



Mental Health Act 1983

1983 CHAPTER 20

PART VI

REMOVAL AND RETURN OF PATIENTS WITHIN UNITED KINGDOM, ETC.

Removal of aliens

86 Removal of alien patients.

- (1) This section applies to any patient who is neither a British citizen nor a Commonwealth citizen having the right of abode in the United Kingdom by virtue of section 2(1)(b) of the ^{M1}Immigration Act 1971, being a patient who is receiving treatment for [^{F1}mental disorder] as an in-patient in a hospital in England and Wales or a hospital within the meaning of the ^{M2}Mental Health [^{F2}(Northern Ireland) Order 1986] and is detained pursuant to—
 - (a) an application for admission for treatment or [^{F2}a report under Article 12(1) or 13 of that Order];
 - (b) a hospital order under section 37 above or [^{F2}Article 44 of that Order]; or
 - (c) an order or direction under this Act (other than under section 35, 36 or 38 above) or [^{F2}under that Order (other than under Article 42, 43 or 45 of that Order)].
- (2) If it appears to the Secretary of State that proper arrangements have been made for the removal of a patient to whom this section applies to a country or territory outside the United Kingdom, the Isle of Man and the Channel Islands and for his care or treatment there and that it is in the interests of the patient to remove him, the Secretary of State may, subject to subsection (3) below—
 - (a) by warrant authorise the removal of the patient from the place where he is receiving treatment as mentioned in subsection (1) above, and
 - (b) give such directions as the Secretary of State thinks fit for the conveyance of the patient to his destination in that country or territory and for his detention in any place or on board any ship or aircraft until his arrival at any specified port or place in any such country or territory.

Changes to legislation: *Mental Health Act 1983, Cross Heading: Removal of aliens is up to date with all changes known to be in force on or before 23 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) The Secretary of State shall not exercise his powers under subsection (2) above in the case of any patient except with the approval of [^{F3}the appropriate tribunal] or, as the case may be, of the Mental Health Review Tribunal for Northern Ireland.

[^{F4}(4) In relation to a patient receiving treatment in a hospital within the meaning of the Mental Health (Northern Ireland) Order 1986, the reference in subsection (1) above to mental disorder shall be construed in accordance with that Order [^{F5}and any reference in subsection (2) or (3) to the Secretary of State shall be construed as a reference to the Department of Justice in Northern Ireland].]

Textual Amendments

- F1** Words in s. 86(1) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 1, 56, **Sch. 1 para. 15(2)** (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(a)** (with art. 3, Sch.)
- F2** Words substituted by [S.I. 1986/596](#), **art. 2(14)**
- F3** Words in s. 86(3) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, **Sch. 3 para. 62**
- F4** S. 86(4) inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 1, 56, **Sch. 1 para. 15(3)** (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(a)**, (with art. 3, Sch.)
- F5** Words in s. 86(4) inserted (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(4)** (with arts. 28-31)

Modifications etc. (not altering text)

- C1** S. 86: certain functions transferred (10.7.2008) by [The Welsh Ministers \(Transfer of Functions\) Order 2008 \(S.I. 2008/1786\)](#), art. {2(a)}

Marginal Citations

- M1** [1971 c. 77. \(62\)](#)
- M2** [1986/595 \(N.I.4\)](#).

Changes to legislation:

Mental Health Act 1983, Cross Heading: Removal of aliens is up to date with all changes known to be in force on or before 23 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [1996 c. 46 Sch. 2 para. 9](#)(replacing [1968 c 20 s. 23](#)) (Act applied (prosp.) by [1968 c. 20, s. 23\(4\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 9](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing [1957 c 53 s. 63](#)) (Act applied (prosp.) by [1957 c. 53, s. 63C\(6\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 4](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 19 s. 116](#)) (Act applied (prosp.) by [1955 c. 19, s. 116C\(6\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2 para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)](#))
- Act applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 18 s 116](#)) (Act applied (prosp.) by [1955 c. 18, s. 116C\(6\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2 para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act power to applied by [1996 c. 46 Sch. 2 para. 4](#)(replacing [1957 c 53 s. 63](#)) (Act: Power to apply conferred (prosp.) by [1957 c. 53, s. 63B\(4\)\(c\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 4](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act power to applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 19 s. 116](#)) (Act: Power to apply conferred (prosp.) by [1955 c. 19, s. 116B\(4\)\(c\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2, para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))
- Act power to applied by [1996 c. 46 Sch. 2 para. 1](#)(replacing [1955 c 18 s 116](#)) (Act: Power to apply conferred (prosp.) by [1955 c. 18, s. 116B\(4\)\(c\)](#) (as substituted (prosp.) by [1996 c. 46, ss. 8, 36\(2\), Sch. 2 para. 1](#) which said amending provision was repealed (31.3.2005) by [Domestic Violence, Crime and Victims Act 2004 \(c. 28\), ss. 58\(2\), 60, Sch. 11; S.I. 2005/579, art. 3\(h\)\(i\)\(ix\)\)](#))

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- [s. 74\(8\)](#) inserted by [2015 c. 2 Sch. 3 para. 3\(3\)](#)