



# Mental Health Act 1983

## 1983 CHAPTER 20

### PART X

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Miscellaneous provisions*

#### **135 Warrant to search for and remove patients.**

(1) If it appears to a justice of the peace, on information on oath laid by an [<sup>F1</sup>approved mental health professional], that there is reasonable cause to suspect that a person believed to be suffering from mental disorder—

- (a) has been, or is being, ill-treated, neglected or kept otherwise than under proper control, in any place within the jurisdiction of the justice, or
- (b) being unable to care for himself, is living alone in any such place,

the justice may issue a warrant authorising any constable <sup>F2</sup>. . . to enter, if need be by force, any premises specified in the warrant in which that person is believed to be, and, if thought fit, to remove him to a place of safety with a view to the making of an application in respect of him under Part II of this Act, or of other arrangements for his treatment or care.

[<sup>F3</sup>(1A) If the premises specified in the warrant are a place of safety, the constable executing the warrant may, instead of removing the person to another place of safety, keep the person at those premises for the purpose mentioned in subsection (1).]

(2) If it appears to a justice of the peace, on information on oath laid by any constable or other person who is authorised by or under this Act or under [<sup>F4</sup>article 8 of the Mental Health (Care and Treatment)(Scotland) Act 2003 (Consequential Provisions) Order 2005] to take a patient to any place, or to take into custody or retake a patient who is liable under this Act or under the said [<sup>F5</sup>article 8] to be so taken or retaken—

- (a) that there is reasonable cause to believe that the patient is to be found on premises within the jurisdiction of the justice; and

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- (b) that admission to the premises has been refused or that a refusal of such admission is apprehended,  
the justice may issue a warrant authorising any constable <sup>F2</sup>. . . to enter the premises, if need be by force, and remove the patient.
- (3) A patient who is removed to a place of safety in the execution of a warrant issued [<sup>F6</sup>under subsection (1)] [<sup>F7</sup>, or kept at the premises specified in the warrant under subsection (1A),] may be detained there for a period not exceeding [<sup>F8</sup>the permitted period of detention].
- [<sup>F9</sup>(3ZA) In subsection (3), “the permitted period of detention” means—
- (a) the period of 24 hours beginning with—
    - (i) in a case where the person is removed to a place of safety, the time when the person arrives at that place;
    - (ii) in a case where the person is kept at the premises specified in the warrant, the time when the constable first entered the premises to execute the warrant; or
  - (b) where an authorisation is given in relation to the person under section 136B, that period of 24 hours and such further period as is specified in the authorisation.]
- [<sup>F10</sup>(3A) A constable, an approved mental health professional or a person authorised by either of them for the purposes of this subsection may, before the end of [<sup>F11</sup>the permitted period of detention] mentioned in subsection (3) above, take a person detained in a place of safety under that subsection to one or more other places of safety.
- (3B) A person taken to a place of safety under subsection (3A) above may be detained there for a period ending no later than the end of [<sup>F12</sup>the permitted period of detention] mentioned in subsection (3) above.]
- (4) In the execution of a warrant issued under subsection (1) above, [<sup>F13</sup>a constable] shall be accompanied by an [<sup>F1</sup>approved mental health professional] and by a registered medical practitioner, and in the execution of a warrant issued under subsection (2) above [<sup>F13</sup>a constable] may be accompanied—
- (a) by a registered medical practitioner;
  - (b) by any person authorised by or under this Act or under [<sup>F14</sup>article 8 of the Mental Health (Care and Treatment)(Scotland) Act 2003 (Consequential Provisions) Order 2005] to take or retake the patient.
- (5) It shall not be necessary in any information or warrant under subsection (1) above to name the patient concerned.
- (6) In this section “place of safety” means residential accommodation provided by a local social services authority under [<sup>F15</sup>Part 1 of the Care Act 2014 or] [<sup>F16</sup>Part 4 of the Social Services and Well-being (Wales) Act 2014] [<sup>F17</sup>. . . , a hospital as defined by this Act, a police station, [<sup>F18</sup>an independent hospital or care home] for mentally disordered persons or any other suitable place <sup>F19</sup>....
- [<sup>F20</sup>(7) For the purpose of subsection (6)—
- (a) a house, flat or room where a person is living may not be regarded as a suitable place unless—
    - (i) if the person believed to be suffering from a mental disorder is the sole occupier of the place, that person agrees to the use of the place as a place of safety;

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- (ii) if the person believed to be suffering from a mental disorder is an occupier of the place but not the sole occupier, both that person and one of the other occupiers agree to the use of the place as a place of safety;
  - (iii) if the person believed to be suffering from a mental disorder is not an occupier of the place, both that person and the occupier (or, if more than one, one of the occupiers) agree to the use of the place as a place of safety;
- (b) a place other than one mentioned in paragraph (a) may not be regarded as a suitable place unless a person who appears to the constable exercising powers under this section to be responsible for the management of the place agrees to its use as a place of safety.]

[<sup>F21</sup>(8) This section is subject to section 136A which makes provision about the removal and taking of persons to a police station under this section.]

#### Textual Amendments

- F1** Words in s. 135(1)(4) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), ss. 21, 56, Sch. 2 para. 10\(a\)](#) (with [Sch. 10](#)); [S.I. 2008/1900, art. 2\(d\)](#) (with [art. 3, Sch.](#)); [S.I. 2008/2561, art. 2\(b\)](#) (with [art. 3, Sch.](#))
- F2** Words repealed by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\), s. 119, Sch. 7 Pt. I](#)
- F3** S. 135(1A) inserted (31.1.2017 for specified purposes, 11.12.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), ss. 80\(2\), 183\(1\)\(5\)\(e\)](#); [S.I. 2017/1017, reg. 3\(a\)](#) (with [reg. 4](#))
- F4** Words in s. 135(2) substituted (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\), art. 15, Sch. 1 para. 2\(9\)\(a\)\(i\)](#)
- F5** Words in s. 135(2) substituted (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\), art. 15, Sch. 1 para. 2\(9\)\(a\)\(ii\)](#)
- F6** Words in s. 135(3) substituted (31.1.2017 for specified purposes, 11.12.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), ss. 80\(3\)\(a\), 183\(1\)\(5\)\(e\)](#); [S.I. 2017/1017, reg. 3\(a\)](#) (with [reg. 4](#))
- F7** Words in s. 135(3) inserted (31.1.2017 for specified purposes, 11.12.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), ss. 80\(3\)\(b\), 183\(1\)\(5\)\(e\)](#); [S.I. 2017/1017, reg. 3\(a\)](#) (with [reg. 4](#))
- F8** Words in s. 135(3) substituted (31.1.2017 for specified purposes, 11.12.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), ss. 82\(2\)\(a\), 183\(1\)\(5\)\(e\)](#); [S.I. 2017/1017, reg. 3\(c\)](#) (with [reg. 4](#))
- F9** S. 135(3ZA) inserted (31.1.2017 for specified purposes, 11.12.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), ss. 82\(2\)\(b\), 183\(1\)\(5\)\(e\)](#); [S.I. 2017/1017, reg. 3\(c\)](#) (with [reg. 4](#))
- F10** S. 135(3A)(3B) inserted (30.4.2008) by [Mental Health Act 2007 \(c. 12\), ss. 44\(2\), 56](#) (with [Sch. 10](#)); [S.I. 2008/800, art. 2](#) (with [art. 3](#))
- F11** Words in s. 135(3A) substituted (31.1.2017 for specified purposes, 11.12.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), ss. 82\(2\)\(c\), 183\(1\)\(5\)\(e\)](#); [S.I. 2017/1017, reg. 3\(c\)](#) (with [reg. 4](#))
- F12** Words in s. 135(3B) substituted (31.1.2017 for specified purposes, 11.12.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), ss. 82\(2\)\(d\), 183\(1\)\(5\)\(e\)](#); [S.I. 2017/1017, reg. 3\(c\)](#) (with [reg. 4](#))
- F13** Words substituted by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\), s. 119, Sch. 6 Pt. I para. 26](#)
- F14** Words in s. 135(4)(b) substituted (5.10.2005) by [The Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(Consequential Provisions\) Order 2005 \(S.I. 2005/2078\), art. 15, Sch. 1 para. 2\(9\)\(b\)](#)

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- F15** Words in s. 135(6) inserted (1.4.2015) by [The Care Act 2014](#) and [Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), art. 1(2), **Sch. para. 29** (with arts. 1(3), 3)
- F16** Words in s. 135(6) substituted (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(No. 413\)](#), regs. 2(1), **37**
- F17** Words in s. 135(6) repealed (1.4.1993) by [National Health Service and Community Care Act 1990 \(c. 19\)](#), s. 66(2), **Sch. 10**; S.I. 1992/2975, art. 2(2), **Sch.**
- F18** Words in s. 135(6) substituted (1.4.2002) by 2000 c. 14, s. 116, **Sch. 4 para. 9(9)**; S.I. 2001/4050, **art. 3(3)** (subject to art. 4); S.I. 2002/920, **art. 3(3)(d)** (subject to transitional provisions in Schs. 1-3 and art. 3(4)-(10))
- F19** Words in s. 135(6) omitted (31.1.2017 for specified purposes, 11.12.2017 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 81(2)**, 183(1)(5)(e); S.I. 2017/1017, reg. 3(b) (with reg. 4)
- F20** S. 135(7) inserted (31.1.2017 for specified purposes, 11.12.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 81(3)**, 183(1)(5)(e); S.I. 2017/1017, reg. 3(b) (with reg. 4)
- F21** S. 135(8) inserted (31.1.2017 for specified purposes, 11.12.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), **ss. 81(4)**, 183(1)(5)(e); S.I. 2017/1017, reg. 3(b) (with reg. 4)

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**Changes and effects yet to be applied to :**

- s. 135(3ZA) words substituted (temp.) by [2020 c. 7 Sch. 8 para. 10](#)

**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)))
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- 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\(3\)](#)