



Mental Health Act 1983

1983 CHAPTER 20

PART II

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Duration of detention or guardianship and discharge

23 Discharge of patients.

- (1) Subject to the provisions of this section and section 25 below, a patient who is for the time being liable to be detained or subject to guardianship under this Part of this Act shall cease to be so liable or subject if an order in writing discharging him from detention or guardianship (in this Act referred to as “an order for discharge” is made in accordance with this section.
- (2) An order for discharge may be made in respect of a patient—
 - (a) where the patient is liable to be detained in a hospital in pursuance of an application for admission for assessment or for treatment by the responsible medical officer, by the managers or by the nearest relative of the patient;
 - (b) where the patient is subject to guardianship, by the responsible medical officer, by the responsible local social services authority or by the nearest relative of the patient.
- (3) Where the patient is liable to be detained in a [^{F1}registered establishment] in pursuance of an application for admission for assessment or for treatment, an order for his discharge may, without prejudice to subsection (2) above, be made by the Secretary of State and, if the patient is maintained under a contract with a [^{F2}National Health Service trust ||^{F3}, [^{F4}NHS foundation trust,][^{F5}Health Authority, Special Health Authority or Primary Care Trust], by that National Health Service trust, [^{F4}NHS foundation trust,][^{F5}Health Authority, Special Health Authority or Primary Care Trust].].
- (4) The powers conferred by this section on any authority [^{F6}trust ||^{F7}(other than an NHS foundation trust)] or body of persons may be exercised [^{F6}subject to subsection (5) below] by any three or more members of that authority [^{F6}trust] or body authorised by

Status: Point in time view as at 01/03/2007. This version of this provision has been superseded.

Changes to legislation: Mental Health Act 1983, Section 23 is up to date with all changes known to be in force on or before 19 January 2024. 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)

them in that behalf or by three or more members of a committee or sub-committee of that authority [^{F6}trust] or body which has been authorised by them in that behalf.

[^{F8}(5) The reference in subsection (4) above to the members of an authority, trust or body or the members of a committee or sub-committee of an authority, trust or body,—

(a) in the case of [^{F9}a [^{F10}Health Authority, Special Health Authority or Primary Care Trust]] or a committee or sub-committee of [^{F9}a [^{F10}Health Authority, Special Health Authority or Primary Care Trust]], is a reference only to the chairman of the authority [^{F11}or trust]and such members (of the authority [^{F11}, trust], committee or sub-committee, as the case may be) as are not also officers of the authority [^{F11}or trust], within the meaning of [^{F12}the National Health Service Act 2006 or the National Health Service (Wales) Act 2006] ; and

(b) in the case of a National Health Service trust or a committee or sub-committee of such a trust, is a reference only to the chairman of the trust and such directors or (in the case of a committee or sub-committee) members as are not also employees of the trust.]

[^{F13}(6) The powers conferred by this section on any NHS foundation trust may be exercised by any three or more non-executive directors of the board of the trust authorised by the board in that behalf.]

Textual Amendments

- F1** Words in s. 23(3) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 9(2)**; S.I. 2001/4150, **art. 3(3)** (subject to transitional provisions in art. 4 and S.I. 2002/1493, **art. 4**); S.I. 2002/920, **art. 3(3)(d)** (subject to transitional provisions in Schs. 1-3 and art. 3(4)-(10))
- F2** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 24(3)(a)**
- F3** Words in s. 23(3) substituted (28.6.1995 for certain purposes, otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8, **Sch. 1 Pt. III**, para. 107(2)(a)
- F4** Words in s. 23(3) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199, **Sch. 4 para. 53(a)**; S.I. 2004/759, {art. 2}
- F5** Words in s. 23(3) substituted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 16(4)(a)** (with art. 2(5))
- F6** Words inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 24(3)(b)**
- F7** Words in s. 23(4) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199, **Sch. 4 para. 53(b)**; S.I. 2004/759, **art. 2**
- F8** S.23(5) inserted by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(1), **Sch. 9 para. 24(3)(c)**
- F9** Words in s. 23(5)(a) substituted (28.6.1995 for certain purposes, otherwise 1.4.1996) by 1995 c. 17, ss. 2(1)(3), 8, **Sch. 1 Pt. III**, para. 107(2)(b)
- F10** Words in s. 23(5)(a) substituted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 16(4)(b)(i)** (with art. 2(5))
- F11** Words in s. 23(5)(a) inserted (8.2.2000) by S.I. 2000/90, art. 3(1), **Sch. 1 para. 16(4)(b)(ii)(iii)** (with art. 2(5))
- F12** Words in s. 23(5)(a) substituted (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 65** (with Sch. 3 Pt. 1)
- F13** S. 23(6) inserted (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), ss. 34, 199, **Sch. 4 para. 53(c)**; S.I. 2004/759, **art. 2**

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