



# Mental Health Act 1983

## 1983 CHAPTER 20

### PART VI

#### REMOVAL AND RETURN OF PATIENTS WITHIN UNITED KINGDOM, ETC.

##### *Removal to and from Channel Islands and Isle of Man*

#### **83 Removal of patients to Channel Islands or Isle of Man.**

If it appears to the Secretary of State, in the case of a patient who is for the time being liable to be detained or subject to guardianship under this Act (otherwise than by virtue of section 35, 36 or 38 above), that it is in the interests of the patient to remove him to any of the Channel Islands or to the Isle of Man, and that arrangements have been made for admitting him to a hospital or, as the case may be, for receiving him into guardianship there, the Secretary of State may authorise his removal to the island in question and may give any necessary directions for his conveyance to his destination.

#### **[<sup>F1</sup>83ZA Removal or transfer of community patients to Channel Islands or Isle of Man**

- (1) Section 83 above shall apply in the case of a community patient as it applies in the case of a patient who is for the time being liable to be detained under this Act, as if the community patient were so liable.
- (2) But if there are in force in any of the Channel Islands or the Isle of Man enactments (“relevant enactments”) corresponding or similar to those relating to community patients in this Act—
  - (a) subsection (1) above shall not apply as regards that island; and
  - (b) subsections (3) to (6) below shall apply instead.
- (3) If it appears to the appropriate national authority, in the case of a community patient, that the conditions mentioned in subsection (4) below are met, the authority may authorise the transfer of responsibility for him to the island in question.
- (4) The conditions are—

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- (a) a transfer under subsection (3) above is in the patient's interests; and
  - (b) arrangements have been made for dealing with him under the relevant enactments.
- (5) But the authority may not act under subsection (3) above while the patient is recalled to hospital under section 17E above.
- (6) In this section, “the appropriate national authority” means—
- (a) in relation to a community patient in respect of whom the responsible hospital is in England, the Secretary of State;
  - (b) in relation to a community patient in respect of whom the responsible hospital is in Wales, the Welsh Ministers.]

#### Textual Amendments

- F1** S. 83ZA inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 39, 56, [Sch. 5 para. 10](#) (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(n\)](#) (with [art. 3](#), [Sch.](#))

### [<sup>F3</sup>83A [<sup>F2</sup>Transfer of responsibility for conditionally discharged patients to Channel Islands or Isle of Man]

If it appears to the Secretary of State, in the case of a patient who—

- (a) is subject to a restriction order or restriction direction under section 41 or 49 above; and
- (b) has been conditionally discharged under section 42 or 73 above,

that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the authority exercising corresponding functions in any of the Channel Islands or in the Isle of Man, transfer responsibility for the patient to that authority.]

#### Textual Amendments

- F2** S. 83A: Title substituted (3.11.2008) by virtue of [Mental Health Act 2007 \(c. 12\)](#), ss. 39, 56, [Sch. 5 para. 10](#) (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(n\)](#) (with [art. 3](#), [Sch.](#))
- F3** S. 83A inserted (1.10.1997) by [1997 c. 43](#), s. 48, [Sch. 3](#), para. 4; S.I. 1997/2200, [art. 2](#)

### 84 Removal to England and Wales of offenders found insane in Channel Islands and Isle of Man.

- (1) The Secretary of State may by warrant direct that any offender found by a court in any of the Channel Islands or in the Isle of Man to be insane or to have been insane at the time of the alleged offence, and ordered to be detained during Her Majesty’s pleasure, be removed to a hospital in England and Wales.
- (2) A patient removed under subsection (1) above shall, on his reception into the hospital in England and Wales, be treated as if he [<sup>F4</sup>were subject to a hospital order together with a restriction order <sup>F5</sup>. . . ] .
- (3) The Secretary of State may by warrant direct that any patient removed under this section from any of the Channel Islands or from the Isle of Man be returned to the

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island from which he was so removed, there to be dealt with according to law in all respects as if he had not been removed under this section.

#### Textual Amendments

- F4** Words in s. 84(2) substituted (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), ss. 58(1), 60, [Sch. 10 para. 22](#); S.I. 2005/579, [art. 3\(g\)](#)
- F5** Words in s. 84(2) omitted (1.10.2007) and repealed (3.11.2008) by virtue of [Mental Health Act 2007 \(c. 12\)](#), [ss. 40\(3\)\(b\)\(7\)](#), 55, 56 {Sch. 11 Pt. 8} (with Sch. 10); S.I. 2007/2798, [art. 2\(d\)](#); S.I. 2008/1900, [art. 2\(p\)](#) (with [art. 3](#), Sch.)

## 85 Patients removed from Channel Islands or Isle of Man.

- (1) This section applies to any patient who is removed to England and Wales from any of the Channel Islands or the Isle of Man under a provision corresponding to section 83 above and who immediately before his removal was liable to be detained or subject to guardianship in the island in question under a provision corresponding to an enactment contained in this Act (other than section 35, 36 or 38 above).
- (2) Where the patient is admitted to a hospital in England and Wales he shall be treated as if on the date of his admission he had been so admitted in pursuance of an application made, or an order or direction made or given, on that date under the corresponding enactment contained in this Act and, where he is subject to an order or direction restricting his discharge, as if he were subject [<sup>F6</sup>to a hospital order and a restriction order or to a hospital direction and a limitation direction or to a transfer direction and a restriction direction] .
- (3) Where the patient is received into guardianship in England and Wales, he shall be treated as if on the date on which he arrives at the place where he is to reside he had been so received in pursuance of an application, order or direction under the corresponding enactment contained in this Act and as if the application had been accepted or, as the case may be, the order or direction had been made or given on that date.
- (4) Where the patient was immediately before his removal liable to be detained by virtue of a transfer direction given while he was serving a sentence of imprisonment imposed by a court in the island in question, he shall be treated as if the sentence had been imposed by a court in England and Wales.
- (5) Where the patient was immediately before his removal subject to an order or direction restricting his discharge, being an order or direction of limited duration, the restriction order or restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order or direction would have expired if he had not been removed.
- (6) While being conveyed to the hospital referred to in subsection (2) or, as the case may be, the place referred to in subsection (3) above, the patient shall be deemed to be in legal custody, and section 138 below shall apply to him as if he were in legal custody by virtue of section 137 below.
- (7) In the case of a patient removed from the Isle of Man the reference in subsection (4) above to a person serving a sentence of imprisonment includes a reference to a person detained as mentioned in section 60(6)(a) of the Mental Health Act 1974 (an Act of Tynwald).

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#### Textual Amendments

- F6** Words in s. 85(2) substituted (1.10.2007) by [Mental Health Act 2007 \(c. 12\)](#), ss. 39, 56, [Sch. 5 para. 11](#) (with [Sch. 10](#)); [S.I. 2007/2798](#), [art. 2\(c\)\(v\)](#)

### [<sup>F7</sup>85ZA Responsibility for community patients transferred from Channel Islands or Isle of Man

- (1) This section shall have effect if there are in force in any of the Channel Islands or the Isle of Man enactments (“relevant enactments”) corresponding or similar to those relating to community patients in this Act.
- (2) If responsibility for a patient is transferred to England and Wales under a provision corresponding to section 83ZA(3) above, he shall be treated as if on the date of his arrival at the place where he is to reside in England or Wales—
  - (a) he had been admitted to the hospital in pursuance of an application made, or an order or direction made or given, on that date under the enactment in force in England and Wales which most closely corresponds to the relevant enactments; and
  - (b) a community treatment order had then been made discharging him from the hospital.
- (3) “The responsible hospital”, in his case, means the hospital to which he is treated as having been admitted by virtue of subsection (2) above, subject to section 19A above.
- (4) As soon as practicable after the patient's arrival at the place where he is to reside in England or Wales, the responsible clinician shall specify the conditions to which he is to be subject for the purposes of section 17B(1) above, and the conditions shall be deemed to be specified in the community treatment order.
- (5) But the responsible clinician may only specify conditions under subsection (4) above which an approved mental health professional agrees should be specified.]

#### Textual Amendments

- F7** [S. 85ZA](#) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 39, 56, [Sch. 5 para. 12](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(n\)](#) (with [art. 3](#), [Sch.](#))

### [<sup>F9</sup>85A [<sup>F8</sup> Responsibility for conditionally discharged patients transferred from Channel Islands or Isle of Man]

- (1) This section applies to any patient responsibility for whom is transferred to the Secretary of State by the authority exercising corresponding functions in any of the Channel Islands or the Isle of Man under a provision corresponding to section 83A above.
- (2) The patient shall be treated—
  - (a) as if on the date of the transfer he had been conditionally discharged under section 42 or 73 above; and
  - [<sup>F10</sup>(b) as if he were subject to a hospital order under section 37 above and a restriction order under section 41 above, or to a hospital direction and a limitation

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direction under section 45A above, or to a transfer direction under section 47 above and a restriction direction under section 49 above.]

- (3) Where the patient was immediately before the transfer subject to an order or direction restricting his discharge, being an order or direction of limited duration, the restriction order [F11, limitation direction] or restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order or direction would have expired if the transfer had not been made.]

#### Textual Amendments

- F8** S. 85A: Title substituted (3.11.2008) by virtue of **Mental Health Act 2007 (c. 12)**, ss. 39, 56, **Sch. 5 para. 12** (with Sch. 10); S.I. 2008/1900, **art. 2(n)** (with art. 3, Sch.)
- F9** S. 85A inserted (1.10.1997) by 1997 c. 43, s. 48, **Sch. 3**, para. 5; S.I. 1997/2200, **art. 2**
- F10** S. 85A(2)(b) substituted (1.10.2007) by **Mental Health Act 2007 (c. 12)**, ss. 39, 56, **Sch. 5 para. 13(2)** (with Sch. 10); S.I. 2007/2798, **art. 2(c)(vi)**
- F11** Words in s. 85A(3) inserted (1.10.2007) by **Mental Health Act 2007 (c. 12)**, ss. 39, 56, **Sch. 5 para. 13(3)** (with Sch. 10); S.I. 2007/2798, **art. 2(c)(vi)**

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