



# Mental Health Act 1983

## 1983 CHAPTER 20

### PART X

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Miscellaneous provisions*

#### 139 Protection for acts done in pursuance of this Act. **E+W**

- (1) No person shall be liable, whether on the ground of want of jurisdiction or on any other ground, to any civil or criminal proceedings to which he would have been liable apart from this section in respect of any act purporting to be done in pursuance of this Act or any regulations or rules made under this Act, <sup>F1</sup> . . . , unless the act was done in bad faith or without reasonable care.
- (2) No civil proceedings shall be brought against any person in any court in respect of any such act without the leave of the High Court; and no criminal proceedings shall be brought against any person in any court in respect of any such act except by or with the consent of the Director of Public Prosecutions.
- (3) This section does not apply to proceedings for an offence under this Act, being proceedings which, under any other provision of this Act, can be instituted only by or with the consent of the Director of Public Prosecutions.
- (4) This section does not apply to proceedings against the Secretary of State or against [<sup>F2</sup>NHS England][<sup>F3</sup>, an integrated care board,] a <sup>F4</sup>... [<sup>F5</sup>Local Health Board][<sup>F6</sup>or Special Health Authority]<sup>F7</sup>... [<sup>F8</sup>or against a National Health Service trust established under [<sup>F9</sup>the National Health Service Act 2006 or the National Health Service (Wales) Act 2006][<sup>F10</sup>or NHS foundation trust][<sup>F11</sup>or against the Department of Justice in Northern Ireland][<sup>F12</sup>or against a person who has functions under this Act by virtue of section 12ZA in so far as the proceedings relate to the exercise of those functions].
- (5) In relation to Northern Ireland the reference in this section to the Director of Public Prosecutions shall be construed as a reference to the Director of Public Prosecutions for Northern Ireland.

*Status: There are multiple versions of this provision on screen. These apply to different geographical extents. Skip to: E+W - England and Wales extent S+N.I. - Scotland and Northern Ireland extent*

*Changes to legislation: Mental Health Act 1983, Section 139 is up to date with all changes known to be in force on or before 01 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*

### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland and Northern Ireland only

### Textual Amendments

- F1** Words in s. 139(1) repealed (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\)](#), ss. 67(1)(2), 68(1)-(3), [Sch. 6 para. 29\(3\)](#), [Sch. 7](#) (with ss. 27, 28, 29, 62); S.I. 2007/1897, [art. 2\(1\)\(d\)](#)
- F2** Words in s. 139 substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 1 para. 1\(1\)\(2\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with regs. 13, 29, 30)
- F3** Words in s. 139(4) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 18](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with regs. 13, 29, 30)
- F4** Words in s. 139(4) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 30\(b\)](#); S.I. 2013/160, [art. 2\(2\)](#) (with arts. 7-10, [Sch. para. 3](#))
- F5** Words in s. 139(4) substituted (1.4.2007) by The References to [Health Authorities Order 2007 \(S.I. 2007/961\)](#), [art. 3](#), [Sch. para. 13\(11\)](#)
- F6** Words in s. 139(4) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 30\(c\)](#); S.I. 2013/160, [art. 2\(2\)](#) (with arts. 7-10, [Sch. para. 3](#))
- F7** Words in s. 139(4) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 30\(d\)](#); S.I. 2013/160, [art. 2\(2\)](#) (with arts. 7-10, [Sch. para. 3](#))
- F8** Words in s. 139(4) inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), [Sch. 9 para. 24\(7\)](#)
- F9** Words in s. 139(4) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 69](#) (with [Sch. 3 Pt. 1](#))
- F10** Words in s. 139(4) inserted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 34, 199, [Sch. 4 para. 56](#); S.I. 2004/759, [art. 2](#)
- F11** Words in s. 139(4) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), [art. 1\(2\)](#), [Sch. 14 para. 28\(5\)](#) (with arts. 28-31)
- F12** Words in s. 139(4) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 38\(3\)](#), 306(4); S.I. 2013/160, [art. 2\(2\)](#) (with arts. 7-9)

### Modifications etc. (not altering text)

- C1** S. 139 applied (E.W.) (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), [art. 12\(2\)](#)
- C2** S. 139 extended by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), [ss. 17\(2\)](#), 122(2)
- C3** S. 139 extended (E.W.) (1.1.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), [s. 6\(2\)](#); S.I. 1991/2488, [art. 2](#)

## 139 Protection for acts done in pursuance of this Act. **S+N.I.**

- (1) No person shall be liable, whether on the ground of want of jurisdiction or on any other ground, to any civil or criminal proceedings to which he would have been liable apart from this section in respect of any act purporting to be done in pursuance of this Act or any regulations or rules made under this Act,<sup>F1</sup> . . . unless the act was done in bad faith or without reasonable care.
- (2) No civil proceedings shall be brought against any person in any court in respect of any such act without the leave of the High Court; and no criminal proceedings shall be brought against any person in any court in respect of any such act except by or with the consent of the Director of Public Prosecutions.

*Status: There are multiple versions of this provision on screen. These apply to different geographical extents. Skip to: E+W - England and Wales extent S+N.I. - Scotland and Northern Ireland extent*

*Changes to legislation: Mental Health Act 1983, Section 139 is up to date with all changes known to be in force on or before 01 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*

- (3) This section does not apply to proceedings for an offence under this Act, being proceedings which, under any other provision of this Act, can be instituted only by or with the consent of the Director of Public Prosecutions.
- (4) This section does not apply to proceedings against the Secretary of State or against [<sup>F2</sup>NHS England][<sup>F3</sup>, an integrated care board,] a <sup>F4</sup>... [<sup>F5</sup> Local Health Board][<sup>F6</sup> or Special Health Authority][<sup>F13</sup> or against a National Health Service trust established under [<sup>F14</sup> the National Health Service Act 2006 or the National Health Service (Wales) Act 2006][<sup>F15</sup> or NHS foundation trust][<sup>F11</sup> or against the Department of Justice in Northern Ireland][<sup>F12</sup> or against a person who has functions under this Act by virtue of section 12ZA in so far as the proceedings relate to the exercise of those functions].
- (5) In relation to Northern Ireland the reference in this section to the Director of Public Prosecutions shall be construed as a reference to the Director of Public Prosecutions for Northern Ireland.

#### Extent Information

- E2** For extent of s. 139 to Northern Ireland and of s. 139(1) to Scotland see ss. 146, 147
- E3** This version of this provision extends to Scotland and Northern Ireland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F1** Words in s. 139(1) repealed (1.10.2007) by [Mental Capacity Act 2005 \(c. 9\)](#), ss. 67(1)(2), 68(1)-(3), [Sch. 6 para. 29\(3\)](#), [Sch. 7](#) (with ss. 27, 28, 29, 62); S.I. 2007/1897, [art. 2\(1\)\(d\)](#)
- F2** Words in s. 139 substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 1 para. 1\(1\)\(2\)](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with regs. 13, 29, 30)
- F3** Words in s. 139(4) substituted (1.7.2022) by [Health and Care Act 2022 \(c. 31\)](#), s. 186(6), [Sch. 4 para. 18](#); S.I. 2022/734, [reg. 2\(a\)](#), [Sch.](#) (with regs. 13, 29, 30)
- F4** Words in s. 139(4) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 30\(b\)](#); S.I. 2013/160, [art. 2\(2\)](#) (with arts. 7-10, [Sch. para. 3](#))
- F5** Words in s. 139(4) substituted (1.4.2007) by [The References to Health Authorities Order 2007 \(S.I. 2007/961\)](#), [art. 3](#), [Sch. para. 13\(11\)](#)
- F6** Words in s. 139(4) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 5 para. 30\(c\)](#); S.I. 2013/160, [art. 2\(2\)](#) (with arts. 7-10, [Sch. para. 3](#))
- F11** Words in s. 139(4) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), [art. 1\(2\)](#), [Sch. 14 para. 28\(5\)](#) (with arts. 28-31)
- F12** Words in s. 139(4) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\)](#), [ss. 38\(3\)](#), 306(4); S.I. 2013/160, [art. 2\(2\)](#) (with arts. 7-9)
- F13** Words in s. 139(4) inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), [Sch. 9 para. 24\(7\)](#)
- F14** Words in s. 139(4) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), ss. 2, 8(2), [Sch. 1 para. 69](#) (with [Sch. 3 Pt. 1](#))
- F15** Words in s. 139(4) inserted (1.4.2004) by [Health and Social Care \(Community Health and Standards\) Act 2003 \(c. 43\)](#), ss. 34, 199, [Sch. 4 para. 56](#); S.I. 2004/759, [art. 2](#)

#### Modifications etc. (not altering text)

- C4** S. 139 applied (N.I.) (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\)](#), [art. 12\(2\)](#)
- C5** S. 139 extended by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), [ss. 17\(2\)](#), 122(2)

**Status:**

There are multiple versions of this provision on screen. These apply to different geographical extents.

**Skip to:**

- E+W - England and Wales extent
- S+N.I. - Scotland and Northern Ireland extent

**Changes to legislation:**

Mental Health Act 1983, Section 139 is up to date with all changes known to be in force on or before 01 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 :**

- s. 139(4) words omitted by [2012 c. 7 Sch. 14 para. 50](#)

**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)