



# Mental Health Act 1959

## 1959 CHAPTER 72

### PART V

#### ADMISSION OF PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS, ETC., AND TRANSFER OF PATIENTS UNDER SENTENCE

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

#### **72 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 medical practitioners (complying with the provisions of this section)—

- (a) that the said person is suffering from mental illness, psychopathic disorder, subnormality or severe sub-normality ; and
- (b) that the mental disorder is of a nature or degree which warrants the detention of the patient in a hospital for medical treatment;

the Secretary of State may, if he is of 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 (not being a mental nursing home) as may be specified in the direction.

- (2) A direction under this section (in this Act referred to as a transfer direction) shall cease to have effect at the expiration of the period of fourteen 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 therein.
- (3) A transfer direction with respect to any person shall have the like effect as a hospital order made in his case.
- (4) Of the medical practitioners whose reports are taken into account under subsection (1) of this section, at least one shall be a practitioner approved for the purposes of section twenty-eight of this Act by a local health authority as having special experience in the diagnosis or treatment of mental disorders.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (5) A transfer direction shall specify the form or forms of mental disorder referred to in paragraph (a) of subsection (1) of this section from which, upon the reports taken into account under that subsection, the patient is found by the Secretary of State to be suffering; and no such direction shall be given unless the patient is described in each of those reports as suffering from the same one of those forms, whether or not he is also described in either of them as suffering from another of those forms.
- (6) References in this section to a person serving a sentence of imprisonment include references—
- (a) to a person detained in pursuance of any sentence or order for detention made by a court in criminal proceedings, or made or having effect as if made in any proceedings under the Children and Young Persons Act, 1933 (other than an order under any enactment to which section seventy-one of this Act applies or an order for detention in a remand home under section fifty-four or in a place of safety under section sixty-seven of the said Act of 1933);
  - (b) to a person committed to custody under subsection (3) of section ninety-one of the Magistrates' Courts Act, 1952 (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 Prison Act, 1952, applies in default of payment of any sum adjudged to be paid on his conviction.

### **73 Removal to hospital of other prisoners**

- (1) If in the case of a person to whom this section applies the Secretary of State is satisfied by the like reports as are required for the purposes of the last foregoing section that that person is suffering from mental illness or severe subnormality of a nature or degree which warrants the detention of the patient in a hospital for medical treatment, the Secretary of State shall have the like power of giving a transfer direction in respect of him under that section as if he were serving a sentence of imprisonment.
- (2) This section applies to the following persons, that is to say—
- (a) persons committed in custody for trial at assizes or quarter sessions;
  - (b) persons committed in custody to quarter sessions under section twenty-eight or section twenty-nine of the Magistrates' Courts Act, 1952, section five of the Vagrancy Act, 1824, or section sixty-seven of this Act;
  - (c) persons remanded in custody by a court of assize or quarter sessions to await a judgment or sentence which has been respited;
  - (d) persons remanded in custody by a magistrates' court;
  - (e) civil prisoners, that is to say, persons committed by a court to prison for a limited term (including persons committed to prison in pursuance of a writ of attachment), not being persons falling to be dealt with under section seventy-two of this Act;
  - (f) aliens detained in a prison or other institution to which the Prison Act, 1952, applies, in pursuance of the Aliens Order 1953, or any order amending or replacing that Order.
- (3) Subsections (2) to (5) of the last foregoing section shall apply for the purposes of this section and of any transfer direction given by virtue of this section as they apply for the purposes of that section and of any transfer direction thereunder.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

#### **74 Restriction on discharge of prisoners removed to hospital**

- (1) Where a transfer direction is given in respect of any person, the Secretary of State, if he thinks fit, may by warrant further direct that that person shall be subject to the special restrictions set out in section sixty-five of this Act; and where the Secretary of State gives a transfer direction in respect of any such person as is described in paragraphs (a) to (d) of subsection (2) of the last foregoing section, he shall also give a direction under this section applying the said restrictions to him.
- (2) A direction under this section (in this Act referred to as a direction restricting discharge) shall have the like effect as an order restricting the discharge of the patient made under the said section sixty-five.

#### **75 Further provisions as to prisoners under sentence**

- (1) Where a transfer direction and a direction restricting discharge have been given in respect of a person serving a sentence of imprisonment (other than a person detained in a remand home) and the Secretary of State is notified by the responsible medical officer at any time before the expiration of that person's sentence that that person no longer requires treatment for mental disorder, the Secretary of State may—
  - (a) by warrant direct that he be remitted to any prison or other institution in which he might have been detained ' if he had not been removed to hospital, there to be dealt with as if he had not been so removed; or
  - (b) exercise, or authorise the Prison Commissioners or, as the case may be, the managers of any approved school to which he might have been remitted to exercise, any power of releasing him on licence or discharging him under supervision which would have been exercisable if he had been remitted to such a prison or institution as aforesaid,and on his arrival in the prison or other institution or, as the case may be, his release or discharge as aforesaid, the transfer direction and the direction restricting discharge shall cease to have effect.
- (2) A direction restricting the discharge of a person serving a sentence of imprisonment (including an order for detention in a remand home under section sixty-nine of the Children and Young Persons Act, 1933), shall cease to have effect on the expiration of the sentence.
- (3) Subject to the next following subsection, references in this section to the expiration of a person's sentence are references to the expiration of the period during which he would have been liable to be detained in a prison or other institution if the transfer direction had not been given.
- (4) For the purposes of subsection (2) of section forty-nine of the Prison Act, 1952 (which provides for discounting from the sentence of certain prisoners periods while they are unlawfully at large) a patient who, having been transferred in pursuance of a transfer direction from any such institution as is referred to in that subsection, is at large in circumstances in which he is liable to be taken into custody under any provision of this Act, shall be treated as unlawfully at large and absent from that institution.

#### **76 Further provisions as to persons committed for trial or sentence, etc.**

- (1) Any transfer direction given in respect of any such person as is described in paragraphs (a) to (c) of subsection (2) of section seventy-three of this Act shall cease to have effect when his case is disposed of by the court to which he was committed or by which he

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

was remanded, as the case may be, but without prejudice to any power of that court to make a hospital order or other order under this Part of this Act in his case.

- (2) Where a transfer direction has been given in respect of any such person as aforesaid, then—
- (a) if the Secretary of State is notified by the (responsible medical officer at any time before that person is brought before the court to which he was committed or by which he was remanded that he no longer requires treatment for mental disorder, the Secretary of State may by warrant direct that he be remitted to any place where he might have been detained if he had not been removed to hospital, there to be dealt with as if he had not been so removed, and on his arrival at the place to which he is so remitted the transfer direction shall cease to have effect;
  - (b) if (no direction having been given under paragraph (a) of this subsection) it appears to that court that it is impracticable or inappropriate to bring that person before the court and the conditions set out in the next following subsection are satisfied, the court may make a hospital order (with or without an order restricting discharge) in his case in his absence and, in the case of a person committed for trial, without convicting him.
- (3) A hospital order may be made in respect of a person under paragraph (b) of the last foregoing subsection if the court is satisfied, on the oral evidence of at least two medical practitioners (complying with subsection (1) of section sixty-two of this Act), that that person is suffering from mental illness or severe subnormality of a nature or degree which warrants the detention of the patient in a hospital for medical treatment, and is of opinion, after considering any depositions or other documents required to be sent to the proper officer of the court, that it is proper to make such an order.
- (4) Where a person committed to quarter sessions to be dealt with under section sixty-seven of this Act is admitted to a hospital in pursuance of an order under section sixty-eight of this Act, paragraph (b) of subsection (2) and subsection (3) of this section shall apply as if he were a person subject to a transfer direction.

## **77 Further provisions as to persons remanded by magistrates' courts**

- (1) A transfer direction given in respect of a person remanded in custody by a magistrates' court shall cease to have effect on the expiration of the period of remand unless, upon his being brought before the magistrates' court, he is committed in custody for trial at assizes or quarter sessions.
- (2) Where, on the expiration of the period of remand of any such person, he is committed in custody for trial as aforesaid, section seventy-six of this Act shall apply as if the transfer direction given in his case were a direction given in respect of a person so committed.
- (3) Where a transfer direction has been given in respect of a person remanded as aforesaid, the power of further remanding him under section one hundred and five of the Magistrates' Courts Act, 1952, may be exercised by the court without his being brought before the court; and if the court further remands such a person in custody (whether or not he is brought before the court) the period of remand shall, for the purposes of this section, be deemed not to have expired.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (4) Where a transfer direction in respect of any person ceases to have effect under this section, then unless the court before which he is brought on the expiration of the period of remand—
- (a) passes a sentence of imprisonment (within the meaning of subsection (6) of section sixty of this Act) on him; or
  - (b) makes a hospital order or guardianship order in his case,
- he shall continue to be liable to be detained in the hospital in which he was detained under the transfer direction as if he had been admitted thereto, on the date on which that direction ceased to have effect, in pursuance of an application for admission for treatment made under Part IV of this Act, and the provisions of this Act shall apply accordingly.

## **78 Further provisions as to civil prisoners**

- (1) Any transfer direction given in respect of a civil prisoner shall cease to have effect on the expiration of the period during which he would, but for his removal to hospital, be liable to be detained in prison.
- (2) Where a transfer direction given in respect of any person ceases to have effect by virtue of this section, he shall continue to be liable to be detained in the hospital in which he was detained under that direction as if he had been admitted thereto, on the date on which the direction ceased to have effect, in pursuance of an application for admission for treatment made under Part IV of this Act, and the provisions of this Act shall apply accordingly.

## **79 Reception into guardianship of persons sent to approved schools**

- (1) If in the case of a child or young person detained in an approved school the Secretary of State is satisfied by the like reports as are required for the purposes of section seventy-two of this Act—
  - (a) that the child or young person is suffering from mental illness, psychopathic disorder, subnormality or severe subnormality; and
  - (b) that the mental disorder is of a nature or degree which warrants the reception of the patient into guardianship under this Act;

the Secretary of State may, if he is of opinion having regard to the public interest and to all the circumstances that it is expedient so to do, by warrant direct that he be placed under the guardianship of a local health authority or of any such other person approved by a local health authority as may be specified in the direction.
- (2) A direction shall not be given under this section placing a person under the guardianship of a local health authority or other person unless the Secretary of State is satisfied that that authority or person is willing to receive that person into guardianship.
- (3) A direction under this section with respect to any person shall have the like effect as a guardianship order made in his case.