



# Mental Health Act 1959

## 1959 CHAPTER 72

### PART VI

#### REMOVAL AND RETURN OF PATIENTS WITHIN UNITED KINGDOM, ETC.

##### *Return of patients absent without leave*

#### **91 Persons absent from Scottish institutions**

- (1) Where a lunatic, defective, or state mental patient liable to detention under the Lunacy (Scotland) Acts, 1857 to 1913, the Mental Deficiency (Scotland) Acts, 1913 and 1940, the Criminal Lunatics (Scotland) Act, 1935, or the Criminal Justice (Scotland) Act, 1949, in an institution to which this section applies is absent from the institution without leave, he may, not later than the expiration of any period within which he might be retaken in Scotland under the said enactments, be retaken in England or Wales by a mental welfare officer, by any constable or by any person for the time being authorised by or by virtue of any such enactment to apprehend him without warrant and may be returned to that institution by any person so authorised.
- (2) The institutions to which this section applies are mental hospitals, institutions for mental defectives and State Mental Hospitals within the meaning of the enactments specified in the foregoing subsection, and private asylums licensed thereunder.

#### **92 Patients absent from Northern Irish institutions**

- (1) Any person who, under section sixty-three of the Mental Health Act (Northern Ireland), 1948 (which provides for the retaking of patients absent without leave), is liable to be retaken in Northern Ireland may, within the period within which he might be so retaken, be taken into custody in England or Wales by a mental welfare officer, by any constable or by any person for the time being authorised by or by virtue of that section to retake him, and may be returned by any person so authorised to any hospital, institution or place to which he could lawfully be returned if retaken under that enactment.

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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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- (2) Any person being a criminal lunatic within the meaning of section eighty-eight of this Act who is unlawfully at large in England or Wales may be taken into custody in England or Wales by a mental welfare officer, by any constable or by any person authorised by subsection (1) of section thirty-eight of the Prison Act (Northern Ireland), 1953, to arrest him without warrant, and may be returned by any person so authorised to the place in which he is required by the law in force in Northern Ireland to be detained.

### **93 Patients absent from hospitals in England and Wales**

- (1) Subject to the provisions of this section, any person who, under section forty or section one hundred and forty of this Act or under the said section forty as applied by section forty-six of this Act, may be taken into custody in England and Wales may be taken into custody in, and returned to England and Wales from, any other part of the United Kingdom or the Channel Islands or the Isle of Man.
- (2) For the purposes of the enactments referred to in subsection (1) of this section, in their application by virtue of this section to Scotland, Northern Ireland, the Channel Islands or the Isle of Man, the expression " constable " includes a Scottish' constable, an officer or constable of the Royal Ulster Constabulary, a member of the police in Jersey, an officer of police within the meaning of section forty-three of the Larceny (Guernsey) Law, 1958, or any corresponding law for the time being in force, or a constable in the Isle of Man, as the case may be.
- (3) For the purposes of the said enactments in their application by virtue of this section to Scotland or Northern Ireland, any reference to a mental welfare officer shall be construed as including a reference—
- (a) in Scotland, to any person (other than a constable) who, under the Lunacy (Scotland) Acts, 1857 to 1913, the Mental Deficiency (Scotland) Acts, 1913 and 1940, or the Criminal Lunatics (Scotland) Act, 1935, would have power to apprehend a person absent without leave from an institution to which section ninety-one of this Act applies;
  - (b) in Northern Ireland, to any person (other than a constable) who, under section sixty-three of the Mental Health Act (Northern Ireland) 1948, would be authorised to retake a patient absent without leave from a hospital to which that section applies.
- (4) This section shall not apply to any person who is subject to guardianship.