



Mental Health Act 1983

1983 CHAPTER 20

PART VI

REMOVAL AND RETURN OF PATIENTS WITHIN UNITED KINGDOM, ETC.

Return of patients absent without leave

[^{F1}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, [^{F2}Northern Ireland].

[^{F3}(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 [^{F4}to Scotland or Northern Ireland], any reference to an [^{F5}approved mental health professional] shall be construed as including a reference—

- (a) [^{F6}in Scotland, to any mental health officer within the meaning of the [^{F7}Mental Health (Care and Treatment)(Scotland) Act 2003];]
- (b) [^{F8}in Northern Ireland,] to any [^{F9}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

- F1** S. 88 repealed (S.) (3.11.2008) by [Adult Support and Protection \(Scotland\) Act 2007 \(asp. 10\), ss. 74, 79; S.S.I. 2008/49, art. 2\(2\)](#) (as amended by [S.I. 2008/116,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](#))

Changes to legislation: *Mental Health Act 1983, Section 88 is up to date with all changes known to be in force on or before 21 November 2023. 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*

- F2** 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\(a\)](#)
- F3** 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\(a\)](#)
- F4** Words in s. 88(3) repealed (28.10.2008 for E.W.) by [Mental Health Act 2007 \(c. 12\)](#), ss. 39, 55, 56, [Sch. 5 para. 14\(4\)\(a\)](#), [Sch. 11 Pt. 7](#) (with [Sch. 10](#)); S.I.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}
- F5** 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.)
- F6** 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](#)
- F7** 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\(5\)](#)
- F8** 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\(b\)](#)
- F9** Words substituted by S.I. 1986/596, [art. 2\(16\)](#)

Changes to legislation:

Mental Health Act 1983, Section 88 is up to date with all changes known to be in force on or before 21 November 2023. 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.

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\(3\)](#)