



Mental Health Act 1983

1983 CHAPTER 20

PART III

PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS OR UNDER SENTENCE

[^{F1} Hospital and limitation directions

Textual Amendments

F1 Ss. 45A, 45B inserted (1.10.1997) by 1997 c. 43, ss. 46; S.I. 1997/2200, art. 2 (with saving in art. 5(1))

^{F2}45A Power of higher courts to direct hospital admission.

- (1) This section applies where, in the case of a person convicted before the Crown Court of an offence the sentence for which is not fixed by law—
- (a) the conditions mentioned in subsection (2) below are fulfilled; and
 - (b) ^{F3} . . . , the court considers making a hospital order in respect of him before deciding to impose a sentence of imprisonment (“the relevant sentence”) in respect of the offence.
- (2) The conditions referred to in subsection (1) above are that the court is satisfied, on the written or oral evidence of two registered medical practitioners—
- (a) that the offender is suffering from [^{F4}mental disorder] ;
 - (b) that the mental disorder from which the offender is suffering is of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment; and
 - [^{F5}(c) that appropriate medical treatment is available for him.]
- (3) The court may give both of the following directions, namely—

Status: Point in time view as at 03/11/2008.

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- (a) a direction that, instead of being removed to and detained in a prison, the offender be removed to and detained in such hospital as may be specified in the direction (in this Act referred to as a “hospital direction”); and
 - (b) a direction that the offender be subject to the special restrictions set out in section 41 above (in this Act referred to as a “limitation direction”).
- (4) A hospital direction and a limitation direction shall not be given in relation to an offender unless at least one of the medical practitioners whose evidence is taken into account by the court under subsection (2) above has given evidence orally before the court.
- (5) A hospital direction and a limitation direction shall not be given in relation to an offender unless the court is satisfied on the written or oral evidence of the [F6 approved clinician who would have overall responsibility for his case] , or of some other person representing the managers of the hospital that arrangements have been made—
- (a) for his admission to that hospital; and
 - (b) for his admission to it within the period of 28 days beginning with the day of the giving of such directions;
- and the court may, pending his admission within that period, give such directions as it thinks fit for his conveyance to and detention in a place of safety.
- (6) If within the said period of 28 days it appears to the Secretary of State that by reason of an emergency or other special circumstances it is not practicable for the patient to be received into the hospital specified in the hospital direction, he may give instructions for the admission of the patient to such other hospital as appears to be appropriate instead of the hospital so specified.
- (7) Where such instructions are given—
- (a) the Secretary of State shall cause the person having the custody of the patient to be informed, and
 - (b) the hospital direction shall have effect as if the hospital specified in the instructions were substituted for the hospital specified in the hospital direction.
- (8) Section 38(1) and (5) and section 39 above shall have effect as if any reference to the making of a hospital order included a reference to the giving of a hospital direction and a limitation direction.
- (9) A hospital direction and a limitation direction given in relation to an offender shall have effect not only as regards the relevant sentence but also (so far as applicable) as regards any other sentence of imprisonment imposed on the same or a previous occasion.
- (10) F7
- (11) F7]

Textual Amendments

- F2** S. 45A inserted (1.10.1997) by 1997 c. 43, s. 46; S.I. 1997/2200, art. 2 (with saving in art. 5(1))
- F3** Words in s. 45A(1)(b) repealed (4.4.2005) by Criminal Justice Act 2003 (c. 44), ss. 304, 332, 336, Sch. 32 para. 39, Sch. 37 Pt. 7; S.I. 2005/950, art 2(1), Sch. 1 paras. 42(18), 44(4)(g) (with art. 2(2), Sch. 2 (as amended by S.I. 2005/2122, art. 2))

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- F4** Words in s. 45A(2)(a) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 1, 56, **Sch. 1 para. 9** (with Sch. 10); S.I. 2008/1900, **art. 2(a)** (with art. 3, Sch.)
- F5** S. 45A(2)(c) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 4(6)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(b)** (with art. 3, Sch.)
- F6** Words in s. 45A(5) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 10(8)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(b)** (with art. 3, Sch.)
- F7** S. 45A(10)(11) repealed (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 55, 56, **Sch. 11 Pt. 1** (with Sch. 10); S.I. 2008/1900, **art. 2(p)** (with art. 3, Sch.)

Modifications etc. (not altering text)

- C1** S. 45A extended (1.10.1997) by 1997 c. 43, **s. 47(1)(b)**; S.I. 1997/2200, **art. 2**

[^{F8}45B] Effect of hospital and limitation directions.

- (1) A hospital direction and a limitation direction shall be sufficient authority—
- (a) for a constable or any other person directed to do so by the court to convey the patient to the hospital specified in the hospital direction within a period of 28 days; and
 - (b) for the managers of the hospital to admit him at any time within that period and thereafter detain him in accordance with the provisions of this Act.
- (2) With respect to any person—
- (a) a hospital direction shall have effect as a transfer direction; and
 - (b) a limitation direction shall have effect as a restriction direction.
- (3) While a person is subject to a hospital direction and a limitation direction the [^{F9}responsible clinician] shall at such intervals (not exceeding one year) as the Secretary of State may direct examine and report to the Secretary of State on that person; and every report shall contain such particulars as the Secretary of State may require.]]

Textual Amendments

- F8** S. 45B inserted (1.10.1997) by 1997 c. 43, **s. 46**; S.I. 1997/2200, **art. 2** (with saving in art. 5(1))
- F9** Words in s. 45B(3) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), **ss. 10(9)(a)**, 56 (with Sch. 10); S.I. 2008/1900, **art. 2(b)** (with art. 3, Sch.)

Status:

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