



Mental Health Act 1983

1983 CHAPTER 20

PART VI

REMOVAL AND RETURN OF PATIENTS WITHIN UNITED KINGDOM, ETC.

Removal to and from Northern Ireland

81 Removal of patients to Northern Ireland.

- (1) 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 Northern Ireland, 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 Northern Ireland and may give any necessary directions for his conveyance to his destination.
- (2) Subject to the provisions of subsections (4) and (5) below, where a patient liable to be detained under this Act by virtue of an application, order or direction under any enactment in force in England and Wales is removed under this section and admitted to a hospital in Northern Ireland, 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 in force in Northern Ireland, and, [^{F1}where he is subject to a hospital order and a restriction order or a transfer direction and a restriction direction under any enactment in this Act, as if he were subject to a hospital order and a restriction order or a transfer direction and a restriction direction under the corresponding enactment] in force in Northern Ireland.
- (3) Where a patient subject to guardianship under this Act by virtue of an application, order or direction under any enactment in force in England and Wales is removed under this section and received into guardianship in Northern Ireland, 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

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enactment in force in Northern Ireland, 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 a person removed under this section was immediately before his removal liable to be detained by virtue of an application for admission for assessment under this Act, he shall, on his admission to a hospital in Northern Ireland, be treated as if he had been admitted to the hospital in pursuance of an application [^{F2}for assessment under Article 4 of the Mental Health (Northern Ireland) Order 1986] made on the date of his admission.
- (5) Where a person removed under this section was immediately before his removal liable to be detained by virtue of an application for admission for treatment under this Act, he shall, on his admission to a hospital in Northern Ireland, be treated as if [^{F3}he were detained for treatment under Part II of the Mental Health (Northern Ireland) Order 1986 by virtue of a report under Article 12(1) of that Order made on the date of his admission]
- (6) Where a patient removed under this section was immediately before his removal liable to be detained under this Act by virtue of a transfer direction given while he was serving a sentence of imprisonment (within the meaning of section 47(5) above) imposed by a court in England and Wales, he shall be treated as if the sentence had been imposed by a court in Northern Ireland.
- (7) Where a person removed under this section was immediately before his removal subject to a ^{F4} . . . restriction direction of limited duration, [^{F5}the ^{F4} . . . restriction direction] to which he is subject by virtue of subsection (2) above shall expire on the date on which [^{F5}the first-mentioned ^{F4} . . . restriction direction would have expired if he had not been so removed.
- (8) In this section “hospital” has the same meaning as in the Mental Health [^{F6}(Northern Ireland) Order 1986].]

Textual Amendments

- F1** Words in s. 81(2) substituted (1.4.2008) by Mental Health Act 2007 (c. 12), ss. 39, 56, **Sch. 5 para. 5** (with Sch. 10); S.I. 2008/745, **art. 3(f)**
- F2** Words substituted by S.I. 1986/596, **art. 2(3)**
- F3** Paragraphs(a)and (b) substituted by S.I. 1986/596, **art. 2(4)**
- F4** Words in s. 81(7) omitted (1.10.2007 for E.W. otherwise prosp.) and repealed (3.11.2008) by virtue of Mental Health Act 2007 (c. 12), **ss. 40(4)(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.)
- F5** Words substituted by S.I. 1986/596, **art. 2(5)**
- F6** Words substituted by S.I. 1986/596, **art. 2(6)**

[^{F7}81ZA Removal of community patients to Northern Ireland

- (1) Section 81 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) Any reference in that section to the application, order or direction by virtue of which a patient is liable to be detained under this Act shall be construed, for these purposes, as a reference to the application, order or direction under this Act in respect of the patient.]

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Textual Amendments

- F7** S. 81ZA inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 39, 56, [Sch. 5 para. 6](#) (with [Sch. 10](#)); S.I. 2008/1900, [art. 2\(n\)](#) (with [art. 3](#), [Sch.](#))

[^{F8}81A Transfer of responsibility for patients to Northern Ireland.

- (1) If it appears to the Secretary of State, in the case of a patient who—
- [^{F9}(a) is subject to a hospital order under section 37 above and a restriction order under section 41 above or to a transfer direction under section 47 above and a restriction direction under section 49 above;]
 - (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 Minister exercising corresponding functions in Northern Ireland, transfer responsibility for the patient to that Minister.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
- (a) as if on the date of the transfer he had been conditionally discharged under the corresponding enactment in force in Northern Ireland; and
 - (b) as if he were subject to [^{F10}a hospital order and a restriction order, or to a transfer direction and a restriction direction,] under the corresponding enactment in force in Northern Ireland.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a ^{F11} . . . restriction direction of limited duration, the ^{F11} . . . restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned ^{F11} . . . direction would have expired if the transfer had not been made.]

Textual Amendments

- F8** S. 81A inserted (1.10.1997) by [1997 c. 43, s. 48, Sch. 3, para. 2](#); S.I. 1997/2200, [art. 2](#)
- F9** S. 81A(1)(a) substituted (1.10.2007 for E.W.) by [Mental Health Act 2007 \(c. 12\)](#), ss. 39, 56, [Sch. 5 para. 7\(2\)](#) (with [Sch. 10](#)); S.I. 2007/2798, [art. 2\(c\)\(ii\)](#)
- F10** Words in s. 81A(2)(b) substituted (1.10.2007 for E.W.) by [Mental Health Act 2007 \(c. 12\)](#), ss. 39, 56, [Sch. 5 para. 7\(3\)](#) (with [Sch. 10](#)); S.I. 2007/2798, [art. 2\(c\)\(ii\)](#)
- F11** Words in s. 81A(3) omitted (1.10.2007 for E.W. otherwise prosp.) and repealed (3.11.2008) by virtue of [Mental Health Act 2007 \(c. 12\)](#), ss. 40(5)(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.](#))

82 Removal to England and Wales of patients from Northern Ireland.

- (1) If it appears to the responsible authority, in the case of a patient who is for the time being liable to be detained or subject to guardianship under the Mental Health [^{F12}(Northern Ireland) Order 1986 (otherwise than by virtue of Article 42, 43 or 45 of that Order)], that it is in the interests of the patient to remove him to England and Wales, 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 responsible authority may

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authorise his removal to England and Wales and may give any necessary directions for his conveyance to his destination.

- (2) Subject to the provisions of [^{F13}subsections (4) and (4A)] below, where a patient who is liable to be detained under the [^{F13}Mental Health (Northern Ireland) Order 1986] by virtue of an application, order or direction under any enactment in force in Northern Ireland is removed under this section and 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 in force in England and Wales and, [^{F14}where he is subject to a hospital order and a restriction order or a transfer direction and a restriction direction under any enactment in that Order, as if he were subject to a hospital order and a restriction order or a transfer direction and a restriction direction under the corresponding enactment] in force in England and Wales..
- (3) Where a patient subject to guardianship under the [^{F15}Mental Health (Northern Ireland) Order 1986] by virtue of an application, order or direction under any enactment in force in Northern Ireland is removed under this section and 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 in force in England and Wales 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.
- [^{F16}(4) Where a person removed under this section was immediately before his removal liable to be detained for treatment by virtue of a report under Article 12(1) or 13 of the Mental Health (Northern Ireland) Order 1986, he shall be treated, on his admission to a hospital in England and Wales, as if he had been admitted to the hospital in pursuance of an application for admission for treatment made on the date of his admission.
- (4A) Where a person removed under this section was immediately before his removal liable to be detained by virtue of an application for assessment under Article 4 of the Mental Health (Northern Ireland) Order 1986, he shall be treated, on his admission to a hospital in England and Wales, as if he had been admitted to the hospital in pursuance of an application for admission for assessment made on the date of his admission.]
- (5) Where a patient removed under this section was immediately before his removal liable to be detained under the [^{F17}Mental Health (Northern Ireland) Order 1986] by virtue of a transfer direction given while he was serving a sentence of imprisonment (within the meaning of [^{F17}Article 53(5) of that Order]) imposed by a court in Northern Ireland, he shall be treated as if the sentence had been imposed by a court in England and Wales.
- (6) Where a person removed under this section was immediately before his removal subject to [^{F18}a restriction order or restriction 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 [^{F18}first-mentioned restriction order or restriction direction] would have expired if he had not been so removed.
- (7) In this section “the responsible authority” means the Department of Health and Social Services for Northern Ireland or, in relation to a patient who is subject to [^{F19}a restriction order or restriction direction], the [^{F20}Department of Justice in Northern Ireland].

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Textual Amendments

- F12** Words substituted by S.I. 1986/596, **art. 2(7)**
- F13** Words substituted by S.I. 1986/596, **art. 2(8)**
- F14** Words in s. 82(2) substituted (1.10.2007 for E. W.) by Mental Health Act 2007 (c. 12), ss. 39, 56, **Sch. 5 para. 8** (with Sch. 10); S. I. 2007/2798, **art. 2(c)(iii)**
- F15** Words substituted by S.I. 1986/596, **art. 2(9)**
- F16** S. 82(4)(4A) substituted for s. 82(4) by S.I. 1986/596, **art. 2(10)**
- F17** Words substituted by S.I. 1986/596, **art. 2(11)**
- F18** Words substituted by S.I. 1986/596, **art. 2(12)**
- F19** Words substituted by S.I. 1986/596, **art. 2(13)**
- F20** Words in s. 82(7) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 28(2)** (with arts. 28-31)

[^{F21}82A [^{F22}Transfer of responsibility for conditionally discharged patients to England and Wales from Northern Ireland]

- (1) If it appears to [^{F23}the Department of Justice in Northern Ireland], in the case of a patient who—
 - (a) is subject to a restriction order or restriction direction under Article 47(1) or 55(1) of the ^{M1} Mental Health (Northern Ireland) Order 1986; and
 - (b) has been conditionally discharged under Article 48(2) or 78(2) of that Order, that a transfer under this section would be in the interests of the patient, [^{F23}the Department of Justice in Northern Ireland] may, with the consent of the Secretary of State, transfer responsibility for the patient to the Secretary of State.
- (2) Where responsibility for such a patient is transferred under this section, 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
 - [^{F24}(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 transfer direction under section 47 above and a restriction direction under section 49 above.]
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order or restriction 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 the transfer had not been made.

^{F25}(4)]

Textual Amendments

- F21** S. 82A inserted (E.W.N.I) (1.10.1997) by 1997 c. 43, s. 48, **Sch. 3, para. 3**; S.I. 1997/2200, **art. 2**
- F22** S. 82A: title substituted (1.10.2007 for E. W.) by virtue of Mental Health Act 2007 (c. 12), ss. 39, 56, **Sch. 5 para. 9** (with Sch. 10); S. I. 2007/2798, **art. 2(c)(iv)**
- F23** Words in s. 82A(1) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 28(3)(a)** (with arts. 28-31)
- F24** S. 82A(2)(b) substituted (1.10.2007 for E. W.) by Mental Health Act 2007 (c. 12), ss. 39, 56, **Sch. 5 para. 9** (with Sch. 10); S. I. 2007/2798, **art. 2(c)(iv)**

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F25 S. 82A(4) omitted (12.4.2010) by virtue of [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 14 para. 28(3)(b)** (with arts. 28-31)

Marginal Citations

M1 [S.I. 1986/596 \(N.I.4\)](#).

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