



Mental Health Act 1959

1959 CHAPTER 72

PART III

MENTAL NURSING HOMES, RESIDENTIAL HOMES, ETC.

Nursing Homes

14 Registration of nursing homes under Public Health Act

- (1) Part VI of the Public Health Act, 1936 (which relates, among other things, to the registration of nursing homes) shall apply in relation to mental nursing homes as it applies to nursing homes to which the said Part VI applied immediately before the commencement of this Act, not being maternity homes, but shall so apply subject to the following provisions of this Part of this Act.
- (2) In this Part of this Act " mental nursing home " means any premises used or intended to be used for the reception of, and the provision of nursing or other medical treatment for, one or more mentally disordered patients (whether exclusively or in common with other persons), not being—
 - (a) a hospital as defined by this Act;
 - (b) any other premises managed by a Government department or provided by a local authority;
- (3) In this Part of this Act " registration authority ", in relation to a mental nursing home, means the council of the county or county borough in which the home is situated ; and the power of a county council under section one hundred and ninety-four of the Public Health Act, 1936, to delegate its functions under Part VI of that Act relating to nursing homes to the council of a county district shall include power to delegate its functions under this Part of this Act relating to mental nursing homes.
- (4) Section one hundred and ninety-two of the Public Health Act, 1936 (which enables the registration authority to exempt certain voluntary institutions from the provisions of Part VI of that Act relating to nursing homes) shall not apply to mental nursing homes.

- (5) Subject to the next following section, the registers to be kept by the registration authority under the said Part VI as applied by this Part of this Act shall be in such form, and shall contain such particulars as may be prescribed by regulations made by the Minister; and such regulations may make provision as to the information to be supplied on applications for registration in respect of mental nursing homes.

15 Special provisions as to registration of nursing homes

- (1) Any application for registration under the said Part VI in respect of a mental nursing home shall specify whether or not it is proposed to receive therein patients who are liable to be detained under the following provisions of this Act; and where any person is so registered in pursuance of an application stating that it is proposed to receive such patients, that fact shall be specified in the certificate of registration, and the particulars of the registration shall be entered by the registration authority in a separate part of the register.
- (2) It shall be a condition of the registration of any person in respect of a mental nursing home that the number of persons kept at any one time in the home (excluding persons carrying on or employed in the home and their families) does not exceed such number as may be specified in the certificate of registration ; and without prejudice to the foregoing provision, the registration may be effected subject to such conditions (to be specified in the certificate) as the registration authority consider appropriate for regulating the age, sex or other category of persons who may be received in the home.
- (3) If any condition imposed by or under subsection (2) of this section is not complied with, the person carrying on the home shall be guilty of an offence and liable on summary conviction, in the case of a first offence, to a fine not exceeding five pounds and in the case of a second or subsequent offence, to a fine not exceeding twenty pounds; and without prejudice to the foregoing provision, the power of the registration authority to cancel registration under section one hundred and eighty-eight of the Public Health Act, 1936, shall include power to cancel the registration on the ground that any such condition has not been complied with.

16 Conduct of mental nursing homes

- (1) The Minister may make regulations as to the conduct of mental nursing homes, and such regulations may in particular—
- (a) make provision as to the facilities and services to be provided in such homes ; and
 - (b) provide that a contravention or failure to comply with any specified provision of the regulations shall be an offence against the regulations.
- (2) Any person guilty of an offence against regulations made under subsection (1) of this section shall be liable on summary conviction, in the case of a first offence, to a fine not exceeding five pounds and in the case of a second or subsequent offence, to a fine not exceeding twenty pounds; and without prejudice to the foregoing provision, the power of the registration authority to cancel registration under section one hundred and eighty-eight of the Public Health Act, 1936, shall include power to cancel the registration of any person on the ground that he has been convicted of such an offence.
- (3) A registration authority may, and shall if so required by the Minister, make separate byelaws in respect of mental nursing homes under section one hundred and ninety of

the Public Health Act, 1936 (which enables byelaws to prescribe the records to be kept and notices to be given in respect of patients in nursing homes).

17 Inspection of mental nursing homes and visiting of patients

- (1) Subject to the provisions of this section, any person authorised in that behalf by the Minister or by the registration authority may, at any time, after producing, if asked to do so, some duly authenticated document showing that he is so authorised, enter and inspect any premises in the area of the authority which are used, or which that person has reasonable cause to believe to be used, for the purposes of a mental nursing home, and may inspect any records kept in accordance with byelaws made under section one hundred and ninety of the Public Health Act, 1936.
- (2) A person authorised under subsection (1) of this section to inspect a mental nursing home may visit and interview in private any mentally disordered patient residing in the home—
 - (a) for the purpose of investigating any complaint as to his treatment made by or on behalf of the patient; or
 - (b) in any case where the person so authorised has reasonable cause to believe that the patient is not receiving proper care;and where the person so authorised is a medical practitioner, he may examine the patient in private and may require the production of and inspect any medical records relating to the treatment of the patient in the nursing home.
- (3) Regulations under subsection (1) of section sixteen of this Act may make provision with respect to the exercise on behalf of registration authorities of the powers conferred by this section; and such regulations may in particular provide—
 - (a) for imposing conditions or restrictions with respect to the exercise of those powers in relation to mental nursing homes which, immediately before the commencement of this Act, were registered hospitals; and
 - (b) subject as aforesaid, for requiring the inspection of mental nursing homes under subsection (1) of this section to be carried out on such occasions, or at such intervals, as may be prescribed by the regulations.
- (4) In this section " registered hospital " means a hospital registered as mentioned in subsection (9) of section two hundred and thirty-one of the Lunacy Act, 1890.
- (5) Section one hundred and ninety-one of the Public Health Act, 1936 (which relates to inspection) shall not apply to mental nursing homes or any premises used or believed to be used as such.

18 Continuance of special registration on cancellation or death

- (1) If in the case of a mental nursing home the particulars of the registration of which are entered in the separate part of the register referred to in subsection (1) of section fifteen of this Act the registration is cancelled under section one hundred and eighty-eight of the Public Health Act, 1936, at a time when any patient is liable to be detained in the home under any of the following provisions of this Act, the registration shall, notwithstanding the cancellation, continue in force until the expiration of the period of two months beginning with the date of the cancellation, or until every such patient has ceased to be so liable, whichever first occurs.

Status: This is the original version (as it was originally enacted).

- (2) If the person registered in respect of any such mental nursing home as aforesaid (not being one of two or more persons so registered) dies at a time when any patient is liable to be detained therein as aforesaid, the registration shall continue in force—
- (a) as from the grant of representation to the estate of the deceased, for the benefit of the personal representative of the deceased ; and
 - (b) pending the grant of such representation, for the benefit of any person approved for the purpose by the registration authority,
- until the expiration of the period of two months beginning with the death, or until every such patient has ceased to be so liable, or until a person other than the deceased has been registered in respect of the home, whichever first occurs; and for the purposes of Part VI of the Public Health Act, 1936, and of this Act any person for whose benefit the registration continues in force under this subsection shall be treated as registered in respect of the home.

Residential Homes

19 Registration of residential homes under National Assistance Act, 1948

- (1) Subject to the provisions of this and the next following section, sections thirty-seven to forty of the National Assistance Act, 1948 (which relate to the registration, inspection and conduct of homes for disabled persons and old persons) shall apply in relation to a residential home for mentally disordered persons as they apply in relation to homes to which those enactments applied immediately before the commencement of this Act.
- (2) In this Part of this Act " residential home for mentally disordered persons" means an establishment the sole or main object of which is, or is held out to be, the provision of accommodation, whether for reward or not, for persons suffering from mental disorder, not being—
 - (a) a mental nursing home;
 - (b) a hospital as defined by this Act; or
 - (c) any other premises managed by a Government department or provided by a local authority ;

and " registration authority ", in relation to a residential home for mentally disordered persons, has the meaning assigned thereto by subsection (2) of section thirty-seven of the National Assistance Act, 1948.
- (3) A residential home for mentally disordered persons shall be deemed not to be a voluntary home within the meaning of Part V of the Children and Young Persons Act, 1933, or Part IV of the Children Act, 1948; and a child who is resident in a residential home for mentally disordered persons shall not be a foster child within the meaning of Part I of the Children Act, 1958, or a protected child within the meaning of Part IV of the Adoption Act, 1958.

20 Special provisions as to registration of residential homes

- (1) It shall be a condition of the registration of any person in respect of a residential home for mentally disordered persons that the number of persons kept at any one time in the home (excluding persons carrying on or employed in the home and their families) does not exceed such number as may be specified in the certificate of registration; and without prejudice to the foregoing provision, the registration may be effected subject to such conditions (to be specified in the certificate) as the registration authority

consider appropriate for regulating the age, sex or other category of persons who may be received in the home.

- (2) If any condition imposed by or under subsection (1) of this section is not complied with, the person carrying on the home shall be guilty of an offence and liable on summary conviction, in the case of a first offence, to a fine not exceeding five pounds and in the case of a second or subsequent offence, to a fine not exceeding twenty pounds ; and without prejudice to the foregoing provision the power of the registration authority to cancel registration under subsection (4) of section thirty-seven of the National Assistance Act, 1948, shall include power to cancel the registration on the ground that any such condition has not been complied with.
- (3) In relation to residential homes for mentally disordered persons, section forty of the National Assistance Act, 1948, shall have effect as if paragraph (a) of subsection (1) of that section (which enables the Minister to make regulations for purposes corresponding with subsection (1) of this section) were omitted.

21 Records and inspection of residential homes

- (1) The power of the Minister to make regulations under section forty of the National Assistance Act, 1948, with respect to the conduct of residential homes for mentally disordered persons shall include power to make regulations as to the records to be kept and notices to be given in respect of persons received in such homes.
- (2) The powers of inspection conferred by section thirty-nine of the said Act, in its application to residential homes for mentally disordered persons, shall include power to inspect any records required to be, kept in accordance with regulations made by virtue of subsection (1) of this section under section forty of that Act.

Miscellaneous

22 Powers of entry and inspection of other premises

A mental welfare officer of a local health authority may, at all reasonable times, after producing, if asked to do so, some duly authenticated document showing that he is such an officer, enter and inspect any premises (not being a hospital) in the area of that authority in which a mentally disordered patient is living, if he has reasonable cause to believe that the patient is not under proper care.

23 Prosecution of offences

- (1) The registration authority may prosecute for any offence under this Part of this Act, or any enactment thereby applied.
- (2) Section two hundred and ninety-eight of the Public Health Act, 1936 (which restricts the right to prosecute for offences under that Act) shall not apply to offences under Part VI of that Act in respect of mental nursing homes.

24 Application to London

In relation to the administrative county of London the provisions of this Part of this Act shall have effect subject to the following modifications, that is to say—

Status: This is the original version (as it was originally enacted).

- (a) for any reference to Part VI of the Public Health Act, 1936, there shall be substituted a reference to Part XI of the Public Health (London) Act, 1936 ;
- (b) for references to sections one hundred and eighty-eight, one hundred and ninety, one hundred and ninety-one and one hundred and ninety-two of the Public Health Act, 1936, there shall be substituted respectively references to sections two hundred and forty-two, two hundred and forty-four, two hundred and forty-five and two hundred and forty-six of the Public Health (London) Act, 1936; and
- (c) for subsection (3) of section fourteen there shall be substituted the following subsection:—

“(3) In this Part of this Act 'registration authority', in relation to a mental nursing home, means the local supervising authority as defined by section two hundred and forty of the Public Health (London) Act, 1936; and section two hundred and forty-nine of that Act (which enables the London County Council to delegate to the council of a metropolitan borough certain powers exercisable under Part XI of that Act) shall have effect as if the reference to the said Part XI included a reference to this Part of this Act so far as it relates to mental nursing homes.”