed under this section and admitted to a hospital in Northern Ireland, 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 in force in Northern Ireland, and, where he is subject to a restriction order or restriction direction under any enactment in this Act, as if he were subject to an order or direction under the corresponding enactment in force in Northern Ireland.
- (3) Where a patient subject to guardianship under this Act by virtue of an application, order or direction under any enactment in force in England and Wales is removed under this section and received into guardianship in Northern Ireland, 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 in force in Northern Ireland, 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 a person removed under this section was immediately before his removal liable to be detained by virtue of an application for admission for assessment under this Act,

he shall, on his admission to a hospital in Northern Ireland, be treated as if he had been admitted to the hospital in pursuance of an application for admission under section 12 of the Mental Health Act (Northern Ireland) 1961 made on the date of his admission.

- (5) Where a person removed under this section was immediately before his removal liable to be detained by virtue of an application for admission for treatment under this Act, he shall, on his admission to a hospital in Northern Ireland, be treated as if—
- (a) he had been admitted to the hospital in pursuance of an application for admission under section 12 of the Mental Health Act (Northern Ireland) 1961 made on the date of his admission; and
  - (b) a medical report under section 19 of that Act had been made in respect of him on that date.
- (6) Where a patient removed under this section was immediately before his removal liable to be detained under this Act by virtue of a transfer direction given while he was serving a sentence of imprisonment (within the meaning of section 47(5) above) imposed by a court in England and Wales, he shall be treated as if the sentence had been imposed by a court in Northern Ireland.
- (7) Where a person removed under this section was immediately before his removal subject to a restriction order or restriction direction of limited duration, the order or direction restricting his discharge to which he is subject by virtue of subsection (2) above shall expire on the date on which the restriction order or restriction direction would have expired if he had not been so removed.
- (8) In this section " hospital" has the same meaning as in the Mental Health Act (Northern Ireland) 1961.

## **82 Removal to England and Wales of patients from Northern Ireland**

- (1) If it appears to the responsible authority, in the case of a patient who is for the time being liable to be detained or subject to guardianship under the Mental Health Act (Northern Ireland) 1961, that it is in the interests of the patient to remove him to England and Wales, 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 responsible authority may authorise his removal to England and Wales and may give any necessary directions for his conveyance to his destination.
- (2) Subject to the provisions of subsection (4) below, where a patient who is liable to be detained under the said Act of 1961 by virtue of an application, order or direction under any enactment in force in Northern Ireland is removed under this section and 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 in force in England and Wales and, where he is subject to an order or direction under any enactment in the said Act of 1961 restricting his discharge, as if he were subject to a restriction order or restriction direction.
- (3) Where a patient subject to guardianship under the said Act of 1961 by virtue of an application, order or direction under any enactment in force in Northern Ireland is removed under this section and 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 in force in England and Wales and as if the application had

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been accepted or, as the case may be, the order or direction had been made or given on that date.

- (4) Where a person removed under this section was immediately before his removal liable to be detained by virtue of an application for admission under section 12 of the said Act of 1961 he shall—
- (a) if a report under section 19 of that Act has not been made in respect of him, be treated, on his admission to a hospital in England and Wales, as if he had been admitted to the hospital in pursuance of an application for admission for assessment made on the date of his admission;
  - (b) if a report under the said section 19 has been made in respect of him, be treated, on his admission to a hospital in England and Wales, as if he had been admitted to the hospital in pursuance of an application for admission for treatment made on the date of his admission.
- (5) Where a patient removed under this section was immediately before his removal liable to be detained under the said Act of 1961 by virtue of a transfer direction given while he was serving a sentence of imprisonment (within the meaning of section 58(6) of that Act) imposed by a court in Northern Ireland, he shall be treated as if the sentence had been imposed by a court in England and Wales.
- (6) Where a person removed under this section 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 so removed.
- (7) In this section " the responsible authority " means the Department of Health and Social Services for Northern Ireland or, in relation to a patient who is subject to an order or direction restricting his discharge, the Secretary of State.

*Removal to and from Channel Islands and Isle of Man*

**83 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 this Act (otherwise than by virtue of section 35, 36 or 38 above), 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.

**84 Removal to England and Wales of offenders found insane in Channel Islands and Isle of Man**

- (1) The Secretary of State may by warrant direct that any offender found by a court in any of the Channel Islands or in the Isle of Man to be insane or to have been insane at the time of the alleged offence, and ordered to be detained during Her Majesty's pleasure, be removed to a hospital in England and Wales.

- (2) A patient removed under subsection (1) above shall, on his reception into the hospital in England and Wales, be treated as if he had been removed to that hospital in pursuance of a direction under section 46 above.
- (3) The Secretary of State may by warrant direct that any patient removed under this section from any of the Channel Islands or from the Isle of Man be returned to the island from which he was so removed, there to be dealt with according to law in all respects as if he had not been removed under this section.

## **85 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 83 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 this Act (other than section 35, 36 or 38 above).
- (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 this 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 this 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 138 below shall apply to him as if he were in legal custody by virtue of section 137 below.
- (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).

*Removal of aliens*

**86 Removal of alien patients**

- (1) This section applies to any patient who is neither a British citizen nor a Commonwealth citizen having the right of abode in the United Kingdom by virtue of section 2(1)(b) of the Immigration Act 1971, being a patient who is receiving treatment for mental illness as an in-patient in a hospital in England and Wales or a hospital within the meaning of the Mental Health Act (Northern Ireland) 1961 and is detained pursuant to—
  - (a) an application for admission for treatment or an application under section 12 of the said Act of 1961;
  - (b) a hospital order under section 37 above or section 48 of the said Act of 1961; or
  - (c) an order or direction under this Act (other than under section 35, 36 or 38 above) or the said Act of 1961 having the same effect as such a hospital order.
- (2) If it appears to the Secretary of State that proper arrangements have been made for the removal of a patient to whom this section applies to a country or territory outside the United Kingdom, the Isle of Man and the Channel Islands and for his care or treatment there and that it is in the interests of the patient to remove him, the Secretary of State may, subject to subsection (3) below—
  - (a) by warrant authorise the removal of the patient from the place where he is receiving treatment as mentioned in subsection (1) above, and
  - (b) give such directions as the Secretary of State thinks fit for the conveyance of the patient to his destination in that country or territory and for his detention in any place or on board any ship or aircraft until his arrival at any specified port or place in any such country or territory.
- (3) The Secretary of State shall not exercise his powers under subsection (2) above 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.

*Return of patients absent without leave*

**87 Patients absent from hospitals in Northern Ireland**

- (1) Any person who—
  - (a) under section 30 or section 108 of the Mental Health Act (Northern Ireland) 1961 (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 section 30 as applied by section 34 of the said Act of 1961 (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 approved social worker, by any constable or by any person authorised by or by virtue of the said Act of 1961 to take him into custody.
- (2) This section does not apply to any person who is subject to guardianship.

## **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, any other part of the United Kingdom or the Channel Islands or the Isle of Man.
- (2) For the purposes of the enactments referred to in subsection (1) above, in their application by virtue of this section to Scotland, Northern Ireland, the Channel Islands or the Isle of Man, the expression "constable" includes a Scottish constable, an officer or constable of the Royal Ulster Constabulary, a member of the police in Jersey, an officer of police within the meaning of section 43 of the Larceny (Guernsey) Law 1958 or any corresponding law for the time being in force, or a constable in the Isle of Man, as the case may be.
- (3) For the purposes of the said enactments in their application by virtue of this section to Scotland or Northern Ireland, any reference to an approved social worker shall be construed as including a reference—
  - (a) in Scotland, to any mental health officer within the meaning of the Mental Health (Scotland) Act 1960;
  - (b) in Northern Ireland, to any social worker within the meaning of the Mental Health Act (Northern Ireland) 1961.
- (4) This section does not apply to any person who is subject to guardianship.

## **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 approved social worker or a constable.
- (2) This section does not apply to any person who is subject to guardianship.

### *General*

## **90 Regulations for purposes of Part VI**

Section 32 above shall have effect as if references in that section to Part II of this Act included references to this Part of this Act and to Part VI of the Mental Health (Scotland) Act 1960, so far as those Parts apply to patients removed to England and Wales thereunder.

## **91 General provisions as to patients removed from England and Wales**

- (1) Subject to subsection (2) below, where a patient liable to be detained or subject to guardianship by virtue of an application, order or direction under Part II or III of this Act (other than section 35, 36 or 38 above) is removed from England and Wales in pursuance of arrangements under this Part of this Act, the application, order or direction shall cease to have effect when he is duly received into a hospital or other institution, or placed under guardianship, in pursuance of those arrangements.

- (2) Where the Secretary of State exercises his powers under section 86(2) above in respect of a patient who is detained pursuant to a hospital order under section 37 above and in respect of whom a restriction order is in force, those orders shall 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.

## **92 Interpretation of Part VI**

- (1) References in this Part of this Act to a hospital, being a hospital in England and Wales, shall be construed as references to a hospital within the meaning of Part II of this Act.
- (2) Where a patient is treated by virtue of this Part of this Act as if he had been removed to a hospital in England and Wales in pursuance of a direction under Part III of this Act, that direction shall be deemed to have been given on the date of his reception into the hospital.
- (3) A patient removed to England and Wales under this Part of this Act or under Part VI of the Mental Health (Scotland) Act 1960 shall be treated for the purposes of this Act as suffering from such form of mental disorder as may be recorded in his case in pursuance of regulations made by virtue of section 90 above, and references in this Act to the form or forms of mental disorder specified in the relevant application, order or direction shall be construed as including references to the form or forms of mental disorder so recorded.