



# Mental Health Act 1983

## 1983 CHAPTER 20

### PART III

#### PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS OR UNDER SENTENCE

##### *Transfer to hospital of prisoners, etc.*

#### **47 Removal to hospital of persons serving sentences of imprisonment, etc.**

- (1) If in the case of a person serving a sentence of imprisonment the Secretary of State is satisfied, by reports from at least two registered medical practitioners—
  - (a) that the said person is suffering from [<sup>F1</sup>mental disorder]; and
  - (b) that the mental disorder from which that person is suffering is of a nature or degree which makes it appropriate for him to be detained in a hospital for medical treatment[<sup>F2</sup>; and
  - (c) that appropriate medical treatment is available for him;]the Secretary of State may, if he is of the opinion having regard to the public interest and all the circumstances that it is expedient so to do, by warrant direct that that person be removed to and detained in such hospital<sup>F3</sup>. . . as may be specified in the direction; and a direction under this section shall be known as “a transfer direction”.
- (2) A transfer direction shall cease to have effect at the expiration of the period of 14 days beginning with the date on which it is given unless within that period the person with respect to whom it was given has been received into the hospital specified in the direction.
- (3) A transfer direction with respect to any person shall have the same effect as a hospital order made in his case.
- (4) <sup>F4</sup> . . . . .
- (5) References in this Part of this Act to a person serving a sentence of imprisonment include references—

**Changes to legislation:** Mental Health Act 1983, Section 47 is up to date with all changes known to be in force on or before 05 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

- (a) to a person detained in pursuance of any sentence or order for detention made by a court in criminal proceedings [<sup>F5</sup>or service disciplinary proceedings](other than an order [<sup>F6</sup>made in consequence of a finding of insanity or unfitness to stand trial][<sup>F7</sup>or a sentence of service detention within the meaning of the Armed Forces Act 2006]);
- (b) to a person committed to custody under section 115(3) of the <sup>M1</sup>Magistrates' Courts Act 1980 (which relates to persons who fail to comply with an order to enter into recognisances to keep the peace or be of good behaviour); and
- (c) to a person committed by a court to a prison or other institution to which the <sup>M2</sup>Prison Act 1952 applies in default of payment of any sum adjudged to be paid on his conviction.

[<sup>F8</sup>(6) In subsection (5)(a) “service disciplinary proceedings” means proceedings in respect of a service offence within the meaning of the Armed Forces Act 2006.]

#### Textual Amendments

- F1** Words in s. 47(1)(a) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 1, 56, [Sch. 1 para. 10](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(a\)](#) (with [art. 3](#), [Sch.](#))
- F2** [S. 47\(1\)\(c\)](#) and preceding word substituted (3.11.2008) for words in s. 47(1)(b) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 4\(7\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(b\)](#) (with [art. 3](#), [Sch.](#))
- F3** Words in s. 47(1) repealed (1.10.1997) by [1997 c. 43](#), ss. 49(3), 56(2), [Sch. 6](#); [S.I. 1997/2200](#), art. 2 (with saving in art. 5(6))
- F4** [S. 47\(4\)](#) 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.](#))
- F5** Words in s. 47(5)(a) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 97\(2\)\(a\)](#); [S.I. 2009/812](#), [art. 3\(a\)](#) (with the transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)
- F6** Words in s. 47(5)(a) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 60, [Sch. 10 para. 18](#) (with [Sch. 12 para. 8](#)); [S.I. 2005/579](#), [art. 3\(g\)\(k\)](#)
- F7** Words in s. 47(5)(a) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 97\(2\)\(b\)](#); [S.I. 2009/812](#), [art. 3\(a\)](#) (with the transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)
- F8** [S. 47\(6\)](#) inserted (28.3.2009 for certain purposes, otherwise 31.10.2009) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378, 383, [Sch. 16 para. 97\(3\)](#); [S.I. 2009/812](#), [art. 3\(a\)](#) (with the transitional provisions in [S.I. 2009/1059](#)); [S.I. 2009/1167](#), [art. 4](#)

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

- C1** [S. 47](#) excluded (E.W.) (1.1.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), s. 5(1), [Sch. 1 para. 2\(4\)](#) (with saving in s. 8); [S.I. 1991/2488](#), [art. 2](#)
- C2** [S. 47](#) extended (1.10.1997) by [1997 c. 43](#), [s. 47\(1\)\(c\)](#); [S.I. 1997/2200](#), [art. 2](#)
- C3** [S. 47\(5\)\(a\)](#) modified (24.4.2009 for certain purposes, otherwise 31.10.2009) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 205, [Sch. 1 para. 25](#)

#### Marginal Citations

- M1** 1980 c. 43.
- M2** 1952 c. 52.

### Changes to legislation:

Mental Health Act 1983, Section 47 is up to date with all changes known to be in force on or before 05 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. 47(1) modified (temp.) by [2020 c. 7 Sch. 8 para. 7](#)
- s. 47(2) words substituted (temp.) by [2020 c. 7 Sch. 8 para. 8\(3\)\(4\)](#)

### 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\(3\)](#)