Mental Health Act 1983

1983 CHAPTER 20

PART II

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Duration of authority 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 absolutely from detention or guardianship is made in accordance with this section.

(1A) Subject to the provisions of this section and section 25 below, a community patient shall cease to be liable to recall under this Part of this Act, and the application for admission for treatment cease to have effect, if an order in writing discharging him from such liability is made in accordance with this section.

(1B) An order under subsection (1) or (1A) above shall be referred to in this Act as “an order for discharge.”

(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 clinician, by the managers or by the nearest relative of the patient;

(b) where the patient is subject to guardianship, by the responsible clinician, by the responsible local social services authority or by the nearest relative of the patient.

(c) where the patient is a community patient, by the responsible clinician, by the managers of the responsible hospital or by the nearest relative of the patient.
(4) The powers conferred by this section on any authority (other than an NHS foundation trust) or body of persons may be exercised by any three or more members of that authority (or board) or body authorised by them in that behalf or by three or more members of a committee or sub-committee of that authority (or board) or body which has been authorised by them in that behalf.

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

(a) in the case of a Local Health Board or Special Health Authority, is a reference only to the chairman of the authority or board and such members (of the authority, board, committee or sub-committee), as the case may be as are not also officers of the authority or board, within the meaning of 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.

(6) The powers conferred by this section on any NHS foundation trust may be exercised by any three or more persons authorised by the board of the trust in that behalf of whom is neither an executive director of the board nor an employee of the trust.

### Textual Amendments

<table>
<thead>
<tr>
<th>Amendment</th>
<th>Description</th>
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<tbody>
<tr>
<td>F1</td>
<td>Words in s. 23(1) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, Sch. 3 para. 10(2) (with Sch. 10); S.I. 2008/1900, art. 2(i) (with art. 3, Sch.)</td>
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<tr>
<td>F2</td>
<td>S. 23(1A)(1B) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, Sch. 3 para. 10(3) (with Sch. 10); S.I. 2008/1900, art. 2(i) (with art. 3, Sch.)</td>
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<tr>
<td>F3</td>
<td>Words in s. 23(2)(a)(b) substituted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 9(6), 56 (with Sch. 10); S.I. 2008/1900, art. 2(b) (with art. 3, Sch.)</td>
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<tr>
<td>F4</td>
<td>S. 23(2)(c) inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, Sch. 3 para. 10(4) (with Sch. 10); S.I. 2008/1900, art. 2(i) (with art. 3, Sch.)</td>
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<tr>
<td>F5</td>
<td>S. 23(3)(3A) omitted (1.7.2012) by virtue of Health and Social Care Act 2012 (c. 7), ss. 39(1), 306(4); S.I. 2012/1319, art. 2(3)</td>
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<tr>
<td>F6</td>
<td>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)</td>
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<tr>
<td>F7</td>
<td>Words in s. 23(4) inserted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961, Sch. 13(2)(b)</td>
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<tr>
<td>F8</td>
<td>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</td>
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<tr>
<td>F9</td>
<td>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)</td>
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<tr>
<td>F10</td>
<td>Words in s. 23(5) inserted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961, art. 3, Sch. para. 13(2)(c)</td>
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<tr>
<td>F11</td>
<td>Words in s. 23(5)(a) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961, art. 3, Sch. para. 13(2)(d)(i)</td>
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<tr>
<td>F12</td>
<td>Words in s. 23(5)(a) substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 5 para. 26(a); S.I. 2013/160, art. 2(2) (with arts. 7-9)</td>
</tr>
</tbody>
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F13  Words in s. 23(5)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 5 para. 26(b); S.I. 2013/160, art. 2(2) (with arts. 7-9)

F14  Word in s. 23(5)(a) omitted (1.4.2013) by virtue of Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 5 para. 26(c); S.I. 2013/160, art. 2(2) (with arts. 7-9)

F15  Words in s. 23(5)(a) substituted (1.4.2007) by The References to Health Authorities Order 2007 (S.I. 2007/961, art. 3, Sch. para. 13(2)(d)(ii)

F16  Words in s. 23(5)(a) substituted (1.4.2007) by virtue of The References to Health Authorities Order 2007 (S.I. 2007/961), art. 3, Sch. para. 13(2)(d)(iii)

F17  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)

F18  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

F19  Words in s. 23(6) substituted (24.7.2007) by Mental Health Act 2007 (c. 12), ss. 45(1), 56 (with Sch. 10); S.I. 2007/2156, art. 2
Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to Mental Health Act 1983. Any changes that have already been made by the team appear in the content and are referenced with annotations.
View outstanding changes

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(replacing1968 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(replacing1957 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(replacing1955 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))

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- Act power to applied by 1996 c. 46 Sch. 2 para. 4(replacing1957 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))

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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)
- s. 114ZA(5)(6) inserted by S.I. 2018/893 reg. 39(5) (This amendment comes into force on the date that 2017 c. 16, s. 39(1) comes into force. That provision is brought into force on 2.12.2019 by S.I. 2019/1436, reg. 2(b))