



Mental Health (Scotland) Act 1984

1984 CHAPTER 36

PART V

ADMISSION TO AND DETENTION IN HOSPITAL AND GUARDIANSHIP

Care and treatment of patients: hospital

27 Leave of absence from hospital

- (1) The responsible medical officer may grant to any patient who is for the time being liable to be detained in a hospital under this Part of this Act leave to be absent from the hospital.
- (2) Leave of absence may be granted to a patient under this section either on specified occasions or for any specified period of not more than 6 months; and where leave is so granted for a specified period it may be extended for further such periods as aforesaid.
- (3) Where it appears to the responsible medical officer that it is necessary so to do in the interests of the patient or for the protection of other persons, he may, upon granting leave of absence under this section, direct that the patient remain in custody during his absence; and where leave of absence is so granted the patient may be kept in the custody of any officer on the staff of the hospital, or of any other person authorised in writing by the managers of the hospital, or, if the patient is required in accordance with conditions imposed on the grant of leave of absence to reside in another hospital, of any officer on the staff of that other hospital.
- (4) Where leave of absence is granted to a patient under this section or where a period of leave is extended by further leave and the leave or the extension is for a period of more than 28 days, it shall be the duty of the responsible medical officer to inform the Mental Welfare Commission within 14 days of the granting of leave or of the extension, as the case may be, of the address at which the patient is residing and, on the return of the patient, to notify the Commission thereof within 14 days.
- (5) In any case where a patient is absent from a hospital in pursuance of leave of absence granted under this section, and it appears to the responsible medical officer that it

is necessary so to do in the interests of the health or safety of the patient or for the protection of other persons, that officer may, subject to subsection (6) of this section, by notice in writing given to the patient or to the person for the time being in charge of the patient, revoke the leave of absence and recall the patient to the hospital.

- (6) A patient to whom leave of absence is granted under this section shall not be recalled under subsection (5) of this section after he has ceased to be liable to be detained under this Part of this Act.

28 Return and re-admission of patients absent without leave: hospital

- (1) Where a patient who is for the time being liable to be detained under this Part of this Act in a hospital—
- (a) absents himself from the hospital without leave granted under section 27 of this Act; or
 - (b) fails to return to the hospital on any occasion on which, or at the expiration of any period for which, leave of absence was granted to him under that section, or upon being recalled thereunder; or
 - (c) absents himself without permission from any place where he is required to reside in accordance with conditions imposed on the grant of leave of absence under that section,

he may, subject to the provisions of this section, be taken into custody and returned to the hospital or place by any mental health officer, by any officer on the staff of the hospital, by any constable, or by any person authorised in writing by the managers of the hospital.

- (2) Where the place referred to in subsection 1(c) of this section is a hospital other than the one in which the patient is for the time being liable to be detained, the references in that subsection to an officer on the staff of the hospital and to the managers of the hospital shall respectively include references to an officer on the staff of the first-mentioned hospital and to the managers of that hospital.
- (3) A patient shall not be taken into custody under this section after the expiration of the period of 28 days beginning with the first day of his absence without leave and a patient who has not returned or been taken into custody under this section within the said period shall cease to be liable to be detained at the expiration of that period.
- (4) A patient shall not be taken into custody under this section if the period for which he is liable to be detained is that specified in section 24(3), 25(2) or 26(3) of this Act and that period has expired.

29 Transfer of patients: hospital

- (1) A patient who is for the time being liable to be detained in a hospital by virtue of an application for admission under this Part of this Act may be transferred by the managers of that hospital, as follows—
- (a) to another hospital with the consent of the managers of that hospital; or
 - (b) into the guardianship of a local authority with the consent of that authority ; or
 - (c) into the guardianship of any person approved by a local authority with the consent of that person.
- (2) Any transfer of a patient under the last foregoing subsection shall be intimated to his nearest relative and to the Mental Welfare Commission by the managers of the

hospital to which the patient is transferred or, as the case may be, by the local authority concerned within 7 days of the date of transfer.

- (3) Where a patient is transferred in pursuance of this section, the provisions of this Part of this Act (including this subsection) shall apply to him as follows, that is to say—
- (a) where the patient, being liable to be detained in a hospital by virtue of an application for admission, is transferred to another hospital, as if the application were an application for admission to that other hospital, and as if the patient had been admitted to that other hospital at the time when he was originally admitted in pursuance of the application ;
 - (b) where the patient, being liable to be detained as afore said, is transferred into guardianship, as if the application were a guardianship application duly forwarded to the local authority at the time aforesaid.
- (4) Where a patient is transferred to a State hospital under subsection (1)(a) of this section he or his nearest relative may, within 28 days of the date of the transfer, appeal by way of summary application to a sheriff of the sheriffdom within which the hospital from which the patient was transferred is situated against the decision of the managers of that hospital to transfer the patient; and on any such appeal the sheriff shall order the return of the patient to the hospital from which he was transferred unless he is satisfied that the patient, on account of his dangerous, violent or criminal propensities, requires treatment under conditions of special security, and cannot suitably be cared for in a hospital other than a State hospital.