



# Mental Health Act 1983

## 1983 CHAPTER 20

### PART III

#### PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS OR UNDER SENTENCE

##### *Transfer to hospital of prisoners, etc.*

#### **50 Further provisions as to prisoners under sentence.**

- (1) Where a transfer direction and a restriction direction have been given in respect of a person serving a sentence of imprisonment and before [<sup>F1</sup>his release date] the Secretary of State is notified by the [<sup>F2</sup>responsible clinician] , any other [<sup>F3</sup>approved clinician] or [<sup>F4</sup>the appropriate tribunal] that that person no longer requires treatment in hospital for mental disorder or that no effective treatment for his disorder can be given in the hospital to which he has been removed, the Secretary of State may—
- (a) by warrant direct that he be remitted to any prison or other institution in which he might have been detained if he had not been removed to hospital, there to be dealt with as if he had not been so removed; or
  - (b) exercise any power of releasing him on licence or discharging him under supervision which would have been exercisable if he had been remitted to such a prison or institution as aforesaid,
- and on his arrival in the prison or other institution or, as the case may be, his release or discharge as aforesaid, the transfer direction and the restriction direction shall cease to have effect.
- [<sup>F5</sup>(2) A restriction direction in the case of a person serving a sentence of imprisonment shall cease to have effect, if it has not previously done so, on his release date.
- (3) In this section, references to a person's release date are to the day (if any) on which he would be entitled to be released (whether unconditionally or on licence) from any prison or other institution in which he might have been detained if the transfer direction had not been given; and in determining that day there shall be disregarded—

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**Changes to legislation:** *Mental Health Act 1983, Section 50 is up to date with all changes known to be in force on or before 30 November 2023. 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*

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- (a) any powers that would be exercisable by the Parole Board if he were detained in such a prison or other institution, and
  - (b) any practice of the Secretary of State in relation to the early release under discretionary powers of persons detained in such a prison or other institution.]
- (4) For the purposes of section 49(2) of the <sup>M1</sup>Prison Act 1952 (which provides for discounting from the sentences of certain prisoners periods while they are unlawfully at large) a patient who, having been transferred in pursuance of a transfer direction from any such institution as is referred to in that section, is at large in circumstances in which he is liable to be taken into custody under any provision of this Act, shall be treated as unlawfully at large and absent from that institution.
- [<sup>F6</sup>(5) The preceding provisions of this section shall have effect as if—
- (a) the reference in subsection (1) to a transfer direction and a restriction direction having been given in respect of a person serving a sentence of imprisonment included a reference to a hospital direction and a limitation direction having been given in respect of a person sentenced to imprisonment;
  - (b) the reference in subsection (2) to a restriction direction included a reference to a limitation direction; and
  - (c) references in subsections (3) and (4) to a transfer direction included references to a hospital direction.]

#### Textual Amendments

- F1** Words in s. 50(1) substituted (20.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 294(2)**, 336; S.I. 2004/81, **art. 2(2)(b)**
- F2** Words in s. 50(1) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 11(2)(a)**, 56 (with [Sch. 10](#)); S.I. 2008/1900, **art. 2(b)** (with [art. 3](#), [Sch.](#))
- F3** Words in s. 50(1) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 11(2)(b)**, 56 (with [Sch. 10](#)); S.I. 2008/1900, **art. 2(b)** (with [art. 3](#), [Sch.](#))
- F4** Words in s. 50(1) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), [art. 6](#), **Sch. 3 para. 42**
- F5** S. 50(2)(3) substituted (20.1.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), **ss. 294(3)**, 336; S.I. 2004/81, **art. 2(2)(b)**
- F6** S. 50(5) added (1.10.1997) by [1997 c. 43](#), s. 55, **Sch. 4**, para 12(5); S.I. 1997/2200, **art. 2**

#### Marginal Citations

- M1** 1952 c. 52.

**Changes to legislation:**

Mental Health Act 1983, Section 50 is up to date with all changes known to be in force on or before 30 November 2023. 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 :**

- s. 50(3)(a) words inserted by [2015 c. 2 Sch. 3 para. 2](#)

**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\(3\)](#)