



# Mental Health Act 1983

## 1983 CHAPTER 20

### PART II

#### COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

#### *[<sup>F1</sup>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 [<sup>F1</sup>absolutely from detention or guardianship is made in accordance with this section]

[<sup>F2</sup>(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 [<sup>F3</sup>responsible clinician], by the managers or by the nearest relative of the patient;

(b) where the patient is subject to guardianship, by the [<sup>F3</sup>responsible clinician], by the responsible local social services authority or by the nearest relative of the patient.

[<sup>F4</sup>(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.]

<sup>F5</sup>(3) .....

<sup>F5</sup>(3A) .....

*Status: Point in time view as at 01/04/2013.*

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- (4) The powers conferred by this section on any authority [<sup>F6</sup>trust |<sup>F7</sup>, board|]<sup>F8</sup> (other than an NHS foundation trust) or body of persons may be exercised [<sup>F6</sup>subject to subsection (5) below] by any three or more members of that authority [<sup>F6</sup>trust|<sup>F7</sup>, board] or body authorised by them in that behalf or by three or more members of a committee or sub-committee of that authority [<sup>F6</sup>trust|<sup>F7</sup>, board] or body which has been authorised by them in that behalf.
- [<sup>F9</sup>(5) The reference in subsection (4) above to the members of an authority, trust [<sup>F10</sup>, board] or body or the members of a committee or sub-committee of an authority, trust [<sup>F10</sup>, board] or body,—
- (a) in the case of a [<sup>F11</sup>Local Health Board|<sup>F12</sup>or Special Health Authority]<sup>F13</sup> ... or a committee or sub-committee of a [<sup>F11</sup>Local Health Board|<sup>F12</sup>or Special Health Authority]<sup>F13</sup> ..., is a reference only to the chairman of the authority <sup>F14</sup> ... [<sup>F15</sup> or board] and [<sup>F16</sup>such members (of the authority <sup>F14</sup> ..., board, committee or sub-committee), as the case may be) as are not also officers of the authority <sup>F14</sup> ... [<sup>F15</sup> or board], within the meaning of [<sup>F17</sup>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.]
- [<sup>F18</sup>(6) The powers conferred by this section on any NHS foundation trust may be exercised by any three or more [<sup>F19</sup>persons authorised by the board of the trust in that behalf each of whom is neither an executive director of the board nor an employee of the trust. ]]

#### Textual Amendments

- F1** 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.](#))
- F2** 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.](#))
- F3** 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.](#))
- F4** 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.](#))
- F5** 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\(3\)](#)
- F6** Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\), s. 66\(1\), Sch. 9 para. 24\(3\)\(b\)](#)
- F7** Words in s. 23(4) inserted (1.4.2007) by [The References to Health Authorities Order 2007 \(S.I. 2007/961, art. 3, Sch. para. 13\(2\)\(b\)\)](#)
- F8** 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](#)
- F9** 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\(3\)\(c\)](#)
- F10** 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\(2\)\(c\)\)](#)
- F11** 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\(2\)\(d\)\(i\)\)](#)
- F12** 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)

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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](#)

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