

SCHEDULES

SCHEDULE 3

Section 48.

TRANSFERS WITHIN THE BRITISH ISLANDS OF RESPONSIBILITY FOR OFFENDERS CONDITIONALLY DISCHARGED FROM HOSPITAL

PART I

AMENDMENTS OF THE 1983 ACT

Transfers from England and Wales to Scotland

1 After section 80 of the 1983 Act there shall be inserted the following section—

“80A Transfer of responsibility for patients to Scotland

- (1) If it appears to the Secretary of State, in the case of a patient who—
 - (a) is subject to a restriction order under section 41 above; and
 - (b) has been conditionally discharged under section 42 or 73 above,that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the Minister exercising corresponding functions in Scotland, transfer responsibility for the patient to that Minister.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
 - (a) as if on the date of the transfer he had been conditionally discharged under the corresponding enactment in force in Scotland; and
 - (b) as if he were subject to a restriction order under the corresponding enactment in force in Scotland.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order of limited duration, the restriction order to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order would have expired if the transfer had not been made.”

Transfers from England and Wales to Northern Ireland

2 After section 81 of the 1983 Act there shall be inserted the following section—

“81A Transfer of responsibility for patients to Northern Ireland

- (1) If it appears to the Secretary of State, in the case of a patient who—

Status: This is the original version (as it was originally enacted).

- (a) is subject to a restriction order or restriction direction under section 41 or 49 above; and
 - (b) has been conditionally discharged under section 42 or 73 above,
- that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the Minister exercising corresponding functions in Northern Ireland, transfer responsibility for the patient to that Minister.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
- (a) as if on the date of the transfer he had been conditionally discharged under the corresponding enactment in force in Northern Ireland; and
 - (b) as if he were subject to a restriction order or restriction direction under the corresponding enactment in force in Northern Ireland.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order or restriction 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 the transfer had not been made.”

Transfers from Northern Ireland to England and Wales

- 3 After section 82 of the 1983 Act there shall be inserted the following section—

“82A Transfer of responsibility for patients to England and Wales from Northern Ireland

- (1) If it appears to the relevant Minister, in the case of a patient who—
- (a) is subject to a restriction order or restriction direction under Article 47(1) or 55(1) of the Mental Health (Northern Ireland) Order 1986; and
 - (b) has been conditionally discharged under Article 48(2) or 78(2) of that Order,
- that a transfer under this section would be in the interests of the patient, that Minister may, with the consent of the Secretary of State, transfer responsibility for the patient to the Secretary of State.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
- (a) as if on the date of the transfer he had been conditionally discharged under section 42 or 73 above; and
 - (b) as if he were subject to a restriction order or restriction direction under section 41 or 49 above.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order or restriction 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 the transfer had not been made.

- (4) In this section “the relevant Minister” means the Minister exercising in Northern Ireland functions corresponding to those of the Secretary of State.”

Transfers from England and Wales to the Islands

4 After section 83 of the 1983 Act there shall be inserted the following section—

“83A Transfer of responsibility for patients to Channel Islands or Isle of Man.

If it appears to the Secretary of State, in the case of a patient who—

- (a) is subject to a restriction order or restriction direction under section 41 or 49 above; and
 - (b) has been conditionally discharged under section 42 or 73 above,
- that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the authority exercising corresponding functions in any of the Channel Islands or in the Isle of Man, transfer responsibility for the patient to that authority.”

Transfers from the Islands to England and Wales

5 After section 85 of the 1983 Act there shall be inserted the following section—

“85A Responsibility for patients transferred from Channel Islands or Isle of Man

- (1) This section applies to any patient responsibility for whom is transferred to the Secretary of State by the authority exercising corresponding functions in any of the Channel Islands or the Isle of Man under a provision corresponding to section 83A above.
- (2) The patient shall be treated—
 - (a) as if on the date of the transfer he had been conditionally discharged under section 42 or 73 above; and
 - (b) as if he were subject to a restriction order or restriction direction under section 41 or 49 above.
- (3) Where the patient was immediately before the transfer 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 the transfer had not been made.”

PART II

AMENDMENTS OF THE 1984 ACT

Transfers from Scotland to England and Wales

6 After section 77 of the 1984 Act there shall be inserted the following section—

“77A Transfer of responsibility for patients to England and Wales

- (1) If it appears to the Secretary of State, in the case of a patient who—
- (a) is subject to a restriction order under section 59 of the Criminal Procedure (Scotland) Act 1995; and
 - (b) has been conditionally discharged under section 64 or 68 of this Act,
- that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the Minister exercising corresponding functions in England and Wales, transfer responsibility for the patient to that Minister.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
- (a) as if on the date of the transfer he had been conditionally discharged under the corresponding enactment in force in England and Wales; and
 - (b) as if he were subject to a restriction order under the corresponding enactment in force in England and Wales.”

Transfers from Scotland to Northern Ireland

7 After section 80 of the 1984 Act there shall be inserted the following section—

“80A Transfer of responsibility for patients to Northern Ireland

- (1) If it appears to the Secretary of State, in the case of a patient who—
- (a) is subject to a restriction order under section 59 of the Criminal Procedure (Scotland) Act 1995; and
 - (b) has been conditionally discharged under section 64 or 68 of this Act,
- that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the Minister exercising corresponding functions in Northern Ireland, transfer responsibility for the patient to that Minister.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
- (a) as if on the date of the transfer he had been conditionally discharged under the corresponding enactment in force in Northern Ireland; and
 - (b) as if he were subject to a restriction order under the corresponding enactment in force in Northern Ireland.”

Transfers from Northern Ireland to Scotland

8 After section 81 of the 1984 Act there shall be inserted the following section—

“81A Transfer of responsibility for patients to Scotland from Northern Ireland.

- (1) If it appears to the relevant Minister, in the case of a patient who—

- (a) is subject to a restriction order under Article 47(1) of the Mental Health (Northern Ireland) Order 1986; and
- (b) has been conditionally discharged under Article 48(2) or 78(2) of that Order,

that a transfer under this section would be in the interests of the patient, that Minister may, with the consent of the Secretary of State, transfer responsibility for the patient to the Secretary of State.

- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
 - (a) as if on the date of the transfer he had been conditionally discharged under section 64 or 68 of this Act; and
 - (b) as if he were subject to a restriction order within the meaning of this Act.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order of limited duration, the restriction order to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order would have expired if the transfer had not been made.
- (4) In this section “the relevant Minister” means the Minister exercising in Northern Ireland functions corresponding to those of the Secretary of State.”

Transfers from the Islands to Scotland

9 After section 82 of the 1984 Act there shall be inserted the following section—

“82A Responsibility for patients transferred from Channel Islands or Isle of Man to Scotland

- (1) This section applies to any patient responsibility for whom is transferred to the Secretary of State by the authority exercising corresponding functions in any of the Channel Islands or the Isle of Man under a provision corresponding to section 82B of this Act.
- (2) The patient shall be treated—
 - (a) as if on the date of the transfer he had been conditionally discharged under section 64 or 68 of this Act; and
 - (b) as if he were subject to a restriction order within the meaning of this Act.
- (3) Where the patient was immediately before the transfer subject to an order restricting his discharge, being an order of limited duration, the restriction order to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order would have expired if the transfer had not been made.”

Transfers from Scotland to the Islands

10 After section 82A of the 1984 Act there shall be inserted the following section—

“82B Transfer of responsibility for patients to Channel Islands or Isle of Man.

If it appears to the Secretary of State, in the case of a patient who—

- (a) is subject to a restriction order under section 59 of the Criminal Procedure (Scotland) Act 1995; and
 - (b) has been conditionally discharged under section 64 or 68 of this Act,
- that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the authority exercising corresponding functions in any of the Channel Islands or in the Isle of Man, transfer responsibility for the patient to that authority.”