
Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 2007,
Cross Heading: Transfer of patients: Channel Islands and Isle of Man. (See end of Document for details)

SCHEDULES

SCHEDULE 5

CROSS-BORDER ARRANGEMENTS

PART 1

AMENDMENTS TO PART 6 OF 1983 ACT

Transfer of patients: Channel Islands and Isle of Man

- 10 Before section 83A (the title to which becomes “Transfer of responsibility for conditionally discharged patients to Channel Islands or Isle of Man”) insert—

Removal or transfer of community patients to Channel Islands or Isle of Man

- “83ZA(1) Section 83 above shall apply in the case of a community patient as it applies in the case of a patient who is for the time being liable to be detained under this Act, as if the community patient were so liable.
- (2) But if there are in force in any of the Channel Islands or the Isle of Man enactments (“relevant enactments”) corresponding or similar to those relating to community patients in this Act—
- (a) subsection (1) above shall not apply as regards that island; and
- (b) subsections (3) to (6) below shall apply instead.
- (3) If it appears to the appropriate national authority, in the case of a community patient, that the conditions mentioned in subsection (4) below are met, the authority may authorise the transfer of responsibility for him to the island in question.
- (4) The conditions are—
- (a) a transfer under subsection (3) above is in the patient's interests; and
- (b) arrangements have been made for dealing with him under the relevant enactments.
- (5) But the authority may not act under subsection (3) above while the patient is recalled to hospital under section 17E above.
- (6) In this section, “the appropriate national authority” means—
- (a) in relation to a community patient in respect of whom the responsible hospital is in England, the Secretary of State;
- (b) in relation to a community patient in respect of whom the responsible hospital is in Wales, the Welsh Ministers.”

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Commencement Information

- I1** Sch. 5 para. 10 not in force at Royal Assent see s. 56(1); Sch. 5 para. 10 in force at 3.11.2008 by S.I. 2008/1900, arts. 1(1), 2(n) (with art. 3, Sch.)

- 11 In section 85 (patients removed from Channel Islands or Isle of Man), in subsection (2), for “to a restriction order or restriction direction” substitute “ to a hospital order and a restriction order or to a hospital direction and a limitation direction or to a transfer direction and a restriction direction ”.

Commencement Information

- I2** Sch. 5 para. 11 not in force at Royal Assent see s. 56(1); Sch. 5 para. 11 in force for E.W. at 1.10.2007 by S.I. 2007/2798, art. 2(c)(v)

- 12 Before section 85A (the title to which becomes “Responsibility for conditionally discharged patients transferred from Channel Islands or Isle of Man”) insert—

Responsibility for community patients transferred from Channel Islands or Isle of Man

“85ZA(1) This section shall have effect if there are in force in any of the Channel Islands or the Isle of Man enactments (“relevant enactments”) corresponding or similar to those relating to community patients in this Act.

- (2) If responsibility for a patient is transferred to England and Wales under a provision corresponding to section 83ZA(3) above, he shall be treated as if on the date of his arrival at the place where he is to reside in England or Wales—
- (a) he had been admitted to the hospital in pursuance of an application made, or an order or direction made or given, on that date under the enactment in force in England and Wales which most closely corresponds to the relevant enactments; and
 - (b) a community treatment order had then been made discharging him from the hospital.
- (3) “The responsible hospital”, in his case, means the hospital to which he is treated as having been admitted by virtue of subsection (2) above, subject to section 19A above.
- (4) As soon as practicable after the patient's arrival at the place where he is to reside in England or Wales, the responsible clinician shall specify the conditions to which he is to be subject for the purposes of section 17B(1) above, and the conditions shall be deemed to be specified in the community treatment order.
- (5) But the responsible clinician may only specify conditions under subsection (4) above which an approved mental health professional agrees should be specified.”

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Commencement Information

I3 Sch. 5 para. 12 not in force at Royal Assent see s. 56(1); Sch. 5 para. 12 in force at 3.11.2008 by S.I. 2008/1900, arts. 1(1), 2(n) (with art. 3, Sch.)

- 13 (1) Section 85A is amended as follows.
- (2) For subsection (2)(b) substitute—
- “(b) as if he were subject to a hospital order under section 37 above and a restriction order under section 41 above, or to a hospital direction and a limitation direction under section 45A above, or to a transfer direction under section 47 above and a restriction direction under section 49 above.”
- (3) In subsection (3) after “restriction order” insert “ , limitation direction ”.

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Commencement Information

I4 Sch. 5 para. 13 not in force at Royal Assent see s. 56(1); Sch. 5 para. 13 in force for E.W. at 1.10.2007 by S.I. 2007/2798, art. 2(c)(vi)

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