



Mental Health (Scotland) Act 1984

1984 CHAPTER 36

PART XI

MISCELLANEOUS AND GENERAL

Supplementary

121 Retaking of patients escaping from custody

- (1) If any person being in legal custody by virtue of section 120 of this Act escapes, he may, subject to the provisions of this section, be retaken—
 - (a) in any case, by the person who had his custody immediately before the escape, or by any constable or mental health officer;
 - (b) if at the time of the escape he was liable to be detained in a hospital, or subject to guardianship under this Act, by any other person who could take him into custody under section 28 or 44 of this Act if he had absented himself without leave.
- (2) A person who escapes as aforesaid when liable to be detained or subject to guardianship as mentioned in paragraph (b) of subsection (1) of this section (not being a person subject to a restriction order under Part VI of this Act or an order or direction having the like effect as such an order) shall not be retaken under this section after the expiration of the period within which he could be retaken under section 28 or 44 of this Act if he had absented himself without leave on the day of the escape; and subsection (3) of the said section 28 and subsection (2) of the said section 44 shall apply, with the necessary modifications, accordingly.
- (3) A person who escapes while being taken to or detained in a place of safety under section 117 or 118 of this Act shall not be retaken under this section after the expiration of the period of 72 hours beginning with the time when he escapes or the period during which he is liable to be so detained whichever expires first.
- (4) This section, so far as it relates to the escape of a person liable to be detained in a hospital, shall apply in relation to a person who escapes—

Status: This is the original version (as it was originally enacted).

- (a) while being taken to a hospital in pursuance of an application for admission approved by the sheriff;
 - (b) while being taken to or from a hospital in pursuance of section 29 of this Act, or of any order, direction or authorisation under Parts VI and VII of this Act; or
 - (c) while being taken to or detained in a place of safety in pursuance of an order under Part VI of this Act pending his admission to a hospital,
- as if he were liable to be detained in that hospital and, if he had not previously been received therein, as if he had been so received.
- (5) In computing for the purposes of sections 22 and 60 of this Act the periods therein mentioned relating to the removal, admission or reception of patients, no account shall be taken of any time during which the patient is at large and liable to be retaken by virtue of this section.
- (6) Section 31 (in the case of a patient who is liable to be detained in a hospital) and section 48 (in the case of a patient who is subject to guardianship) of this Act shall, with any necessary modifications, apply in relation to a patient who is at large and liable to be retaken by virtue of this section as it applies in relation to a patient who is absent without leave within the meaning of section 28 or section 44 of this Act respectively, and references therein to the said section 28 or the said section 44 (as the case may be) shall be construed accordingly.