



Mental Health Act 1959

1959 CHAPTER 72

PART VI

REMOVAL AND RETURN OF PATIENTS WITHIN UNITED KINGDOM, ETC.

Removal to and from Northern Ireland

85 Removal to Northern Ireland of patients not subject to restriction

(1) If it appears to the Minister, in the case of a patient who is for the time being liable to be detained or subject to guardianship as mentioned in subsection (1) of section eighty-one of this Act, that it is in the patient's interest to remove him to Northern Ireland and that arrangements have been made—

- (a) for his reception into a mental hospital within the meaning of the Mental Health Act (Northern Ireland), 1948; or
- (b) for his reception into an institution within the meaning of that Act or for placing him under the guardianship of the Northern Ireland Hospitals Authority;

the Minister may authorise the removal of the patient to Northern Ireland and give any necessary directions for his conveyance to his destination.

(2) Where a person is removed under this section to Northern Ireland, and is received in pursuance of the arrangements into a mental hospital, he shall, on his reception, be treated for all purposes as having been so received in pursuance of a judicial order made under Part II of the Mental Health Act (Northern Ireland), 1948, on the date on which he is so received.

(3) Where a person is removed under this section to Northern Ireland, and is received in pursuance of the arrangements into an institution within the meaning of the said Act of 1948, or is placed under the guardianship of the Northern Ireland Hospitals Authority, he shall, on being so received or placed, be treated for all purposes as if he had been so received or placed in pursuance of a judicial order made under Part III of that Act on the date on which he is so received or placed.

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86 Removal to Northern Ireland of patients subject to restriction on discharge

- (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 by virtue of an order or direction under Part V of this Act, not being a patient to whom section eighty-five of this Act applies, that it is in the patient's interests to remove him to Northern Ireland and that arrangements have been made—
- (a) for his reception into a mental hospital within the meaning of the Mental Health Act (Northern Ireland), 1948; or
 - (b) for his reception into an institution within the meaning of that Act,
- the Secretary of State may by warrant authorise the removal of the patient to Northern Ireland, and may give any necessary directions for his conveyance to his destination.
- (2) Where a patient liable to be detained by virtue of a hospital order and subject to an order restricting his discharge is removed under this section, then—
- (a) if in pursuance of the arrangements he is received into a mental hospital, he shall be treated as if he were subject to a judicial order made under Part II of the said Act of 1948 on the date of his reception and continued under section fourteen of that Act on any occasion on which it would otherwise have expired during the continuance of the order restricting his discharge;
 - (b) if in pursuance of the arrangements he is received into an institution within the meaning of that Act, he shall be treated as if he were subject to a judicial order made under Part III of the said Act on the date of his reception and continued under section thirty-nine of that Act on any occasion on which it would otherwise have expired during the continuance of the order restricting his discharge, and section thirty-four of that Act (which provides for the revocation or variation of judicial orders) shall have effect accordingly;
- but in either case, unless the Ministry of Home Affairs for Northern Ireland otherwise directs, any power to discharge the patient, to grant him leave of absence or to transfer him from the hospital or institution shall, during the continuance of the order restricting the discharge of the patient, be exercisable only with the consent of that Ministry.
- (3) Where a patient liable to be detained by virtue of a transfer direction and subject to a direction restricting his discharge is removed under this section, he shall, upon being received into such a hospital or institution as aforesaid in pursuance of the arrangements, be treated as if the sentence or order by virtue of which he was detained before the transfer direction was given had been imposed or made by a court in Northern Ireland, and as if—
- (a) where the patient is received into such a mental hospital as aforesaid, he had been transferred to that hospital under section sixteen of the Prison Act (Northern Ireland) 1953;
 - (b) where he is received into such an institution as aforesaid, he had been transferred to that institution under section V thirty-seven of the said Act of 1948.
- (4) Where a patient who is liable to be detained by virtue of a direction under section seventy-one of this Act is removed under this section, he shall, on his reception into a mental hospital or institution in pursuance of the arrangements, be treated as if he had been ordered by a court in Northern Ireland to be kept in safe custody during the pleasure of the Governor of Northern Ireland in pursuance of section seventeen of the Lunacy (Ireland) Act, 1821, or of section two of the Trial of Lunatics Act, 1883, as the case may be, and as if—

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- (a) where he is received into a mental hospital, an order had been made by or on behalf of the Governor of Northern Ireland for his safe custody in that hospital;
 - (b) where he is received into an institution within the meaning of the said Act of 1948, he had been transferred to that institution under section thirty-seven of that Act.
- (5) References in this section to the continuance of the order restricting the discharge of a patient are references to the time for which that order would have continued in force apart from removal of the patient under this section.

87 Removal to England and Wales of patients other than criminal patients

- (1) If it appears to the Ministry of Health and Local Government for Northern Ireland, in the case of a patient being—
- (a) a certified patient within the meaning of the Mental Health Act (Northern Ireland), 1948, or
 - (b) a person declared under Part III of that Act to be a person requiring special care (other than a person to whom section eighty-eight of this Act applies),
- that it is in the patient's interests to remove him to England and Wales, and that arrangements have been made for his admission to a hospital or for placing him under guardianship there, the Ministry may authorise his removal to England and Wales, and may give any necessary directions for his conveyance to his destination.
- (2) Where a patient removed under this section is received into a hospital in pursuance of such arrangements as aforesaid, this Act shall apply to him as if he had been admitted to the hospital in pursuance of an application for admission for treatment under Part IV of this Act, and had been so admitted on the date on which he is so received.
- (3) Where a patient so removed is received into guardianship in pursuance of such arrangements as aforesaid, this Act shall apply to him as if he had been received into guardianship in pursuance of a guardianship application under the said Part IV accepted on the date on which he is so received.

88 Removal to England and Wales of criminal patients

- (1) If it appears to the Ministry of Home Affairs for Northern Ireland, in the case of a patient being a criminal lunatic within the meaning of this section, that it is in the patient's interests to remove him to England and Wales, and that arrangements have been made for his admission to a hospital there, the Ministry may authorise his removal to England and Wales, and may give any necessary directions for his conveyance to his destination.
- (2) Where a patient removed under this section is received into a hospital in England and Wales in pursuance of such arrangements as aforesaid, then—
- (a) if the patient is a person ordered to be kept in custody under section seventeen of the Lunacy (Ireland) Act, 1821, or under section two of the Trial of Lunatics Act, 1883, he shall, on his reception into the hospital in England and Wales, be treated as if he had been removed to that hospital in pursuance of a direction under section seventy-one of this Act;
 - (b) in any other case, the patient shall be treated, on his reception into the hospital in England and Wales, as if he had been removed to that hospital in pursuance of a transfer direction under Part V of this Act, and as if a direction restricting his discharge had been given under section seventy-four of this Act;

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and in any such case the patient shall be treated as if the sentence or order by virtue of which he was detained before being removed under this section had been imposed or made by a court in England and Wales.

- (3) In this section "criminal lunatic" means a criminal lunatic within the meaning of the Lunacy (Ireland) Act, 1901, or a person detained in a mental hospital or institution within the meaning of the Mental Health Act (Northern Ireland), 1948, in pursuance of an order made by the Governor of Northern Ireland or the Minister of Home Affairs for Northern Ireland under section thirty-seven of that Act, or of directions given by the Ministry of Home Affairs for Northern Ireland under section sixteen of the Prison Act (Northern Ireland), 1953.