



Mental Health (Scotland) Act, 1960

8 & 9 ELIZ. 2 CH. 61.

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Mental Health (Scotland) Act, 1960

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CHAPTER 61

An Act to repeal the Lunacy (Scotland) Acts, 1857 to 1913, and the Mental Deficiency (Scotland) Acts, 1913 and 1940; to make fresh provision with respect to the reception, care and treatment of persons suffering, or appearing to be suffering, from mental disorder, and with respect to their property and affairs; and for purposes connected with the matters aforesaid. [29th July, 1960]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

1. Subject to the transitional provisions contained in this Act, the Lunacy (Scotland) Acts, 1857 to 1913, and the Mental Deficiency (Scotland) Acts, 1913 and 1940, shall cease to have effect, and the following provisions of this Act shall have effect in place of those enactments with respect to the reception, care and treatment of persons suffering, or appearing to be suffering, from mental disorder, to the management of their property and affairs, and to other matters related thereto.

2.—(1) There shall be established a Commission to be called the Mental Welfare Commission for Scotland (in this Act referred to as "the Mental Welfare Commission") who shall perform the functions assigned to them by or under this Act.

(2) The Mental Welfare Commission shall consist of no fewer than seven and not more than nine commissioners (including at least one woman) of whom one shall be chairman, at least three

Repeal of
Lunacy
(Scotland)
Acts and
Mental
Deficiency
(Scotland)
Acts.

Establishment
and
constitution of
Mental
Welfare
Commission.

PART I shall be medical practitioners (in this Act referred to as “ medical commissioners ”), and one shall be a person who has been for a period of at least five years either a member of the Faculty of Advocates or a solicitor.

(3) Four commissioners of whom at least one shall be a medical commissioner shall constitute a quorum of the Mental Welfare Commission.

(4) The commissioners shall be appointed by Her Majesty on the recommendation of the Secretary of State and shall hold and vacate office under the terms of the instrument under which they are appointed, but may resign office by notice in writing to the Secretary of State.

(5) No person who for the time being is employed in the civil service of the Crown whether in an established capacity or not, and whether for the whole or part of his time, shall be appointed to the Mental Welfare Commission ; and for the purposes of this subsection “ civil service of the Crown ” includes the civil service of Northern Ireland, Her Majesty’s Foreign Service and Her Majesty’s Overseas Civil Service.

(6) Part II of the First Schedule to the House of Commons Disqualification Act, 1957 (which specifies certain commissions, tribunals and other bodies all members of which are disqualified under that Act) shall have effect, in its application to the House of Commons of the Parliament of the United Kingdom, as if after the entry relating to a Mental Health Review Tribunal constituted under the Mental Health Act, 1959, there were inserted the following entry:—

“ The Mental Welfare Commission for Scotland ”.

(7) The Secretary of State may pay to the said commissioners such remuneration and allowances as he may with the approval of the Treasury determine, defray the expenses of the Mental Welfare Commission to such amount as he may with the like approval determine, and may provide for that Commission such officers and servants and such accommodation as the Commission may require.

(8) The Mental Welfare Commission shall be a body corporate and shall have a common seal.

(9) The proceedings of the Mental Welfare Commission shall not be invalidated by any vacancy in the membership of the Commission or any defect in the appointment of any commissioner.

**Dissolution of
General Board
of Control for
Scotland.** 3.—(1) On the establishment of the Mental Welfare Commission the General Board of Control for Scotland (in this section referred to as “ the Board of Control ”) shall cease to exist, and the following provisions of this section shall have effect in relation to the dissolution of that Board.

(2) The dissolution of the Board of Control shall not affect any rights, liabilities or obligations of that Board; but all such rights, liabilities and obligations shall pass to and vest in the Secretary of State, and any proceedings then pending to which that Board was a party may be continued by or against the Secretary of State.

(3) The property of the Board of Control shall pass to and vest in the Mental Welfare Commission; but nothing in this subsection shall preclude that Commission from transferring to the Secretary of State any such property as aforesaid which does not relate to their functions under this Act.

4.—(1) It shall be the duty of the Mental Welfare Commission generally to exercise protective functions in respect of persons who may, by reason of mental disorder, be incapable of adequately protecting their persons or their interests, and, where those persons are liable to be detained in hospital or subject to guardianship under the following provisions of this Act, their functions as aforesaid shall include, in appropriate cases, the discharge of such patients in accordance with the said provisions.

Functions and
duties of the
Mental
Welfare
Commission.

(2) In the exercise of their functions as aforesaid, it shall be the duty of the Mental Welfare Commission—

- (a) to make enquiry into any case where it appears to them that there may be ill-treatment, deficiency in care or treatment, or improper detention of any person who may be suffering from mental disorder, or where the property of any such person may, by reason of his mental disorder, be exposed to loss or damage;
- (b) to visit regularly, and as often as they may think appropriate, patients who are liable to be detained in a hospital or who are subject to guardianship, and on any such visit to afford an opportunity, on request, for private interview to any such patient as aforesaid or, where the patient is in a hospital, to any other patient in that hospital;
- (c) to bring to the attention of any board of management or of any local authority the facts of any case in which in the opinion of the Mental Welfare Commission it is desirable for the board of management or the local authority to exercise any of the functions of that board or of that authority to secure the welfare of any patient suffering from mental disorder by—
 - (i) preventing his ill-treatment;
 - (ii) remedying any deficiency in his care or treatment;
 - (iii) terminating his improper detention; or

PART I

(iv) preventing or redressing loss or damage to his property.

(3) On any visit by the Mental Welfare Commission in pursuance of paragraph (b) of the last foregoing subsection, the visitor shall be, or the visitors shall include, a medical commissioner or a medical officer of the Commission.

(4) For the purposes of subsection (2) of this section, the Mental Welfare Commission may interview, and a medical commissioner or a medical officer of the Commission may examine, any patient in private.

(5) A medical commissioner or a medical officer of the Mental Welfare Commission may call for the medical records of any patient.

(6) It shall be the duty of the Mental Welfare Commission to advise the Secretary of State on any matter arising out of this Act that he may refer to them and to bring to his attention any such matter of which, in the opinion of the Commission, he ought to be apprised.

(7) Subject to the provisions of subsection (3) of this section, the Mental Welfare Commission may appoint any commissioner or committee of commissioners to carry out any of the functions of the Commission, other than those relating to the discharge of patients, under this Act, and where any committee is so appointed the Commission may fix a quorum for that committee and otherwise regulate its proceedings.

(8) It shall be the duty of any commissioner or committee appointed in pursuance of the last foregoing subsection to exercise the functions so conferred in accordance with the directions of the Mental Welfare Commission.

Duties of the Secretary of State and of local authorities in relation to the Mental Welfare Commission.

5.—(1) It shall be the duty of the Secretary of State to afford the Mental Welfare Commission all facilities necessary to enable them to carry out their functions in respect of any patient in a hospital other than a private hospital.

(2) It shall be the duty of the local health authority concerned and of the guardian of any person subject to guardianship under Part IV of this Act to afford the Mental Welfare Commission all facilities necessary to enable them to carry out their functions in respect of such a patient.

Definition of mental disorder.

6. In this Act “mental disorder” means mental illness or mental deficiency however caused or manifested.

PART II

LOCAL AUTHORITY SERVICES

General Provisions

7.—(1) In relation to persons who are or have been suffering from mental disorder, the purposes for which arrangements are authorised or may be required to be made by a local health authority under subsection (1) of section twenty-seven of the National Health Service (Scotland) Act, 1947 (which relates to the functions of local health authorities with respect to the prevention of illness, care and after-care) shall include the following, that is to say:—

Functions of
local health
authorities.

- (a) the provision, equipment and maintenance of residential accommodation, and the care of persons for the time being resident in accommodation so provided;
- (b) the appointment of officers to act as mental health officers under the following provisions of this Act;
- (c) the exercise by the local health authority of their functions under the following provisions of this Act in respect of persons under guardianship (whether under the guardianship of a local health authority or of any other person);
- (d) the provision of any ancillary or supplementary services;
- (e) the ascertainment of mental deficiency in any person not of school age within the meaning of the Education (Scotland) Act, 1946; and
- (f) the supervision of persons suffering from mental deficiency who are neither liable to detention in a hospital nor subject to guardianship.

(2) Notwithstanding anything in subsection (1) of the said section twenty-seven, the reference in paragraph (a) of subsection (1) of this section to the care of persons for the time being resident in accommodation provided by a local health authority includes, in the case of persons so resident who are under the age of sixteen years, the payment to those persons of such amounts as the local health authority think fit in respect of their personal expenses where it appears to that authority that no such payment would otherwise be made.

(3) Nothing in this section shall prejudice the generality of the said section twenty-seven.

8.—(1) For the purposes of subsection (8) of section twenty-one of the National Assistance Act, 1948 (which restricts the powers and duties of local authorities in respect of the provision

Functions of
welfare
authorities.

PART II

of accommodation under that section by reference to the provision authorised or required to be made under other enactments) no account shall be taken of the provision authorised or required to be made by local health authorities under section twenty-seven of the National Health Service (Scotland) Act, 1947, with respect to residential accommodation for persons who are or have been suffering from mental disorder.

(2) The persons referred to in subsection (1) of section twenty-nine of the said Act of 1948 (which section enables local authorities to make arrangements for promoting the welfare of blind persons and other disabled persons described in the said subsection (1)) shall include persons who are suffering from mental disorder of any description ; and for the purposes of subsection (6) of that section (which, among other things, excludes from that section the provision of accommodation or services required to be provided under the National Health Service (Scotland) Act, 1947), no account shall be taken of the provisions of Part III of the National Health Service (Scotland) Act, 1947, with respect to the provision of accommodation or services for such persons.

(3) Subsection (2) of this section shall not affect the operation of the provisions of Part IV of the National Assistance Act, 1948, relating to disabled persons' homes or charities for disabled persons, but without prejudice to the provisions of Part III of this Act with respect to the registration of such homes.

(4) Nothing in this section shall be construed as requiring a local authority to make provision for the same purposes both under Part III of the National Health Service (Scotland) Act, 1947, and under Part III of the National Assistance Act, 1948.

Functions of
children
authorities.

9.—(1) A local authority for the purposes of the Children Act, 1948 (in this section referred to as "a children authority") may accommodate in a home or other accommodation provided by that authority under section fifteen of that Act any child who, not being in their care within the meaning of Part II of that Act, is a person whose care or after-care is for the time being undertaken by that or any other authority as local health authority in pursuance of arrangements made under section twenty-seven of the National Health Service (Scotland) Act, 1947, or under section twenty-eight of the National Health Service Act, 1946, for the care or after-care of persons who are or have been suffering from mental disorder.

(2) Where a child whose care or after-care is for the time being undertaken by a local health authority in pursuance of such arrangements as aforesaid is accommodated in a home or other accommodation provided under the said section fifteen by that authority as children authority, the authority may make such

adjustments as appear to them to be appropriate between the accounts kept by them as local health authority and the accounts kept by them as children authority.

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(3) Nothing in this Act, or in any other enactment, shall be construed as preventing a children authority from receiving into their care under section one of the Children Act, 1948, a child who is suffering from mental disorder or as preventing a local health authority from accommodating in pursuance of the arrangements referred to in subsection (1) of this section any child who is in the care of that or any other authority as a children authority.

(4) In this section "child" has the same meaning as in the Children Act, 1948.

10.—(1) The provisions of this section shall apply to any patient suffering from mental disorder who is—

Welfare of
certain hospital
patients.

- (a) a child or young person in respect of whom the rights and powers of a parent are vested in a local authority by virtue of—
 - (i) section seventy-nine of the Children and Young Persons (Scotland) Act, 1937 (which relates to children and young persons committed to the care of fit persons under that Act);
 - (ii) section seventy-five of the Children and Young Persons Act, 1933 (which makes corresponding provision in England and Wales); or
 - (iii) section three of the Children Act, 1948 (which relates to children in respect of whom parental rights have been assumed by a local authority under section two of that Act);
- (b) a person who is under the guardianship of a local health authority under the following provisions of this Act or under the provisions of the Mental Health Act, 1959; or
- (c) a person the functions of whose nearest relative under this Act or under the Mental Health Act, 1959, are for the time being transferred to a local health authority.

(2) Where a patient to whom this section applies is admitted to any hospital or nursing home in Scotland (whether for treatment for mental disorder or for any other reason) then, without prejudice to their duties in relation to the patient apart from the provisions of this section, the authority having rights or functions in relation to him as aforesaid shall arrange for visits

PART II to be made to him on their behalf, and shall take such other steps in relation to the patient while in the hospital or nursing home as would be expected of a parent.

(3) Subsection (5) of section ten of the Matrimonial Proceedings (Children) Act, 1958 (which provides for the ending of committal to the care of local authorities of children who come under control under the provisions of the Mental Deficiency (Scotland) Acts, 1913 and 1940, or the Lunacy (Scotland) Acts, 1857 to 1919) shall cease to have effect.

Provision for care and training of children in lieu of education

Amendments
to the
Education
(Scotland)
Act, 1946.

11. The Education (Scotland) Act, 1946, shall have effect subject to the amendments set out in the First Schedule to this Act.

The training,
etc., of persons
unsuitable for
education and
of mental
defectives.

12.—(1) Without prejudice to the operation of section one of the Education (Scotland) Act, 1946 (which among other things imposes a duty on education authorities to provide educational facilities for pupils who suffer from disability of mind) it shall be the duty of the local health authority to provide or secure the provision of suitable training and occupation for—

- (a) persons under the age of sixteen who have been reported by the education authority under section fifty-six of the Education (Scotland) Act, 1946, as having been found unsuitable for education or training in a special school ; and
- (b) persons suffering from mental deficiency who are over the age of sixteen :

Provided that this subsection shall not apply—

- (i) in any case where the report in respect of a person so reported has been cancelled ; or
- (ii) in the case of a person in a hospital.

(2) Section twenty-one of the National Health Service (Scotland) Act, 1947 (which requires local health authorities to submit proposals to the Secretary of State for carrying out their duties under the provisions of Part III of that Act and to carry out those duties in accordance with the proposals) shall apply with respect to the duties of local health authorities under this section.

(3) It shall be the duty of a local health authority to make such provision as they may think necessary for securing that transport is available for the conveyance of persons for the purpose of their

PART II

training and occupation in pursuance of this section ; and accordingly section sixteen of the National Health Service (Scotland) Act, 1947 (which relates to the provision by the Secretary of State of ambulances and other means of transport), shall not have effect in relation to the conveyance of persons as aforesaid.

(4) Where a local health authority makes arrangements with any voluntary organisation for the performance by that organisation of any services in connection with the duties of the local health authority under this section, the local health authority may make contributions to the funds of that voluntary organisation.

(5) The provisions of section fifty-one of the National Health Service (Scotland) Act, 1947 (which relates to the duties of local health authorities under the Lunacy and Mental Deficiency Acts) shall cease to have effect.

(6) Any expenditure incurred by or on behalf of a local health authority in pursuance of this section shall be relevant expenditure for the purposes of the First Schedule to the Local Government and Miscellaneous Financial Provisions (Scotland) Act, 1958.

13—(1) Subject to the provisions of this section, where a local health authority have established or made arrangements for the provision of a centre for suitable training and occupation in pursuance of the last foregoing section, that authority may, after consultation with the parent of a child who has been reported as aforesaid by the education authority, direct that that child, if of school age, shall attend that centre, and may give notice in writing to the parent of any such child requiring him to cause that child to attend, either by day or, if the notice so directs, as a resident at that centre, at such times or for such periods as may be specified in the notice.

Power to
compel
attendance at
training
centres.

(2) A local health authority shall not give a notice under this section unless they are satisfied—

- (a) that the child is not receiving training comparable with the training which he would receive at the centre ;
- (b) that there is no reasonable cause within the meaning of the next following section for his failure to receive such training as aforesaid :

and if any person to whom such a notice is given is aggrieved by the notice on the ground that the child is receiving such training, or in the case of a notice requiring a child to attend a centre as a resident that it is not in the interest of the child to be required to attend except by day, he may refer the question to the Secretary of State who may either confirm the notice or direct that it be amended or withdrawn.

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(3) Subject to the last foregoing subsection, if any person fails to comply with a notice given to him under subsection (1) of this section, he shall, unless the child is receiving training comparable with the training which he would receive at the centre, be guilty of an offence and shall be liable on summary conviction, in the case of a first offence to a fine not exceeding one pound, in the case of a second offence to a fine not exceeding five pounds, and in the case of a third or subsequent offence to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

(4) For the purpose of this section a child shall be treated as of school age so long as under the Education (Scotland) Act, 1946, he is or would be deemed to be of school age if he were the subject of a decision that he required special educational treatment, and "parent" has the same meaning as in that Act.

Exemptions
in respect of
s. 13.

14.—(1) A person shall not be guilty of an offence against subsection (3) of the last foregoing section if his failure to comply with a notice given to him under subsection (1) of that section was due to a reasonable cause within the meaning of this section.

(2) For the purposes of this section any of the following shall be held to be a reasonable cause, that is to say—

- (a) the child has been prevented by sickness from attending the centre named in the notice to which the charge relates;
- (b) it is not reasonably practicable for the child to make his own way, or to be taken by or on behalf of the person to whom notice has been given, to and from the centre, and no suitable arrangements have been made by the local health authority either for his transport to and from the centre or for residential accommodation for him at or near the centre;
- (c) the child has no fixed abode, and the person to whom notice has been given is engaged in a trade or business of such a nature as to require him to travel from place to place, and the child has attended at the centre as regularly as the nature of the trade or business of that person permits;
- (d) there are other circumstances which afford a reasonable excuse.

PART III

PRIVATE HOSPITALS, RESIDENTIAL HOMES, ETC.

Private Hospitals

15.—(1) Every private hospital within the meaning of this Act shall be registered and the following provisions of this Part of this Act shall apply to the registration, conduct and inspection of such hospitals. ^{Registration of private hospitals.}

(2) In section ten of the Nursing Homes Registration (Scotland) Act, 1938, the definition of “nursing home” shall be amended by substituting for heads (ii) and (iii) the following head—

“ (ii) any private hospital within the meaning of the Mental Health (Scotland) Act, 1960.”

(3) In this Act “private hospital” means any premises used or intended to be used for the reception of, and the provision of medical treatment for, one or more patients subject to detention under this Act (whether or not other persons are received and treated), not being—

- (a) a hospital provided under Part II of the National Health Service (Scotland) Act, 1947 ;
- (b) a State hospital ; or
- (c) any other premises managed by a Government department or provided by a local authority.

(4) Application for registration of premises as a private hospital shall be made in writing to the Secretary of State by or on behalf of the person proposing to carry on the hospital and the application shall be accompanied by a fee of five shillings.

(5) Subject to the next following section, the Secretary of State may register the premises named in the application as a private hospital and issue to the person proposing to carry on the hospital a certificate in that behalf (in this Act referred to as “a certificate of registration”).

(6) A certificate of registration shall specify the maximum number of persons who at any one time may receive care or treatment in the hospital to which the certificate relates, and such conditions as the Secretary of State may consider appropriate for regulating the category of patients who may be received into the hospital.

(7) A certificate of registration shall lapse on the expiration of a period of five years from the date of issue, but shall be renewable on a fresh application.

PART III

(8) A certificate of registration shall be kept fixed conspicuously in the hospital to which it relates and if this requirement is not complied with the person carrying on the hospital shall be guilty of an offence against this Part of this Act.

Pre-requisites
of registration.

16.—(1) The Secretary of State shall not issue a certificate of registration unless he is satisfied—

- (a) that the person proposing to carry on the hospital is a fit person for this purpose, having regard to his age, conduct and any other relevant consideration ;
- (b) that the premises are fit to be used for a private hospital ;
- (c) that the arrangements proposed for patients are suitable and adequate ; and
- (d) that the medical and nursing staff proposed is adequate for the hospital and is suitably trained and qualified.

(2) Nothing in the foregoing provisions of this Part of this Act shall be construed as requiring the Secretary of State to issue a certificate of registration under the last foregoing section.

Control of
private
hospitals.

17.—(1) It shall be the duty of any person carrying on a private hospital—

- (a) to keep the hospital open to inspection in pursuance of this section at all reasonable times ;
- (b) to keep such registers and records as the Secretary of State may from time to time by regulations prescribe, and to keep such registers and records as aforesaid open to inspection ;
- (c) to ensure that any conditions specified in the certificate of registration are complied with ;
- (d) to afford to the Mental Welfare Commission all such facilities (including facilities for inspection of the hospital) as are necessary for the Commission to exercise their functions under this Act ;

and any person who fails to comply with any requirement of this subsection shall be guilty of an offence against this Part of this Act.

(2) It shall be the duty of the Secretary of State to ensure by regular inspection of any private hospital that that hospital is being properly carried on, and any person authorised in that behalf by the Secretary of State may, after producing, if asked to do so, some duly authenticated document showing that he is so authorised, enter any hospital for the purpose of any inspection in pursuance of this section and carry out that inspection.

(3) Any person authorised as aforesaid may interview any patient in private.

18.—(1) Subject to the provisions of this section, the Secretary of State may, at any time, cancel a registration of a private hospital on any ground on which he might have refused an application for such a registration of that hospital, or on the ground that the person carrying on the hospital has been convicted of an offence against this Act.

PART III
Cancellation
and
continuance
in certain
circumstances
of registration.

(2) On the cancellation of a registration, the person who is or was carrying on the hospital shall forthwith deliver up the certificate to the Secretary of State, and if this requirement is not complied with the holder of the certificate shall be guilty of an offence against this Part of this Act.

(3) Where at the time of any such cancellation of a registration as aforesaid any patient is liable to be detained on the premises concerned, the registration shall, notwithstanding the cancellation, continue in force until the expiration of a period of twenty-eight days from the date of cancellation or until every such patient has ceased to be so liable, whichever first occurs.

Residential Homes

19.—(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 persons suffering from mental disorder as they apply in relation to homes to which those enactments applied immediately before the commencement of this Act.

Registration of
residential
homes under
National
Assistance
Act, 1948.

(2) In this Part of this Act “residential home for persons suffering from mental disorder” means an establishment the sole or main object of which is, or is held out to be, the provision of residential accommodation, whether for reward or not, for persons suffering from mental disorder, not being—

- (a) a nursing home within the meaning of the Nursing Homes Registration (Scotland) Act, 1938;
- (b) a hospital as defined by this Act; or
- (c) any other premises managed by a Government department or by a local authority;

and “registration authority”, in relation to a residential home for persons suffering from mental disorder, has the meaning assigned thereto by subsection (2) of section thirty-seven of the National Assistance Act, 1948, as read with section sixty-five of that Act.

(3) A residential home for persons suffering from mental disorder shall be deemed not to be a voluntary home within the meaning of Part VI of the Children and Young Persons (Scotland)

PART III

Act, 1937, or Part IV of the Children Act, 1948; and a person who is resident in a residential home for persons suffering from mental disorder 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.

Special provisions as to registration of residential homes.

20.—(1) It shall be a condition of the registration of any person in respect of a residential home for persons suffering from mental disorder that the number of persons resident 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 category of patients 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 against this Part of this Act; 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 persons suffering from mental disorder, section forty of the National Assistance Act, 1948, shall have effect as if paragraph (a) of subsection (1) of that section (which enables the Secretary of State to make regulations for purposes corresponding with subsection (1) of this section) were omitted.

Records and inspection of residential homes.

21.—(1) The power of the Secretary of State to make regulations under section forty of the National Assistance Act, 1948, with respect to the conduct of residential homes for persons suffering from mental disorder 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 persons suffering from mental disorder, 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 and to interview any person resident therein in private.

Offences

Offences against this Part of this Act and penalties.

22.—(1) If any person carries on a private hospital which is not registered under this Part of this Act, he shall be guilty of an offence and shall be liable on summary conviction to a

fine not exceeding fifty pounds or, in the case of a second or subsequent conviction, to such a fine or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

PART III

(2) Any person guilty of an offence against this Part of this Act, other than the offence specified in the last foregoing subsection, shall, on summary conviction, be liable to a fine not exceeding five pounds and in the case of a continuing offence to a further fine not exceeding two pounds in respect of each day on which the offence continues after conviction.

PART IV

ADMISSION TO AND DETENTION IN HOSPITAL AND GUARDIANSHIP

Patients to whom this Part of this Act applies

23.—(1) A person who is suffering from any mental disorder that requires or is susceptible to medical treatment may be admitted to a hospital or received into guardianship in pursuance of the appropriate application under the following provisions of this Act; but, without prejudice to the said provisions so far as relating to emergency admission, no person over the age of twenty-one years shall be so admitted or received except where the mental disorder from which he suffers—

Patients liable to be detained in hospital or subject to guardianship.

- (a) is mental deficiency such that he is incapable of living an independent life or of guarding himself against serious exploitation; or
- (b) is a mental illness other than a persistent disorder which is manifested only by abnormally aggressive or seriously irresponsible conduct.

(2) Subject to the provisions of this Part of this Act relating to the duration of authority for the detention and guardianship of patients and to their discharge, a patient who has been admitted or received as aforesaid shall be liable to be detained in a hospital or subject to guardianship until the date on which he attains the age of twenty-five years when he shall cease to be so liable or so subject unless—

- (a) one of the exceptions mentioned in paragraphs (a) and (b) of the last foregoing subsection applies to him; or
- (b) in the case of a patient liable to be detained in a hospital, he would be likely to act in a manner dangerous to himself or others.

(3) Nothing in this Act shall be construed as preventing a patient who requires treatment for mental disorder from being admitted to any hospital or nursing home for that treatment in pursuance of arrangements made in that behalf without any

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application, recommendation or order rendering him liable to be detained under this Act, or from remaining in any hospital in pursuance of such arrangements if he has ceased to be so liable to be detained.

Procedure for admission and reception of patients

Admission
and detention
of patients.

24.—(1) A patient may be admitted to a hospital and there detained for the period allowed by the provisions of this Part of this Act in pursuance of an application in the prescribed form (in this Act referred to as “an application for admission”) approved by the sheriff and made in accordance with the said provisions.

(2) An application for admission shall be founded on and accompanied by two medical recommendations which shall be in the prescribed form and each such recommendation shall include the following statements, being statements of opinion, and the grounds on which each statement is based—

- (a) a statement of the form of mental disorder from which the patient is suffering, being mental illness or mental deficiency or both ;
- (b) a statement that the said disorder requires or is susceptible to medical treatment and is of a nature or degree which warrants the patient's detention in a hospital for such treatment ; and
- (c) a statement that the interests of the health or safety of the patient or the protection of other persons cannot be secured otherwise than by such detention as aforesaid.

(3) An application for admission shall be of no effect unless the patient is described in each of the medical recommendations as suffering from the same form of mental disorder, whether or not he is described in either of those recommendations as suffering also from the other form.

Guardianship
of patients.

25.—(1) A patient may be received into guardianship for the period allowed by the following provisions of this Part of this Act, in pursuance of an application in the prescribed form (in this Act referred to as “a guardianship application”) approved by the sheriff and made in accordance with the said provisions.

(2) Every such application shall, after it is approved by the sheriff, be forwarded to the local health authority for the area in which the patient resides.

(3) The person named as guardian in a guardianship application may be—

- (a) the local health authority to whom the application is addressed ; or
- (b) a person chosen by that authority ; or

(c) any other person who has been accepted as a suitable person to act in that behalf by that authority ;
and any person chosen or accepted as aforesaid may be a local health authority or any other person including the applicant.

(4) A guardianship application shall be founded on and accompanied by two medical recommendations which shall be in the prescribed form and each such recommendation shall include the following statements, being statements of opinion, and the grounds on which each statement is based—

- (a) a statement of the form of mental disorder from which the patient is suffering, being mental illness or mental deficiency or both ;
- (b) a statement that the said disorder requires or is susceptible to medical treatment and is of a nature or degree which warrants the patient's reception into guardianship ; and
- (c) a statement that it is necessary in the interests of the health or safety of the patient or for the protection of other persons that the patient should be so received.

(5) A guardianship application shall be of no effect unless the patient is described in each of the medical recommendations as suffering from the same form of mental disorder, whether or not he is described in either of those recommendations as suffering also from the other form.

26.—(1) Subject to the provisions of this section, an application for admission or a guardianship application may be made either by the nearest relative of the patient or by a mental health officer ; and every such application shall be addressed to the board of management of the hospital to which admission is sought or, in the case of a guardianship application, to the local health authority for the area in which the patient resides.

General provisions as to applications.

(2) It shall be the duty of a mental health officer who proposes to make an application for admission or a guardianship application to take such steps as are reasonably practicable to inform the nearest relative of the patient of the proposed application, and of his right to object thereto in accordance with the provisions of section twenty-eight of this Act.

(3) A person shall not make an application for admission or a guardianship application unless that person has personally seen the patient within the period of fourteen days ending with the date on which the proposed application is submitted to the sheriff for his approval.

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Medical
recommenda-
tions.

27. The medical recommendations required for the purposes of an application for admission or for a guardianship application shall satisfy the following requirements—

- (a) such recommendations shall be signed on or before the date of the application and shall be given by medical practitioners (neither being the applicant) who have personally examined the patient separately at an interval of not more than seven days or, where no objection has been made by the patient or his nearest relative, together ;
- (b) one of the recommendations shall be given by a practitioner approved for the purposes of this section by a Regional Hospital Board as having special experience in the diagnosis or treatment of mental disorder and the other recommendation shall, if practicable, be given by the patient's general medical practitioner or another medical practitioner who has previous acquaintance with him ;
- (c) in the case of an application for admission, neither recommendation shall be given by a practitioner on the staff of the hospital named in the application where the patient is to be accommodated under section five of the National Health Service (Scotland) Act, 1947 (which relates to accommodation for private patients) or in a private hospital, and where the patient is to be accommodated otherwise one only of the recommendations may be given by such a practitioner as aforesaid ;
- (d) not more than one of the recommendations may be given by a medical officer in the service of a local authority ; and
- (e) such recommendations shall contain a statement as to whether the person signing the recommendation is related to the patient and of any pecuniary interest that that person may have in the admission of the patient to hospital or his reception into guardianship.

Approval of
applications
by the sheriff.

28.—(1) An application for admission or a guardianship application shall be submitted to the sheriff for his approval within seven days of the last date on which the patient was examined for the purposes of any medical recommendation accompanying the application, together with, in the case of a guardianship application, a statement of the willingness to act of the guardian named in the application.

(2) Subject to the following provisions of this section, the sheriff, in considering an application submitted to him under this section, may make such inquiries and hear such persons (including the patient) as he thinks fit, and, where an application

is the subject of objection by the nearest relative of the patient, shall afford that relative and any witness that relative may call an opportunity of being heard.

(3) The sheriff shall not withhold approval to an application so submitted without affording to the applicant and any witness the applicant may call an opportunity of being heard.

(4) Any proceedings under this section shall, where the patient or applicant so desires or the sheriff thinks fit, be conducted in private.

(5) The sheriff in the exercise of the functions conferred on him by this section shall have the like jurisdiction, and the like powers as regards the summoning and examination of witnesses, the administration of oaths, the awarding of expenses and otherwise, as if he were acting in the exercise of his civil jurisdiction.

29.—(1) Where an application for admission has been approved by the sheriff, that application shall be sufficient authority for the removal of the patient to the hospital named in the application and, when the application has been forwarded to the board of management, for the admission of the patient to that hospital at any time within a period of seven days from the date on which the sheriff approved the application and for his detention there in accordance with the provisions of this Act. Effect of applications.

(2) Where a patient has been admitted to a hospital or received into guardianship in pursuance of an application under this Part of this Act, it shall be the duty of the board of management of the hospital or the local health authority concerned, as the case may be, to notify the Mental Welfare Commission of that admission or reception together with a copy of the application and medical recommendations relating to the patient's admission or reception, as the case may be, within seven days of its taking place.

(3) Where a patient has been admitted or received as aforesaid, it shall be the duty of the responsible medical officer to examine the patient, or to obtain from another medical practitioner a report on the condition of the patient, within the period of seven days ending on the twenty-eighth day after his admission or reception, as the case may be; and if the responsible medical officer does not discharge the patient, he shall so inform the Mental Welfare Commission, the nearest relative of the patient and the board of management or, as the case may be, the local health authority concerned.

(4) Where a guardianship application has been approved by the sheriff and forwarded to the local health authority within a period of seven days from the date on which the sheriff approved

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the application, the application shall, subject to the following provisions of this section and to regulations made by the Secretary of State, confer on the authority or person named in the application as guardian, to the exclusion of any other person, all such powers as would be exercisable by them or him in relation to the patient if they or he were the father of the patient and the patient were a pupil child.

(5) Nothing in the provisions of the last foregoing subsection or of regulations made thereunder shall confer any power on a guardian in respect of a patient received into his guardianship to intrude with any property of that patient.

(6) No person who is appointed as a guardian of a patient under this Act shall administer corporal punishment to that patient, and any person who contravenes the provisions of this subsection shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty pounds and the court shall intimate the conviction to the Mental Welfare Commission.

Rectification
of application
and recom-
mendations.

30.—(1) If within the period of fourteen days beginning with the day on which a patient has been admitted to a hospital or received into guardianship in pursuance of an application for admission or, as the case may be, of a guardianship application, the application, or any medical recommendation given for the purposes of the application, is found to be in any respect incorrect or defective, the application or recommendation may, not later than seven days after the expiration of the said period, with the approval of the sheriff, be amended by the person by whom it was signed; and upon such amendment being made the application or recommendation shall have effect, and shall be deemed to have had effect, as if it had been originally made as so amended.

(2) Without prejudice to the provisions of the last foregoing subsection, if within the period first mentioned therein it appears to the board of management of the hospital or to the local health authority, as the case may be, that one of the two medical recommendations on which the application for admission or a guardianship application is founded is insufficient to warrant the detention of the patient or his reception into guardianship in pursuance of the application, they may within that period give notice in writing to that effect to the applicant and to the sheriff; and where any such notice is given in respect of a medical recommendation that recommendation shall be disregarded, but the application shall be, and shall be deemed always to have been, sufficient if—

(a) a fresh medical recommendation complying with the relevant provisions of this Part of this Act (other than the provisions relating to the time of signature and the interval between examinations) is furnished to the

person to whom the application is addressed and to the sheriff ; and

(b) the sheriff is satisfied that that recommendation and the other recommendation on which the application is founded together comply with those provisions.

(3) Where the medical recommendations upon which an application under this Part of this Act is founded are, taken together, insufficient to warrant the detention or reception into guardianship in pursuance of the application, a notice under subsection (2) of this section may be given in respect of either of those recommendations ; but this subsection shall not apply in a case where the application is of no effect by virtue of subsection (3) of section twenty-four or subsection (5) of section twenty-five of this Act.

31.—(1) In any case of urgent necessity a recommendation (in this Act referred to as “ an emergency recommendation ”) may be made by a medical practitioner in respect of a patient stating that by reason of mental disorder it is urgently necessary for him to be admitted and detained in a hospital in pursuance of an application under section twenty-four of this Act, but that compliance with the provisions of this Part of this Act relating to such an application, before the admission of the patient to a hospital, would involve undesirable delay. Emergency admission.

(2) Except in the case of a recommendation to which the next following section refers, an emergency recommendation shall not be made unless, where practicable, the consent of a relative or of a mental health officer has been obtained ; and the recommendation shall be accompanied by a statement that such a consent as aforesaid has been obtained or, as the case may be, by a statement of the reasons for the failure to obtain that consent.

(3) An emergency recommendation shall be sufficient authority for the removal of the patient to a hospital at any time within a period of three days from the date on which it was made and for his detention therein for a period not exceeding seven days.

(4) An emergency recommendation shall be made only by a medical practitioner who has personally examined the patient on the day on which he signed the recommendation.

(5) Where a patient is admitted to a hospital in pursuance of this section, it shall, where practicable, be the duty of the board of management without delay to inform the nearest relative of the patient and, except in the case of a patient referred to in the next following section, some responsible person residing with the patient.

PART IV
Detention of
patients
already in
hospital.

32. An application for admission or an emergency recommendation may be made under this Part of this Act notwithstanding that the patient is already in a hospital; and where the application or recommendation is made in such a case the patient shall be treated for the purposes of this Part of this Act as if he had been admitted to the hospital on the date on which the application was forwarded to the board of management of the hospital, or, as the case may be, the recommendation was made.

Care and Treatment of Patients

Regulations
as to
guardianship.

33.—(1) Subject to the provisions of this Part of this Act, the Secretary of State may make regulations for regulating the exercise by the guardians of patients received into guardianship under this Part of this Act of their powers as such, and for imposing on such guardians, and upon any local health authority concerned, such duties as he considers necessary or expedient in the interests of the patients.

(2) Regulations under this section may in particular make provision for requiring the patients to be visited, on such occasions or at such intervals as may be prescribed by the regulations, on behalf of such local health authorities as may be so prescribed.

Corres-
pondence of
patients.

34.—(1) Any postal packet addressed to a patient detained in a hospital under this Part of this Act may be withheld from the patient if, in the opinion of the responsible medical officer, the receipt of the packet would be calculated to interfere with the treatment of the patient or to cause him unnecessary distress; and any packet so withheld shall, if the name and address of the sender are sufficiently identified therein, be returned to him with a statement of the reason for withholding the packet.

(2) Subject to the provisions of this section, any postal packet addressed by a patient so detained and delivered by him for dispatch may be withheld from the Post Office—

- (a) if the addressee has given notice in writing to the board of management or to the responsible medical officer requesting that communications addressed to him by the patient should be withheld; or
- (b) if it appears to that officer that the packet would be unreasonably offensive to the addressee, or is defamatory of a person (other than a person on the staff of the hospital) or would be likely to prejudice the interests of the patient:

Provided that this subsection does not apply to any postal packet addressed to any of the following—

- (i) the nearest relative of the patient;

- (ii) the Secretary of State ;
- (iii) the Lord Advocate ;
- (iv) any Member of the Commons House of Parliament ;
- (v) the Mental Welfare Commission or any commissioner thereof ;
- (vi) any sheriff or sheriff clerk ;
- (vii) the board of management of the hospital ;

and regulations made by the Secretary of State may except from this subsection, subject to such conditions or limitations (if any) as may be prescribed by the regulations, postal packets addressed to such other person or classes of persons as may be so prescribed.

(3) Nothing in paragraph (b) of subsection (2) of this section shall be construed as authorising a responsible medical officer to open or examine the contents of any postal packet unless he is of opinion that the patient is suffering from mental disorder of a kind calculated to lead him to send such communications as are referred to in that paragraph.

(4) Except as provided by this section, it shall not be lawful to prevent or impede the delivery to a patient detained as aforesaid of any postal packet addressed to him and delivered by the Post Office, or the delivery to the Post Office of any postal packet addressed by such a patient and delivered by him for dispatch.

(5) This section shall apply in relation to a patient who is subject to guardianship under this Part of this Act as it applies in relation to a patient who is detained in a hospital thereunder, and as if—

- (a) for any reference to the board of management of the hospital there were substituted a reference to the local health authority concerned ; and
- (b) for any reference to the responsible medical officer there were substituted a reference to the guardian or any person authorised by the guardian to act for the purposes of this section.

(6) In this section “postal packet” has the same meaning as in the Post Office Act, 1953 ; and the provisions of this section shall have effect notwithstanding anything in section fifty-six of that Act.

35.—(1) The responsible medical officer may grant to any patient who is for the time being liable to be detained in a hospital under this Part of this Act leave to be absent from the hospital. Leave of absence from hospital.

(2) Leave of absence may be granted to a patient under this section either on specified occasions or for any specified period

PART IV of not more than six months ; and where leave is so granted for a specified period it may be extended for further such periods as aforesaid.

(3) Where it appears to the responsible medical officer that it is necessary so to do in the interests of the patient or for the protection of other persons, he may, upon granting leave of absence under this section, direct that the patient remain in custody during his absence ; and where leave of absence is so granted the patient may be kept in the custody of any officer on the staff of the hospital, or of any other person authorised in writing by the board of management of the hospital.

(4) Where leave of absence is granted to a patient under this section or where a period of leave is extended by further leave and the leave or the extension is for a period of more than twenty-eight days, it shall be the duty of the responsible medical officer to inform the Mental Welfare Commission within fourteen days of the granting of leave or of the extension, as the case may be, of the address at which the patient is residing and, on the return of the patient, to notify the Commission thereof within fourteen days.

(5) In any case where a patient is absent from a hospital in pursuance of leave of absence granted under this section, and it appears to the responsible medical officer that it is necessary so to do in the interests of the health or safety of the patient or for the protection of other persons, that officer may, subject to subsection (6) of this section, by notice in writing given to the patient or to the person for the time being in charge of the patient, revoke the leave of absence and recall the patient to the hospital.

(6) A patient to whom leave of absence is granted under this section shall not be recalled under the last foregoing subsection after he has ceased to be liable to be detained under this Part of this Act.

Return and
re-admission
of patients
absent without
leave.

36.—(1) Where a patient who is for the time being liable to be detained under this Part of this Act in a hospital—

- (a) absents himself from the hospital without leave granted under section thirty-five of this Act ; or
- (b) fails to return to the hospital on any occasion on which, or at the expiration of any period for which, leave of absence was granted to him under that section, or upon being recalled thereunder ; or
- (c) absents himself without permission from any place where he is required to reside in accordance with conditions imposed on the grant of leave of absence under that section,

he may, subject to the provisions of this section, be taken into custody and returned to the hospital or place by any mental health officer, by any officer on the staff of the hospital, by any constable, or by any person authorised in writing by the board of management of the hospital.

(2) Where a patient who is for the time being subject to guardianship under this Part of this Act absents himself without the leave of the guardian from the place at which he is required by the guardian to reside, he may, subject to the provisions of this section, be taken into custody and returned to that place by the guardian, by any officer on the staff of a local health authority, by any constable, or by any person authorised in writing by the guardian or a local health authority.

(3) A patient shall not be taken into custody under this section after the expiration of the following period (beginning with the first day of his absence without leave), that is to say—

- (a) in the case of a patient who is liable to be detained in a hospital or who is subject to guardianship by reason of his suffering from mental deficiency, three months ;
- (b) in the case of a patient liable to be detained in pursuance of an emergency recommendation, seven days ;
- (c) in any other case, twenty-eight days ;

and a patient who has not returned or been taken into custody under this section within the said period shall cease to be liable to be detained or subject to guardianship, as the case may be, at the expiration of that period.

37.—(1) (a) A patient who is for the time being liable to be detained in a hospital by virtue of an application for admission under this Part of this Act may be transferred by the board of management of that hospital, as follows—

Transfer of patients.

- (i) to another hospital with the consent of the board of management of that other hospital ; or
- (ii) into the guardianship of a local health authority with the consent of that authority ; or
- (iii) into the guardianship of any person approved by such an authority with the consent of that person ; and

(b) a patient who is for the time being subject to the guardianship of any person, including a local health authority, by virtue of a guardianship application may be transferred by the local health authority concerned into the guardianship of another such person with the consent of that other person or be transferred to a hospital with the consent of the Mental Welfare Commission and of the board of management of the hospital ; but no patient

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shall be so transferred except with the consent of his guardian, or, if that consent is refused, with the approval of the sheriff to the transfer.

(2) Any transfer of a patient under the last foregoing subsection shall be intimated to his nearest relative and to the Mental Welfare Commission by the board of management of the hospital to which the patient is transferred or, as the case may be, by the local health authority concerned within seven days of the date of transfer.

(3) Where a patient is transferred in pursuance of this section, the provisions of this Part of this Act (including this subsection) shall apply to him as follows, that is to say—

- (a) where the patient, being liable to be detained in a hospital by virtue of an application for admission, is transferred to another hospital, as if the application were an application for admission to that other hospital, and as if the patient had been admitted to that other hospital at the time when he was originally admitted in pursuance of the application ;
- (b) where the patient, being liable to be detained as aforesaid, is transferred into guardianship, as if the application were a guardianship application duly forwarded to the local health authority at the time aforesaid ;
- (c) where the patient, being subject to guardianship by virtue of a guardianship application, is transferred into the guardianship of another authority or person, as if the application were for his reception into the guardianship of that authority or person and had been forwarded at the time when it was originally forwarded to the local health authority concerned ;
- (d) where the patient, being subject to guardianship as aforesaid, is transferred to a hospital, as if the guardianship application were an application for admission to that hospital and as if the patient had been admitted to the hospital at the time when the application was originally forwarded.

Transfer of guardianship in case of death, incapacity, etc., of guardian.

38.—(1) If any person (other than a local health authority) having the guardianship of a patient received into guardianship under this Part of this Act—

- (a) dies ; or
- (b) gives notice in writing to the local health authority concerned that he desires to relinquish the functions of guardian,

the guardianship of the patient shall thereupon vest in the local health authority concerned, but without prejudice to any power

to transfer the patient into the guardianship of another person under the last foregoing section. PART IV

(2) If any such person, not having given notice under paragraph (b) of subsection (1) of this section, is incapacitated by illness or any other cause from performing the functions of guardian of the patient, those functions may, during his incapacity, be performed on his behalf by the local health authority concerned, or by any other person approved for the purpose by that authority.

(3) Where the guardianship of a patient is transferred to a local health authority or other person by or under this section, paragraph (c) of subsection (3) of the last foregoing section shall apply as if the patient had been transferred into the guardianship of that authority or person in pursuance of that section.

*Duration of authority for detention or guardianship
and discharge of patients*

39.—(1) Subject to the provisions of this Part of this Act, a patient admitted to a hospital in pursuance of an application for admission, and a patient received into guardianship in pursuance of a guardianship application, may be detained in a hospital or kept under guardianship for a period not exceeding one year beginning with the day on which he was so admitted or so received, but shall not be so detained or kept for any longer period unless the authority for his detention or guardianship is renewed under the following provisions of this section. Duration of
authority.

(2) Authority for the detention or guardianship of a patient may, unless the patient has previously been discharged, be renewed under this section—

- (a) from the expiration of the period referred to in subsection (1) of this section, for a further period of one year;
- (b) from the expiration of any period of renewal under paragraph (a) of this subsection, for a further period of two years,

and so on for periods of two years at a time.

(3) Within the period of two months ending on the day on which a patient who is liable to be detained in pursuance of an application for admission would cease under this section to be so liable in default of the renewal of the authority for his detention, it shall be the duty of the responsible medical officer to obtain from another medical practitioner a report on the condition of the patient in the prescribed form and thereafter to assess the need for the detention of the patient to be continued; and if it appears to him that it is necessary in the interests of the health or safety of the patient or for the protection of other persons that the patient should continue to be liable to be detained, he

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shall furnish to the board of management of the hospital where the patient is liable to be detained and to the Mental Welfare Commission a report to that effect in the prescribed form along with the report first mentioned.

(4) Within the period of two months ending with the day on which a patient who is subject to guardianship under this Part of this Act would cease under this section to be so liable in default of the renewal of the authority for his guardianship, it shall be the duty of the responsible medical officer to obtain from another medical practitioner a report on the condition of the patient in the prescribed form and thereafter to assess the need for the guardianship of the patient to be continued; and, if it appears to him that it is necessary in the interests of the health or safety of the patient or for the protection of other persons that the patient should remain under guardianship, he shall furnish to the local health authority concerned and to the Mental Welfare Commission a report to that effect in the prescribed form along with the report first mentioned.

(5) Subject to subsection (7) of this section, where a report is duly furnished under subsection (3) or subsection (4) of this section, the authority for the detention or guardianship of the patient shall be thereby renewed for the period prescribed in that case by subsection (2) of this section.

(6) Where a report under this section is furnished in respect of a patient the board of management or the local health authority, as the case may be, shall, unless they discharge the patient, cause him, his nearest relative and, in the case of a patient subject to guardianship, his guardian, to be informed.

(7) Any patient who has attained the age of sixteen years may, within the period for which the authority for his detention or guardianship is renewed by virtue of a report furnished in respect of him under this section, appeal to the sheriff to order his discharge.

Detention or guardianship of certain patients after the age of twenty-five.

40.—(1) For the purpose of determining whether a patient falling within either of the following categories, that is to say—

- (a) a patient admitted to a hospital or received into guardianship by reason of his suffering from mental deficiency who has been continuously liable to be detained in a hospital or subject to guardianship since he attained the age of twenty-one; or
- (b) a patient admitted to a hospital or received into guardianship by reason of his suffering from a mental disorder being a mental illness which is a persistent disorder manifested only by abnormally aggressive or seriously irresponsible conduct,

ought to be detained or remain so subject after the date on which he attains the age of twenty-five, as being a patient referred to

PART IV

in paragraph (a) or (b) of subsection (2) of section twenty-three of this Act, it shall be the duty of the responsible medical officer, within a period of two months before the patient attains his twenty-fifth birthday, to obtain from another medical practitioner a report on the condition of the patient in the prescribed form and thereafter to assess the need for the detention or guardianship of the patient to be continued; and, if it appears to him that the patient is suffering from a mental disorder which would warrant his admission to a hospital or his reception into guardianship under this Part of this Act or, in the case of a patient liable to be detained in a hospital, that he would be likely to act in a manner dangerous to other persons or to himself, he shall furnish to the board of management or, as the case may be, to the local health authority concerned and to the Mental Welfare Commission a report to that effect in the prescribed form along with the report first mentioned.

(2) Subject to the provisions of the next following subsection, where a report is duly furnished under this section the authority for the detention or guardianship of the patient shall be thereby renewed, and shall continue in force accordingly after the patient attains the age of twenty-five, but without prejudice to the application to the patient of the provisions of the last foregoing section of this Act.

(3) Where a report under this section is furnished in respect of a patient, the board of management or the local health authority concerned, as the case may be, shall cause the patient, and the nearest relative of the patient to be informed forthwith, and the patient or that relative may, within the period of twenty-eight days beginning with the day on which the patient attains the age of twenty-five years, appeal to the sheriff to order the discharge of the patient.

41.—(1) If on the day on which, apart from this section, a patient would cease to be liable to be detained or subject to guardianship under this Part of this Act or within the period of one week ending with that day, the patient is absent without leave, he shall not cease to be so liable or so subject—

Special provisions as to patients absent without leave.

(a) in any case, until the expiration of the period during which he can be taken into custody under section thirty-six of this Act, or the day on which he returns or is returned to the hospital or place where he ought to be, whichever is the earlier; and

(b) if he returns or is returned as aforesaid within the period first mentioned in the foregoing paragraph, until the expiration of the period of one week beginning with the day on which he is returned or returns as aforesaid.

(2) Where the period for which a patient is liable to be detained or subject to guardianship is extended by virtue of this section,

PART IV any examination and report to be made and furnished under subsection (3) or subsection (4) of section thirty-nine or subsection (1) of section forty of this Act may be made and furnished within that period as so extended.

(3) Where the authority for the detention or guardianship of a patient is renewed by virtue of this section after the day on which, apart from this section, that authority would have expired under section thirty-nine or section forty of this Act, the renewal shall take effect as from that day.

Special provisions as to patients sentenced to imprisonment, etc.

42.—(1) Where a patient who is liable to be detained in a hospital or is subject to guardianship under this Part of this Act is detained in custody in pursuance of any sentence or order passed or made by a court in the United Kingdom (including an order committing or remanding him in custody) and is so detained for a period exceeding six months, he shall, at the end of that period, cease to be so liable or so subject.

(2) Where any such patient is detained in custody as aforesaid for a period not exceeding six months, or for successive periods that do not in the aggregate exceed six months, then—

(a) if apart from this subsection the patient would have ceased to be liable to be detained or to be subject as aforesaid on or before the day he is discharged from custody, he shall not cease to be so liable or so subject until the end of that day; and

(b) in any case, sections thirty-six and forty-one of this Act shall apply in relation to the patient as if he had absented himself without leave on that day.

Discharge of patients.

43.—(1) Subject to the provisions of this and the next following section, a patient who is for the time being liable to be detained in a hospital or subject to guardianship under this Part of this Act shall cease to be so liable or so subject if an order in writing discharging him from detention or guardianship (in this Act referred to as “an order for discharge”) is made in accordance with the following provisions of this section.

(2) An order for discharge shall be made in respect of a patient by the responsible medical officer or the Mental Welfare Commission where he or they are satisfied in the case of a patient liable to be detained or subject to guardianship as aforesaid—

(a) that he is not suffering from mental disorder; or

(b) that, having regard to the care or supervision which would be available for the patient if he were discharged, it is not necessary in the interests of his health or safety,

or for the protection of other persons that he should continue to be liable to be detained or subject to guardianship.

(3) An order for discharge may be made in respect of a patient by the responsible medical officer, the Mental Welfare Commission or, where an appeal has been taken under section thirty-nine, forty or forty-four of this Act, by the sheriff:

Provided that such an order shall not be made by the responsible medical officer in respect of a patient detained in a State hospital without the consent of the board of management.

(4) Subject to the provisions of this and the next following section, an order for discharge in respect of a patient may also be made by the nearest relative of the patient or—

(a) by the board of management of the hospital, in the case of a patient liable to be detained in a hospital in pursuance of an application for admission; or

(b) by the local health authority concerned, where the patient is subject to guardianship in pursuance of a guardianship application.

(5) An order for discharge made in respect of a patient by the board of management of a hospital or by the local health authority concerned shall, with the consent of the responsible medical officer, take effect on the expiration of a period of seven days from the date of making of the order, and where he does not so consent it shall be his duty to furnish to that board or, as the case may be, to that authority a report certifying that in his opinion the patient cannot be discharged without being a danger to himself or to others.

44.—(1) Where a report under section forty of this Act has been furnished in respect of a patient, an order for discharge shall not be made by the nearest relative of the patient during the period of six months beginning with the date of the report.

Restrictions
on discharge
by nearest
relative.

(2) An order for the discharge of a patient who is liable to be detained in a hospital or subject to guardianship shall not be made by his nearest relative except after giving not less than seven days' notice in writing to the board of management of the hospital or, as the case may be, to the local health authority concerned; and if within that period the responsible medical officer furnishes to that board or, as the case may be, to that authority a report certifying that, in his opinion, the patient is suffering from a mental disorder of a nature or degree which would warrant his admission to a hospital or his reception into guardianship under this Part of this Act, or, in the case of a patient liable to be detained in a hospital, that the patient, if

PART IV discharged, would be likely to act in a manner dangerous to other persons or to himself,—

(a) any order for the discharge of the patient made by that relative in pursuance of the notice shall be of no effect ;
and

(b) no further order for the discharge of the patient shall be made by that relative during the period of six months beginning with the date of the report.

(3) In any case where a report under subsection (2) of this section is furnished in respect of a patient, the board of management or, as the case may be, the local health authority concerned shall cause the nearest relative of the patient to be informed and that relative may, within the period of twenty-eight days beginning with the day on which he is so informed, appeal to the sheriff to order the discharge of the patient.

(4) An order for discharge in respect of a patient detained in a State hospital shall not be made by the nearest relative.

Functions of relatives of patients

Definition
of relative
and nearest
relative.

45.—(1) For the purposes of this section “relative” means any of the following, that is to say—

- (a) spouse ;
- (b) child ;
- (c) father ;
- (d) mother ;
- (e) brother or sister ;
- (f) grandparent ;
- (g) grandchild ;
- (h) uncle or aunt ;
- (i) nephew or niece.

(2) In deducing relationships for the purposes of this section, an adopted person shall be treated as the child of the person or persons by whom he was adopted and not as the child of any other person ; and an illegitimate person shall be treated as the legitimate child of his mother.

(3) In this Act, subject to the provisions of this section and to the following provisions of this Part of this Act, the “nearest relative” means the person first listed in subsection (1) of this section who is caring for the patient, or was so caring immediately before the admission of the patient to a hospital or his reception into guardianship, failing whom the person first so listed, brothers and sisters of the whole blood being preferred to brothers and sisters of the half-blood, and the elder or eldest

of two or more relatives listed in any paragraph of that subsection being preferred to the other or others of those relatives, regardless of sex.

(4) Where the person who, under subsection (3) of this section, would be the nearest relative of a patient—

- (a) is not ordinarily resident within the United Kingdom ; or
- (b) being the husband or wife of the patient, is permanently separated from the patient, either by agreement or under an order of a court, or has deserted or has been deserted by the patient for a period and the spouse concerned is still in desertion ; or
- (c) not being the husband, wife, father or mother of the patient, is for the time being under twenty-one years of age,

the nearest relative of the patient shall be ascertained without regard to that person.

(5) In this section “ adopted ” means adopted in pursuance of an order for the adoption of any person made under Part I of the Adoption Act, 1958, or any previous enactment relating to the adoption of children, or any corresponding enactment of the Parliament of Northern Ireland, and “ court ” includes a court in England and Wales or Northern Ireland.

(6) In this section “ spouse ” includes a person who is living with the patient as if he or she were the husband or wife of the patient, as the case may be (or, if the patient is for the time being an in-patient in a hospital, was so living until the patient was admitted), and has been or had been so living for a period of not less than six months ; but a person shall not be treated by virtue of this subsection as the nearest relative of a married patient unless the husband or wife of the patient is disregarded by virtue of paragraph (b) of subsection (4) of this section.

46. In any case where the rights and powers of a parent of a patient, being a child or young person, are vested in a local authority or other person by virtue of—

Children and young persons in care of local authority.

- (a) section seventy-nine of the Children and Young Persons (Scotland) Act, 1937 (which relates to children and young persons committed to the care of fit persons under that Act) ;
- (b) section seventy-five of the Children and Young Persons Act, 1933 (which makes corresponding provision in England and Wales) ; or

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(c) section three of the Children Act, 1948 (which relates to children in respect of whom parental rights have been assumed under section two of that Act),

that authority or person shall be deemed to be the nearest relative of the patient in preference to any person except the husband or wife (if any) of the patient, and except, in a case where the said rights and powers are vested in a local authority by virtue of subsection (2) of the said section three, any parent of the patient not being the person on whose account the resolution mentioned in that subsection was passed.

Nearest
relative of
child under
guardianship,
etc.

47.—(1) Where a patient who has not attained the age of twenty-one years—

- (a) is, by virtue of an order made by a court in the exercise of jurisdiction (whether under any enactment or otherwise) in respect of the guardianship of children, or by virtue of a deed or will executed by his father or mother, under the guardianship of a person not being his nearest relative under the foregoing provisions of this Act, or is under the joint guardianship of two persons of whom one is such a person as aforesaid; or
- (b) is, by virtue of an order made by a court in the exercise of such jurisdiction as aforesaid or in matrimonial proceedings, or by virtue of a separation agreement between his father and mother, in the custody of any such person,

the person or persons having the guardianship or custody of the patient shall, to the exclusion of any other person, be deemed to be his nearest relative.

(2) Subsection (4) of section forty-five of this Act shall apply in relation to a person who is, or who is one of the persons, deemed to be the nearest relative of a patient by virtue of this section as it applies in relation to a person who would be the nearest relative under subsection (3) of that section.

(3) A patient shall be treated for the purposes of this section as being in the custody or guardianship of another person if he would be in the custody or guardianship of that other person apart from subsection (4) of section twenty-nine of this Act.

(4) In this section “court” includes a court in England and Wales or Northern Ireland, and “enactment” includes an enactment of the Parliament of Northern Ireland.

Appointment
by sheriff
of acting
nearest
relative.

48.—(1) The sheriff may, upon application made in accordance with the provisions of this section in respect of a patient, by order direct that the functions under this Act of the nearest

relative of the patient shall, during the continuance in force of the order, be exercisable by the applicant, or by any other person specified in the application, being a person who, in the opinion of the sheriff, is a proper person to act as the nearest relative of the patient, and who is willing to do so.

(2) An order under this section may be made on the application of—

- (a) any relative (including the nearest relative) of the patient;
- (b) any other person with whom the patient is residing (or, if the patient is then an in-patient in a hospital, was last residing before he was admitted); or
- (c) a mental health officer,

but in relation to an application made by such an officer subsection (1) of this section shall have effect as if for the words "the applicant" there were substituted the words "the local health authority".

(3) An application for an order under this section may be made upon any of the following grounds, that is to say—

- (a) that the patient has no nearest relative within the meaning of this Act, or that it is not reasonably practicable to ascertain whether he has such a relative or who that relative is;
- (b) that the nearest relative of the patient is incapable of acting as such by reason of mental disorder or other illness;
- (c) where the application is made by the nearest relative of the patient, that he is unwilling or considers it undesirable to continue to act as such.

(4) While an order made under this section is in force, the provisions of this Part of this Act (other than this and the next following section) shall apply in relation to the patient as if for any reference to the nearest relative of the patient there were substituted a reference to the person having the functions of that relative and (without prejudice to the next following section) shall so apply notwithstanding that the person who was the nearest relative of the patient when the order was made is no longer his nearest relative.

49.—(1) An order made under the last foregoing section in respect of a patient may be discharged by the sheriff upon application made—

- (a) by the person having the functions of the nearest relative of the patient by virtue of the order;
- (b) by the nearest relative of the patient.

Discharge and
variation of
orders under
s. 48.

PART IV

(2) An order made under the last foregoing section in respect of a patient may be varied by the sheriff, on the application of the person having the functions of the nearest relative by virtue of the order or on the application of a mental health officer, by substituting for the first-mentioned person a local health authority or any other person who, in the opinion of the sheriff, is a proper person to exercise those functions, being an authority or person who is willing to do so.

(3) If the person having the functions of the nearest relative of a patient by virtue of an order under the last foregoing section dies, the foregoing provisions of this section shall apply as if for any reference to that person there were substituted a reference to any relative of the patient, and until the order is discharged or varied under those provisions the functions of the nearest relative under this Part of this Act shall not be exercisable by any person.

(4) An order under the last foregoing section shall, unless previously discharged under subsection (1) of this section, cease to have effect—

(a) if the patient was on the date of the order liable to be detained in pursuance of an application for admission or subject to guardianship under this Part of this Act, or becomes so liable or so subject within the period of three months beginning with that date, when he ceases to be so liable or so subject (otherwise than on being transferred in pursuance of section thirty-seven of this Act);

(b) if the patient was not on the date of the order, and has not within the said period become, so liable or so subject, at the expiration of that period.

(5) The discharge or variation under this section of an order made under the last foregoing section shall not affect the validity of anything previously done in pursuance of the order.

Supplemental

Duty of mental health officer to make application for admission or guardianship.

50. It shall be the duty of a mental health officer to make an application for admission or a guardianship application in respect of a patient within the area of the local authority by whom that officer was appointed in any case where he is satisfied that such an application ought to be made and is of the opinion, having regard to any wishes expressed by relatives of the patient and to any other relevant circumstances, that it is necessary or proper for the application to be made by him.

Appeals to the sheriff.

51.—(1) Where an appeal lies to the sheriff in respect of a report on a patient under section thirty-nine, section forty, or section forty-four of this Act, it shall be the duty of the board of management of the hospital where the patient is liable to be

detained or of the local health authority concerned, as the case may be, when intimating that a report has been furnished in pursuance of any of the said sections, to inform any person having a right so to appeal, whether the patient or his nearest relative, or both, of that right, and of the period within which it may be exercised.

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(2) In considering any such appeal the sheriff shall have the like jurisdiction and the like powers and duties as he has in considering a submission for the approval of an application under this Part of this Act.

(3) For the purpose of advising whether such an appeal as aforesaid should be made by or in respect of a patient who is liable to be detained or subject to guardianship under this Part of this Act, or of furnishing information as to the condition of a patient for the purposes of such an appeal, any medical practitioner authorised by or on behalf of the patient or by the nearest relative of the patient, as the case may be, may, at any reasonable time, visit the patient and may examine him in private.

52. The Secretary of State may make regulations for prescribing anything which, under this Part of this Act, is required or authorised to be prescribed. Regulations
for purposes
of Part IV.

53.—(1) In this Part of this Act the expression “responsible medical officer” means— Interpretation
of Part IV.

- (a) in relation to a patient who is liable to be detained in a hospital, any medical practitioner employed on the staff of that hospital who may be authorised by the board of management to act (either generally or in any particular case or class of case or for any particular purpose) as the responsible medical officer;
- (b) in relation to a patient subject to guardianship, the medical officer of health of the local health authority concerned or any other medical practitioner authorised by that authority to act (either generally or in any particular case or class of case or for any particular purpose) as the responsible medical officer.

(2) In relation to a patient who is subject to guardianship under this Part of this Act, any reference in this Act to the local health authority concerned is a reference—

- (a) where a guardianship application is effective, to the local health authority to whom that application is addressed;
- (b) where the patient has been transferred to guardianship by the board of management of a hospital under subsection (1) of section thirty-seven of this Act, to the local health authority who received him into guardianship or approved his guardian.

(3) In this Act the expression “absent without leave” means absent from any hospital or other place and liable to be taken into custody and returned under section thirty-six of this Act, and kindred expressions shall be construed accordingly.

PART V

DETENTION OF PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS,
ETC., AND TRANSFER OF PATIENTS UNDER SENTENCE*Provisions for compulsory detention and guardianship of patients
charged with offences, etc.*

Power of
court to
commit to
hospital.

54.—(1) Where a court remands or commits for trial a person charged with any offence who appears to the court to be suffering from mental disorder, and the court is satisfied that a hospital is available for his admission and suitable for his detention, the court may, instead of remanding him in custody, commit him to that hospital.

(2) Where any person is committed to a hospital as aforesaid, the hospital shall be specified in the warrant and, if the responsible medical officer is satisfied that he is suffering from mental disorder of a nature or degree which warrants his admission to a hospital under Part IV of this Act, he shall there be detained for the period for which he is remanded or the period of committal, unless before the expiration of that period he is liberated in due course of law.

(3) When the responsible medical officer has examined the person so detained he shall report the result of that examination to the court and, where the report is to the effect that the person is not suffering from mental disorder of such a nature or degree as aforesaid, the court may commit him to any prison or other institution to which he might have been committed had he not been committed to hospital or may otherwise deal with him according to law.

(4) No person shall be committed to a hospital under this section except on the written or oral evidence of a medical practitioner.

Powers of
courts to
order hospital
admission or
guardianship.

55.—(1) Where a person is convicted in the High Court of Justiciary or the sheriff court of an offence, other than an offence the sentence for which is fixed by law, punishable by that court with imprisonment, and the following conditions are satisfied, that is to say—

- (a) the court is satisfied, on the written or oral evidence of two medical practitioners (complying with the provisions of section fifty-seven of this Act) that the offender is suffering from mental disorder of a nature or degree which, in the case of a person under twenty-one years of age would warrant his admission to a hospital or his reception into guardianship under Part IV of this Act; and

- (b) the court is of opinion, having regard to all the circumstances including the nature of the offence and the character and antecedents of the offender, and to the other available methods of dealing with him, that the most suitable method of disposing of the case is by means of an order under this section,

the court may by order authorise his admission to and detention in such hospital as may be specified in the order or, as the case may be, place him under the guardianship of such local health authority, or of such other person approved by a local health authority as may be so specified:

Provided that, where his case is remitted by the sheriff to the High Court of Justiciary for sentence under any enactment, the power to make an order under this subsection shall be exercisable by that Court.

(2) Where a person is charged summarily in the sheriff court with an act or omission as an offence and a finding has been recorded in respect of that person under subsection (7) of section sixty-three of this Act, the court shall make such an order for his admission to and detention in a hospital as may be made under the last foregoing subsection.

(3) Where in the case of a person charged as aforesaid the court would have power, on convicting him, to make an order under subsection (1) of this section, then, if it is satisfied that the person did the act or made the omission charged, the court may, if it thinks fit, make such an order without convicting him.

(4) Where a person is charged before a court of summary jurisdiction, other than a sheriff court, with any act or omission constituting an offence punishable with imprisonment, the court, if it appears to it that that person may be suffering from mental disorder, shall remit him to the sheriff court in the manner provided by section five of the Summary Jurisdiction (Scotland) Act, 1954, and the sheriff court shall, on any such remit being made, have the like power to make an order under subsection (1) of this section in respect of him as if he had been charged before that court with the said act or omission as an offence, or in dealing with him may exercise the like powers as the court making the remit.

(5) Where it appears to the prosecutor in any court before which a person is charged with an offence that the person may be suffering from mental disorder, it shall be the duty of such prosecutor to bring before the court such evidence as may be available of the mental condition of that person.

(6) An order for the admission of a person to a hospital (in this Act, referred to as "a hospital order") shall not be made under this section in respect of an offender or of a person to whom subsection (3) of this section applies unless the court is

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satisfied that that hospital, in the event of such an order being made by the court, is available for his admission thereto within twenty-eight days of the making of such an order.

(7) A State hospital shall not be specified in a hospital order in respect of the detention of a person unless the court is satisfied, on the evidence of the medical practitioners which is taken into account under paragraph (a) of subsection (1) of this section, that the offender, on account of his dangerous, violent or criminal propensities, requires treatment under conditions of special security, and cannot suitably be cared for in a hospital other than a State hospital.

(8) An order placing a person under the guardianship of a local health authority or of any other person (in this Act referred to as "a guardianship order") shall not be made under this section unless the court is satisfied that that authority or person is willing to receive that person into guardianship.

(9) A hospital order or guardianship order shall specify the form of mental disorder, being mental illness or mental deficiency or both, from which, upon the evidence taken into account under paragraph (a) of subsection (1) of this section, the offender is found by the court to be suffering; and no such order shall be made unless the offender is described by each of the practitioners, whose evidence is taken into account as aforesaid, as suffering from the same form of mental disorder, whether or not he is also described by either of them as suffering from the other form.

(10) Where an order is made under this section, the court shall not pass sentence of imprisonment or impose a fine or make a probation order in respect of the offence, but may make any other order which the court has power to make apart from this section; and for the purposes of this subsection "sentence of imprisonment" includes any sentence or order for detention, including an order sending an offender to an approved school.

Additional
powers in
respect of
children and
young persons.

56.—(1) If in the case of a child or young person brought before a juvenile court under section sixty-six or section sixty-eight of the Children and Young Persons (Scotland) Act, 1937,—

(a) the court is satisfied that the child or young person is in need of care or protection, or that his parent or guardian is unable to control him, as the case may be; and

(b) the conditions which, under section fifty-five of this Act, are required to be satisfied for the making of a hospital order or guardianship order in respect of a person convicted as therein mentioned are, so far as applicable, satisfied in the case of the child or young person,

the court, where that court is a sheriff court, shall have the like power to make a hospital order or guardianship order as if the child or young person had been convicted by the court of an offence punishable with imprisonment and, where the court is a juvenile court other than the sheriff court, shall remit him to the sheriff court and that court shall have the like power as aforesaid and may in dealing with him exercise the like powers as a juvenile court; and the provisions of the said section fifty-five shall, with the necessary modifications, apply accordingly.

(2) A court shall not make a hospital order or guardianship order in respect of a person brought before the court under section sixty-eight of the Children and Young Persons (Scotland) Act, 1937, as being beyond the control of his parent or guardian, unless the court is satisfied that the parent or guardian understands the results which will follow from the order and consents to its being made.

(3) Where a hospital order is made by virtue of this section in respect of a child or young person, the court may also make an order committing him to the care of a fit person under the Children and Young Persons (Scotland) Act, 1937; but, except as aforesaid, no order shall be made under section sixty-six or sixty-eight of that Act in conjunction with a hospital order or guardianship order.

(4) Where it appears to any person bringing a child or young person before any court that the child or young person may be suffering from mental disorder, it shall be the duty of that person to bring before the court such evidence as may be available of the mental condition of that child or young person.

57.—(1) Of the medical practitioners whose evidence is taken into account under paragraph (a) of subsection (1) of section fifty-five of this Act, at least one shall be a practitioner approved for the purposes of section twenty-seven of this Act by a Regional Hospital Board as having special experience in the diagnosis or treatment of mental disorder. Requirements as to medical evidence.

(2) For the purposes of the said paragraph (a) a report in writing purporting to be signed by a medical practitioner may, subject to the provisions of this section, be received in evidence without proof of the signature or qualifications of the practitioner; but the court may, in any case, require that the practitioner by whom such a report was signed be called to give oral evidence.

(3) Where any such report as aforesaid is tendered in evidence, otherwise than by or on behalf of the accused, then—

(a) if the accused is represented by counsel or solicitor, a copy of the report shall be given to his counsel or solicitor;

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- (b) if the accused is not so represented, the substance of the report shall be disclosed to the accused or, where he is a child or young person, to his parent or guardian if present in court ;
- (c) in any case, the accused may require that the practitioner by whom the report was signed be called to give oral evidence, and evidence to rebut the evidence contained in the report may be called by or on behalf of the accused ;

and where the court is of opinion that further time is necessary in the interests of the accused for consideration of that report, or the substance of any such report, it shall adjourn the case.

(4) For the purpose of calling evidence to rebut the evidence contained in any such report as aforesaid, arrangements may be made by or on behalf of an accused person detained in a hospital for his examination by any medical practitioner, and any such examination may be made in private.

(5) In relation to a child or young person brought before a juvenile court under section sixty-six or section sixty-eight of the Children and Young Persons (Scotland) Act, 1937, or before a sheriff court under a remit in pursuance of the last foregoing section, subsection (3) of this section shall have effect as if for references to the accused there were substituted references to the child or young person, subsection (4) shall have effect as if for the reference to an accused person there was substituted a reference to a child or young person ; and, in the case of a child or young person brought before the court under the said section sixty-eight, paragraphs (a) to (c) of the said subsection (3) shall have effect as if those references included references to his parent or guardian, and as if in the said paragraph (b) the words from " or, where " to the end of the paragraph were omitted.

Effects of
hospital
orders and
guardianship
orders.

58.—(1) A hospital order shall be sufficient authority—

- (a) for a constable, a mental health officer, or any other person directed to do so by the court to convey the patient to the hospital specified in the order within a period of twenty-eight days ; and
- (b) for the board of management of the hospital to admit him at any time within that period, and thereafter to detain him in accordance with the provisions of this Act.

(2) A guardianship order shall confer on the authority or person therein named as guardian the like powers as a guardianship application effective under Part IV of this Act.

(3) A patient who is admitted to a hospital or received into guardianship in pursuance of a hospital order, or, as the case may be, a guardianship order, shall be treated for the purposes of Part IV of this Act (other than section thirty) as if he had

been so admitted or received on the date of the order in pursuance of an application for admission or a guardianship application as aforesaid, except that—

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- (a) the power to order the discharge of the patient under section forty-three shall not be exercisable by his nearest relative; and
- (b) the provisions of subsection (2) of section twenty-three and of section forty relating to the expiration and renewal of authority for the detention or guardianship of certain patients shall not apply;

and accordingly the provisions of the said Part IV specified in the first column of the Second Schedule to this Act shall apply in relation to him, subject to the exceptions and modifications set out in the second column of that Schedule, and the remaining provisions of the said Part IV shall not apply.

(4) Subject to the provisions of subsection (4) of section sixty of this Act, where a patient is admitted to a hospital or received into guardianship in pursuance of a hospital order or, as the case may be, a guardianship order, any previous application, hospital order or guardianship order by virtue of which he was liable to be detained in a hospital or subject to guardianship shall cease to have effect:

Provided that, if either of the two orders first-mentioned or the conviction to which it relates is quashed on appeal, this subsection shall not apply and section forty-two of this Act shall have effect as if during any period for which the patient was liable to be detained or subject to guardianship under the order he had been detained in custody as mentioned in that section.

59.—(1) The court by which a hospital order is made may give such directions as it thinks fit for the conveyance of the patient to a place of safety and his detention therein pending his admission to the hospital within the period of twenty-eight days referred to in subsection (1) of the last foregoing section; but a direction for the conveyance of a patient to a home provided by a local authority under Part II of the Children Act, 1948, shall not be given, unless the court is satisfied that that authority is willing to receive the patient therein.

Supplementary
provisions as
to hospital
orders.

(2) If within the said period of twenty-eight days it appears to the Secretary of State that by reason of an emergency or other special circumstances it is not practicable for the patient to be received into the hospital specified in the order, he may give directions for the admission of the patient to such other hospital as appears to be appropriate in lieu of the hospital so specified; and where such directions are given the Secretary of State shall cause the person having the custody of the patient to be informed, and the hospital order shall have effect as if the hospital specified in the directions were substituted for the hospital specified in the order.

PART V
Power of
court to
restrict
discharge
from hospital.

60.—(1) Where a hospital order is made in respect of a person, and it appears to the court, having regard to the nature of the offence with which he is charged, the antecedents of the person and the risk that as a result of his mental disorder he would commit offences if set at large, that it is necessary for the protection of the public so to do, the court may, subject to the provisions of this section, further order that the person shall be subject to the special restrictions set out in this section, either without limit of time or during such period as may be specified in the order.

(2) An order under this section (in this Act referred to as “an order restricting discharge”) shall not be made in the case of any person unless the medical practitioner approved by the Regional Hospital Board for the purposes of section twenty-seven of this Act, whose evidence is taken into account by the court under paragraph (a) of subsection (1) of section fifty-five of this Act, has given evidence orally before the court.

(3) The special restrictions applicable to a patient in respect of whom an order restricting discharge is in force are as follows, that is to say—

(a) none of the provisions of Part IV of this Act relating to the duration, renewal and expiration of authority for the detention of patients shall apply, and the patient shall continue to be liable to be detained by virtue of the relevant hospital order until he is absolutely discharged under the next following section

(b) the following powers shall be exercisable only with the consent of the Secretary of State, that is to say—

(i) power to grant leave of absence to the patient under section thirty-five of this Act; and

(ii) power to transfer the patient under section thirty-seven of this Act;

and if leave of absence is granted under the said section thirty-five the power to recall the patient under that section shall be vested in the Secretary of State as well as in the responsible medical officer; and

(c) the power to take the patient into custody and return him under section thirty-six of this Act may be exercised at any time;

and in relation to any such patient the provisions of the said Part IV described in the first column of the Second Schedule to this Act shall have effect subject to the exceptions and modifications set out in the third column of that Schedule in lieu of those set out in the second column of that Schedule.

(4) Where an order restricting the discharge of a patient is in force, a guardianship order shall not be made in respect of

him; and where the hospital order relating to him ceases to have effect by virtue of subsection (4) of section fifty-eight of this Act on the making of another hospital order, that order shall have the same effect in relation to the order restricting discharge as the previous hospital order, but without prejudice to the power of the court making that other hospital order to make another order restricting discharge to have effect on the expiration of the previous such order.

(5) Without prejudice to the provisions of the last foregoing subsection, where an order restricting the discharge of a patient ceases to have effect while the relevant hospital order continues in force, the provisions of section fifty-eight of this Act and the Second Schedule to this Act shall apply to the patient as if he had been admitted to the hospital in pursuance of a hospital order (without an order restricting his discharge) made on the date on which the order restricting his discharge ceased to have effect.

61.—(1) If the Secretary of State is satisfied that an order restricting the discharge of a patient is no longer required for the protection of the public, he may direct that the patient shall cease to be subject to the special restrictions set out in the last foregoing section; and where the Secretary of State so directs, the order restricting the discharge of the patient shall cease to have effect, and subsection (5) of that section shall apply accordingly.

Powers of
Secretary of
State in
respect of
patients
subject to
restriction
orders.

(2) At any time while an order restricting the discharge of a patient is in force, the Secretary of State may, if he thinks fit, by warrant discharge the patient from hospital, either absolutely or subject to conditions; and, where a person is absolutely discharged under this subsection, he shall thereupon cease to be liable to be detained by virtue of the relevant hospital order, and the order restricting his discharge shall cease to have effect accordingly.

(3) The Secretary of State may, at any time during the continuance in force of an order restricting the discharge of a patient who has been conditionally discharged under the last foregoing subsection, and without prejudice to his further discharge as aforesaid, by warrant recall the patient to such hospital as may be specified in the warrant; and thereupon—

(a) if the hospital so specified is not the hospital from which the patient was conditionally discharged, the hospital order and the order restricting his discharge shall have effect as if the hospital specified in the warrant were substituted for the hospital specified in the hospital order;

PART V

(b) in any case, the patient shall be treated for the purposes of section thirty-six of this Act as if he had absented himself without leave from the hospital specified in the warrant, and if the order restricting his discharge was made for a specified period, that period shall not in any event expire until the patient returns to the hospital or is returned to the hospital under that section.

(4) If an order restricting the discharge of a patient ceases to have effect after the patient has been conditionally discharged under this section, the patient shall, unless previously recalled under the last foregoing subsection, be deemed to be absolutely discharged on the date when the order ceases to have effect, and shall cease to be liable to be detained by virtue of the relevant hospital order accordingly.

(5) The Secretary of State may, if satisfied that the attendance at any place in Great Britain of a patient who is subject to an order restricting discharge is desirable in the interests of justice or for the purposes of any public inquiry, direct him to be taken to that place; and where a patient is directed under this subsection to be taken to any place he shall, unless the Secretary of State otherwise directs, be kept in custody while being so taken, while at that place, and while being taken back to the hospital in which he is liable to be detained.

Appeals.

62. Where a hospital order, guardianship order or an order restricting discharge has been made by a court in respect of a person charged or brought before it, he may, without prejudice to any other form of appeal under any rule of law, appeal against that order in the same manner as against a conviction.

Procedure in cases where insanity stands in bar of trial or is the ground of acquittal of a criminal charge.

63.—(1) Where any person charged on indictment with the commission of an offence is found insane so that the trial of that person upon the indictment cannot proceed, or if in the course of the trial of any person so indicted it appears to the jury that he is insane, the court shall direct a finding to that effect to be recorded.

(2) Where in the case of any person charged as aforesaid evidence is brought before the court that that person was insane at the time of doing the act or making the omission constituting the offence with which he is charged and the person is acquitted, the court shall direct the jury to find whether the person was insane at such time as aforesaid, and to declare whether the person was acquitted by them on account of his insanity at that time.

(3) Where the court has directed that a finding be recorded in pursuance of subsection (1) of this section, or where a jury has declared that a person has been acquitted by them on the

ground of his insanity in pursuance of the last foregoing subsection, the court shall order that the person to whom that finding or that acquittal relates shall be detained in a State hospital or such other hospital as for special reasons the court may specify.

(4) In subsection (3) of section three of the Criminal Appeal (Scotland) Act, 1926 (which section, among other things, empowers the High Court of Justiciary to substitute a verdict of acquittal on the ground of insanity for the verdict found by the jury) for the words from "until" to "1857" there shall be substituted the words "as may be made under section sixty-three of the Mental Health (Scotland) Act, 1960."

(5) An order for the detention of a person in a hospital under this section or under section three of the said Act of 1926 shall have the like effect as a hospital order together with an order restricting his discharge, made without limitation of time; and where such an order is given in respect of a person while he is in the hospital, he shall be deemed to be admitted in pursuance of, and on the date of, the order.

(6) Subject to the following provisions of this section, any rule of law relating to insanity standing in bar of trial shall apply in the case of a person charged summarily in the sheriff court as it would apply if that person were charged on indictment.

(7) Where, in the case of any person charged summarily in the sheriff court, the court is satisfied that the person is insane so that the trial of that person cannot proceed, the court shall direct a finding to that effect, and the reasons for that finding, to be recorded, and shall deal with him in the manner provided by subsection (2) of section fifty-five of this Act.

(8) It shall not be competent for a person charged as aforesaid to found on a plea of insanity standing in bar of trial unless, before the first witness for the prosecution is called, he gives notice to the prosecutor of the plea and of the witnesses by whom he proposes to maintain it; and where notice as aforesaid has been given, the court shall, if the prosecutor so moves, adjourn the case.

(9) Where it appears to a court that it is not practicable or appropriate for an accused person to be brought before it for the purpose of determining whether the accused is insane so that his trial cannot proceed, then, if no objection to such a course is taken by or on behalf of the accused, the court may order that the case be proceeded with in his absence.

64.—(1) The Secretary of State may by warrant direct that any person who, by virtue of any enactment to which this subsection applies, is required to be kept in custody during Her Majesty's pleasure or until the directions of Her Majesty are known shall Persons ordered to be kept in custody during Her Majesty's pleasure.

PART V

be detained in a State hospital or such other hospital as he may specify and, where that person is not already detained in the hospital, give directions for his removal there.

(2) The enactments to which subsection (1) of this section applies are subsection (4) of section six of the Courts-Martial (Appeals) Act, 1951, section one hundred and sixteen of the Army Act, 1955, section one hundred and sixteen of the Air Force Act, 1955, and section sixty-three of the Naval Discipline Act, 1957.

(3) A direction under this section in respect of any person shall have the like effect as an order referred to in subsection (3) of the last foregoing section.

Transfer to hospital or guardianship of prisoners, etc.

Removal to
hospital of
persons in
prison awaiting
trial, etc.

65.—(1) If in the case of a person committed in custody while awaiting trial or sentence it appears to the Secretary of State that the said person is suffering from mental disorder of a nature or degree which warrants his admission to a hospital under Part IV of this Act, he may apply to the sheriff for an order that that person be removed to and detained in such hospital (not being a private hospital) as may be specified in the order; and the sheriff, if satisfied by reports from two medical practitioners (complying with the provisions of this section) that the person is suffering from mental disorder as aforesaid, and that the person ought to be so removed and detained, may make an order accordingly.

(2) An order under this section (in this Act referred to as "a transfer order") shall cease to have effect at the expiration of the period of fourteen days beginning with the date on which it is made, unless within that period the person with respect to whom it was made has been received into the hospital specified therein.

(3) A transfer order with respect to any person shall have the like effect as a hospital order made in his case together with an order restricting his discharge made without limit of time.

(4) Of the medical practitioners whose reports are taken into account under subsection (1) of this section, at least one shall be a practitioner approved for the purposes of section twenty-seven of this Act by a Regional Hospital Board as having special experience in the diagnosis or treatment of mental disorder.

(5) A transfer order shall specify the form or forms of mental disorder, being mental illness or mental deficiency or both, from which the patient is found by the sheriff to be suffering; and no such order shall be made unless the patient is described by each of the practitioners whose evidence is taken

into account as aforesaid as suffering from the same form of mental disorder, whether or not he is also described by either of them as suffering from the other form.

PART V

66.—(1) If in the case of a person to whom this section applies the Secretary of State is satisfied by the like reports as are required for the purposes of the last foregoing section that that person is suffering from mental disorder, the Secretary of State may make a direction (in this Act referred to as “a transfer direction”) in respect of him.

Removal to hospital of persons serving sentences of imprisonment and other prisoners.

(2) This section applies to the following persons, that is to say—

- (a) persons serving sentences of imprisonment suffering from mental disorder of a nature or degree which warrants their admission to a hospital under a hospital order;
- (b) civil prisoners, that is to say, persons committed by court to prison in respect of a civil debt, suffering from a mental disorder of a nature or degree which warrants their admission to a hospital under Part IV of this Act;
- (c) aliens detained in a prison or other institution to which the Prisons (Scotland) Act, 1952, applies, in pursuance of the Aliens Order, 1953, or any order amending or replacing that order, suffering from mental disorder as in the last foregoing paragraph.

(3) Subsections (2), (4) and (5) of the last foregoing section shall apply for the purposes of this section and of any transfer direction given by virtue of this section as they apply for the purposes of that section and of any transfer order thereunder, with the substitution for any reference to the sheriff of a reference to the Secretary of State.

(4) A transfer direction with respect to any person shall have the like effect as a hospital order made in his case.

(5) Where a transfer direction is given in respect of any person, that person may, within three months of his transfer to a hospital thereunder, appeal to the sheriff to cancel the direction; and, if a transfer direction is so cancelled, the Secretary of State shall direct that the person 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.

(6) Subsections (2) and (3) of section fifty-one of this Act shall apply to an appeal under the last foregoing subsection in like manner as they apply to an appeal referred to in that section.

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(7) References in this section to a person serving a sentence of imprisonment include references—

- (a) to a person detained in pursuance of any sentence or order for detention made by a court in criminal proceedings, or made or having effect as if made in any proceedings under the Children and Young Persons (Scotland) Act, 1937 (other than an order under section sixty-three of this Act, or under subsection (3) of section three of the Criminal Appeal (Scotland) Act, 1926, or under any enactment to which section sixty-four of this Act applies or an order for detention in a remand home under section fifty-eight of the said Act of 1937 or in a place of safety under section seventy-one of that Act); and
- (b) to a person committed by a court to a prison or other institution to which the Prisons (Scotland) Act, 1952, applies in default of payment of any fine to be paid on his conviction.

Restriction on discharge of prisoners removed to hospital.

67.—(1) Where a transfer direction is given in respect of any person, the Secretary of State, if he thinks fit, may by warrant direct that that person shall be subject to the special restrictions set out in section sixty of this Act.

(2) A direction under this section (in this Act referred to as “a direction restricting discharge”) shall have the like effect as an order restricting the discharge of the patient made under the said section sixty.

Further provisions as to persons removed to hospital while awaiting trial, etc.

68.—(1) Subject to the following provisions of this section, any transfer order made in respect of a person in pursuance of subsection (1) of section sixty-five of this Act shall cease to have effect if the proceedings in respect of him are dropped or when his case is disposed of by the court to which he was committed, or by which he was remanded, but without prejudice to any power of that court to make a hospital order or other order under this Part of this Act in his case.

(2) Where a transfer order has been made in respect of any such person as aforesaid, then, if the Secretary of State is notified by the responsible medical officer at any time before that person is brought before the court to which he was committed, or by which he was remanded, that he no longer requires treatment for mental disorder, the Secretary of State may by warrant direct that he be remitted to any place where 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, and on his arrival at the place to which he is so remitted the transfer order shall cease to have effect.

(3) Where a transfer order in respect of any person ceases to have effect under subsection (1) of this section, then unless his case has been disposed of by the court—

- (a) passing a sentence of imprisonment (within the meaning of subsection (10) of section fifty-five of this Act) on him ; or
- (b) making a hospital order or guardianship order in his case,

he shall continue to be liable to be detained in the hospital in which he was detained under the transfer order as if he had been admitted thereto, on the date on which that order ceased to have effect, in pursuance of an application for admission made under Part IV of this Act, and the provisions of this Act shall apply accordingly.

69.—(1) Where a transfer direction and a direction restricting discharge have been given in respect of a person serving a sentence of imprisonment and the Secretary of State is notified by the responsible medical officer at any time before the expiration of that person's sentence that that person no longer requires treatment for mental disorder, the Secretary of State may—

Further provisions as to prisoners under sentence.

- (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 or authorise the managers of any approved school to which he might have been remitted to 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 direction restricting discharge shall cease to have effect.

(2) A direction restricting discharge given in respect of a person serving a sentence of imprisonment shall cease to have effect on the expiration of the sentence.

(3) Subject to the following provisions of this section, where a direction restricting the discharge of a person ceases to have effect, that person shall be discharged unless a report is furnished in respect of him under the next following subsection.

(4) Within a period of twenty-eight days before a direction restricting the discharge of a person ceases to have effect, it shall be the duty of the responsible medical officer to obtain from another medical practitioner a report on the condition of the patient in the prescribed form and thereafter to assess the need for the detention of the patient to be continued ; and, if it

PART V

appears to him that it is necessary in the interests of the health or safety of the patient or for the protection of other persons that the patient should continue to be liable to be detained in hospital, he shall furnish to the board of management of the hospital where the patient is liable to be detained and to the Mental Welfare Commission a report to that effect in the prescribed form along with the report first mentioned.

(5) Where a report is duly furnished under the last foregoing subsection, the patient shall be treated as if he had been admitted to the hospital in pursuance of a hospital order (without an order restricting his discharge) made on the date on which the direction restricting his discharge ceased to have effect, but the provisions of subsections (6) and (7) of section thirty-nine and of section fifty-one of this Act shall apply to him in like manner as they apply to a patient the authority for whose detention in hospital has been renewed in pursuance of subsection (5) of the said section thirty-nine.

(6) Subject to the next following subsection, references in this section to the expiration of a person's sentence are references to the expiration of the period during which he would have been liable to be detained in a prison or other institution if the transfer direction had not been given.

(7) For the purposes of subsection (2) of section thirty-seven of the Prisons (Scotland) Act, 1952 (which subsection provides for discounting from the sentence 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 subsection, 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.

(8) In this section "prescribed" means prescribed by regulations made by the Secretary of State.

Further provisions as to civil prisoners.

70.—(1) Any transfer direction given in respect of a civil prisoner shall cease to have effect on the expiration of the period during which he would, but for his removal to hospital, be liable to be detained in prison.

(2) Where a transfer direction given in respect of any person ceases to have effect by virtue of this section, he shall continue to be liable to be detained in the hospital in which he was detained under that direction as if he had been admitted thereto, on the date on which the direction ceased to have effect, in pursuance of an application for admission made under Part IV of this Act, and the provisions of this Act shall apply accordingly.

Reception into guardianship of persons sent to approved schools.

71.—(1) If in the case of a child or young person detained in an approved school the Secretary of State is satisfied by the like reports as are required for the purposes of section sixty-five of this Act that the child or young person is suffering from mental disorder of a nature or degree which warrants his reception into

guardianship under this Act, the Secretary of State may, if he is of opinion having regard to the public interest and to all the circumstances that it is expedient so to do, by warrant direct that he be placed under the guardianship of a local health authority or of any such other person approved by a local health authority as may be specified in the direction.

PART V

(2) A direction shall not be given under this section placing a person under the guardianship of a local health authority or other person unless the Secretary of State is satisfied that that authority or person is willing to receive that person into guardianship.

(3) A direction under this section with respect to any person shall have the like effect as a guardianship order made in his case.

Supplemental

72.—(1) In this Part of this Act the following expressions have Interpretation the meanings hereby respectively assigned to them, that is to of Part V. say:—

“approved school” means a school approved under section eighty-three of the Children and Young Persons (Scotland) Act, 1937;

“child” and “young person” have the same meaning as in the Children and Young Persons (Scotland) Act, 1937;

“civil prisoner” has the meaning assigned to it by paragraph (b) of subsection (2) of section sixty-six of this Act;

“guardian”, in relation to a child or young person, has the same meaning as in the Children and Young Persons (Scotland) Act, 1937;

“place of safety”, in relation to a person not being a child or young person, means any police station, prison or remand centre, or any hospital the board of management of which are willing temporarily to receive him, and in relation to a child or young person means a place of safety within the meaning of the Children and Young Persons (Scotland) Act, 1937;

“remand home” means premises established or used by the council of a county or a large burgh under section eighty-one of the Children and Young Persons (Scotland) Act, 1937.

(2) References in this Act to an offence punishable with imprisonment shall be construed, in relation to any accused person, without regard to any prohibition or restriction imposed by or under any enactment upon the imprisonment of offenders of his age.

PART V

(3) In the following provisions of this Part of this Act, that is to say—

subsections (2) to (4) of section fifty-eight ;
subsections (3) and (4) of section sixty ; and
section sixty-one,

any reference to a hospital order, a guardianship order or an order restricting the discharge of a patient subject to a hospital order shall be construed as including a reference to any order or direction under this Part of this Act having the like effect as the first-mentioned order ; and the exceptions and modifications set out in the Second Schedule to this Act in respect of the provisions of Part IV of this Act described in that Schedule accordingly include those which are consequential on the provisions of this subsection.

(4) References in this Part of this Act to persons serving a sentence of imprisonment shall be construed in accordance with subsection (7) of section sixty-six of this Act.

(5) Section one hundred and three of the Children and Young Persons (Scotland) Act, 1937 (which relates to the presumption and determination of age) shall apply for the purposes of this Part of this Act as it applies for the purposes of that Act.

PART VI

REMOVAL AND RETURN OF PATIENTS WITHIN UNITED
KINGDOM, ETC.*Removal to and from England and Wales*

Removal of
patients to
England
and Wales

73.—(1) If it appears to the Secretary of State, in the case of a patient who is for the time being liable to be detained or subject to guardianship under this Act, that it is in the interests of the patient to remove him to England and Wales, and that arrangements have been made for admitting him to a hospital or, as the case may be, for receiving him into guardianship there, the Secretary of State may authorise his removal to England and Wales and may give any necessary directions for his conveyance to his destination.

(2) Where a patient who is liable to be detained or subject to guardianship as aforesaid by virtue of an application, order or direction under any enactment in force in Scotland is removed under this section and admitted to a hospital or received into guardianship in England and Wales, he shall be treated—

(a) where he is admitted to a hospital, as if on the date of his admission he had been so admitted in pursuance of an application made, or an order or direction made

or given, on that date under the corresponding enactment in force in England and Wales, and, where he is subject to an order or direction under any enactment in this Act restricting his discharge, as if he were subject to an order or direction under the corresponding enactment in force in England and Wales;

(b) where he is received into guardianship, as if on the date on which he arrives at the place where he is to reside he had been so received in pursuance of an application, order or direction under the corresponding enactment in force in England and Wales and as if the application had been accepted or, as the case may be, the order or direction had been made or given on that date.

(3) Where a patient removed under this section was immediately before his removal liable to be detained under this Act by virtue of a transfer direction given while he was serving a sentence of imprisonment (within the meaning of subsection (7) of section sixty-six of this Act) imposed by a court in Scotland, he shall be treated as if the sentence had been imposed by a court in England and Wales.

(4) Where a person so removed as aforesaid was immediately before his removal subject to an order or direction restricting his discharge, being an order or direction of limited duration, that order or direction shall expire on the date on which it would have expired if he had not been so removed.

(5) In this section references to a hospital in England and Wales shall be construed as references to a hospital within the meaning of Part IV of the Mental Health Act, 1959.

74. The following section shall be substituted for sections eighty-one and eighty-two of the Mental Health Act, 1959 (which confer power on the Minister of Health and the Secretary of State to remove patients from England and Wales to Scotland), that is to say:—

Removal of patients from England and Wales.

“Removal of patients to Scotland.

81.—(1) If it appears to the responsible Minister, in the case of a patient who is for the time being liable to be detained or subject to guardianship under this Act, that it is in the interests of the patient to remove him to Scotland, and that arrangements have been made for admitting him to a hospital or, as the case may be, for receiving him into guardianship there, the responsible Minister may authorise his removal to Scotland and may give any necessary directions for his conveyance to his destination.

(2) Subject to the provisions of the next following subsection, where a patient who is liable to be

PART VI

detained or subject to guardianship as aforesaid by virtue of an application, order or direction under any enactment in force in England and Wales is removed under this section and admitted to a hospital or received into guardianship in Scotland, he shall be treated—

(a) where he is admitted to a hospital, as if on the date of his admission he had been so admitted in pursuance of an application forwarded to the board of management, or an order or direction made or given, on that date under the corresponding enactment in Scotland, and, where he is subject to an order or direction under any enactment in this Act restricting his discharge, as if he were subject to an order or direction under the corresponding enactment in force in Scotland ;

(b) where he is received into guardianship, as if on the date on which he arrives at the place where he is to reside he had been so received in pursuance of an application, order or direction under the corresponding enactment in force in Scotland, and as if the application had been forwarded or, as the case may be, the order or direction had been made or given on that date.

(3) Where a person removed under this section was immediately before his removal liable to be detained by virtue of an application for admission for observation under this Act, he shall, on his admission to a hospital in Scotland, be treated as if he had been admitted thereto in pursuance of an emergency recommendation under the Mental Health (Scotland) Act, 1960, made on the date of his admission.

(4) Where a patient removed under this section was immediately before his removal liable to be detained under this Act by virtue of a transfer direction given while he was serving a sentence of imprisonment (within the meaning of subsection (6) of section seventy-two of this Act) imposed by a court in England and Wales, he shall be treated as if the sentence had been imposed by a court in Scotland.

(5) Where a person removed under this section was immediately before his removal subject to an order or direction restricting discharge, being an order or direction of limited duration, the order or direction shall expire on the date on which it would have expired if he had not been so removed.

(6) In this section "the responsible Minister" means the Minister of Health or, in relation to a patient who is subject to an order or direction restricting his discharge, the Secretary of State, and "hospital" has the same meaning as in the Mental Health (Scotland) Act, 1960."

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75.—(1) Where a patient is removed from Scotland to England and Wales in pursuance of arrangements under this Part of this Act, and at the time of his removal there is in force an order under Part IV of this Act directing that the functions of his nearest relative under this Act shall be exercisable by a person other than the nearest relative within the meaning of the said Part IV, the order, so far as it so directs, shall, on the patient's admission to a hospital or reception into guardianship in England and Wales, have effect as if it were an order made by a county court under Part IV of the Mental Health Act, 1959, and accordingly may be discharged or varied by the county court under that Act and not by the sheriff under this Act.

Position of
nearest relative
on removal
to England.

(2) Where a patient is removed as aforesaid and the person who, apart from any such order, is treated by virtue of any of the provisions of sections forty-five to forty-seven of this Act as the nearest relative within the meaning of Part IV of this Act would not be treated by virtue of section forty-nine of the said Act of 1959 as the nearest relative within the meaning of Part IV of that Act, that person shall, after the admission of the patient to a hospital or his reception into guardianship in England and Wales, be treated as the nearest relative within the meaning of Part IV of the said Act of 1959, subject, however, to any order made, or treated by the foregoing subsection as made, by the county court under section fifty-two of that Act and without prejudice to the operation of the other provisions of Part IV of that Act with respect to the nearest relative of a patient.

(3) An order of the sheriff under section forty-eight of this Act may be proved by a certificate under the hand of the sheriff clerk.

76.—(1) Where a patient is removed from England and Wales to Scotland in pursuance of arrangements under Part VI of the Mental Health Act, 1959, as amended by this Act, and at the time of his removal there is in force an order under Part IV of that Act directing that the functions of his nearest relative under that Act shall be exercisable by a person other than the nearest relative within the meaning of that Part of that Act, the order, so far as it so directs, shall, on his admission to a hospital or reception into guardianship in Scotland, have effect as if it were an order made by a sheriff under Part IV of this Act, and accordingly may be discharged or varied by the sheriff under this Act and not by the county court under that Act.

Position of
nearest relative
on removal
to Scotland.

PART VI

(2) Where a patient is removed as aforesaid and the person who, apart from any such order, is treated by virtue of sections forty-nine to fifty-one of the said Act of 1959 as the nearest relative within the meaning of Part IV of that Act would not be treated by virtue of section forty-five of this Act as the nearest relative within the meaning of Part IV of this Act, that person shall, after the admission of the patient to a hospital or his reception into guardianship in Scotland, be treated as the nearest relative within the meaning of Part IV of this Act, subject, however, to any order made, or treated by the foregoing subsection as made, by the sheriff under section forty-eight of this Act and without prejudice to the operation of the other provisions of Part IV of this Act with respect to the nearest relative of a patient.

(3) An entry made in a book or other document required to be kept for the purposes of section twenty-six of the County Courts Act, 1959 (which relates to the keeping of records of proceedings of county courts) and relating to an order of a county court under section fifty-two or section fifty-three of the Mental Health Act, 1959, or a copy of such an entry purporting to be signed and certified as a true copy by the registrar of the county court, shall, in Scotland, be evidence of the like matters and to the like extent as in England and Wales.

Removal to and from Northern Ireland

Removal to
Northern
Ireland of
patients not
subject to
restriction.

77.—(1) If it appears to the Secretary of State, in the case of a patient who is for the time being liable to be detained or subject to guardianship under this Act, not being a patient subject to an order or direction restricting his discharge, that it is in the interests of the patient to remove him to Northern Ireland and that arrangements have been made—

(a) for his reception into a mental hospital within the meaning of the Mental Health Act (Northern Ireland), 1948 ;
or

(b) for his reception into an institution within the meaning of that Act or for receiving him into the guardianship of the Northern Ireland Hospitals Authority ;

the Secretary of State may authorise the removal of the patient to Northern Ireland and give any necessary directions for his conveyance to his destination.

(2) Where a person is removed under this section to Northern Ireland, and is received in pursuance of the arrangements into a mental hospital, he shall, on his reception, be treated for all purposes as having been so received in pursuance of a judicial order made under Part II of the Mental Health Act (Northern Ireland), 1948, on the date on which he is so received.

(3) Where a person is removed under this section to Northern Ireland, and is received in pursuance of the arrangements into an

institution within the meaning of the said Act of 1948, or is received into the guardianship of the Northern Ireland Hospitals Authority, he shall, on being so received, be treated for all purposes as if he had been so received in pursuance of a judicial order made under Part III of that Act on the date on which he is so received.

PART VI

78.—(1) If it appears to the Secretary of State, in the case of a patient who is for the time being liable to be detained under this Act, being a patient who is also subject to an order or direction restricting his discharge, that it is in the interests of the patient to remove him to Northern Ireland and that arrangements have been made—

Removal to
Northern
Ireland of
patients
subject to
restriction
on discharge.

- (a) for his reception into a mental hospital within the meaning of the Mental Health Act (Northern Ireland), 1948, or
- (b) for his reception into an institution within the meaning of that Act,

the Secretary of State may by warrant authorise the removal of the patient to Northern Ireland, and may give any necessary directions for his conveyance to his destination.

(2) Where a patient liable to be detained by virtue of a hospital order and subject to an order restricting his discharge is removed under this section, then—

- (a) if in pursuance of the arrangements he is received into a mental hospital, he shall be treated as if he were subject to a judicial order made under Part II of the said Act of 1948 on the date of his reception and continued under section fourteen of that Act on any occasion on which it would otherwise have expired during the continuance of the order restricting his discharge;
- (b) if in pursuance of the arrangements he is received into an institution within the meaning of that Act, he shall be treated as if he were subject to a judicial order made under Part III of the said Act on the date of his reception and continued under section thirty-nine of that Act on any occasion on which it would otherwise have expired during the continuance of the order restricting his discharge, and section thirty-four of that Act (which provides for the revocation or variation of judicial orders) shall have effect accordingly;

but in either case, unless the Ministry of Home Affairs for Northern Ireland otherwise directs, any power to discharge the patient, to grant him leave of absence or to transfer him from the hospital or institution shall, during the continuance of the order restricting the discharge of the patient, be exercisable only with the consent of that Ministry.

PART VI

(3) Where a patient liable to be detained by virtue of a transfer direction and subject to a direction restricting his discharge is removed under this section, he shall, upon being received into such a hospital or institution as aforesaid in pursuance of the arrangements, be treated as if the sentence or order by virtue of which he was detained before the transfer direction was given had been imposed or made by a court in Northern Ireland, and as if—

- (a) where the patient is received into such a mental hospital as aforesaid, he had been transferred to that hospital under section sixteen of the Prison Act (Northern Ireland) 1953 ;
- (b) where he is received into such an institution as aforesaid, he had been transferred to that institution under section thirty-seven of the said Act of 1948.

(4) Where a patient who is liable to be detained by virtue of an order under section sixty-three of this Act, or under section three of the Criminal Appeal (Scotland) Act, 1926, or of a direction under section sixty-four of this Act is removed under this section, he shall, on his reception into a mental hospital or institution in pursuance of the arrangements, be treated as if he had been ordered by a court in Northern Ireland to be kept in safe custody during the pleasure of the Governor of Northern Ireland in pursuance of section seventeen of the Lunacy (Ireland) Act, 1821, or of section two of the Trial of Lunatics Act, 1883, as the case may be, and as if—

- (a) where he is received into a mental hospital, an order had been made by or on behalf of the Governor of Northern Ireland for his safe custody in that hospital ;
- (b) where he is received into an institution within the meaning of the said Act of 1948, he had been transferred to that institution under section thirty-seven of that Act.

(5) References in this section to the continuance of the order restricting the discharge of a patient are references to the time for which that order would have continued in force apart from removal of the patient under this section.

Removal to
Scotland of
patients
other than
criminal
patients.

79.—(1) If it appears to the Ministry of Health and Local Government for Northern Ireland, in the case of a patient being—

- (a) a certified patient within the meaning of the Mental Health Act (Northern Ireland), 1948, or
- (b) a person declared under Part III of that Act to be a person requiring special care (other than a person to whom section eighty of this Act applies),

that it is in the interests of the patient to remove him to Scotland, and that arrangements have been made for admitting him to a

hospital or for receiving him into guardianship there, the Ministry may authorise his removal to Scotland, and may give any necessary directions for his conveyance to his destination.

(2) Where a patient removed under this section is received into a hospital in pursuance of such arrangements as aforesaid, this Act shall apply to him as if he had been admitted to the hospital in pursuance of an application for admission and had been so admitted on the date on which he is so received.

(3) Where a patient so removed is received into guardianship in pursuance of such arrangements as aforesaid, this Act shall apply to him as if he had been received into guardianship in pursuance of a guardianship application forwarded on the date on which he arrived at the place where he is to reside.

80.—(1) If it appears to the Ministry of Home Affairs for Northern Ireland, in the case of a patient being a criminal lunatic within the meaning of this section, that it is in the interests of the patient to remove him to Scotland, and that arrangements have been made for admitting him to a hospital there, the Ministry may authorise his removal to Scotland, and may give any necessary directions for his conveyance to his destination.

Removal to
Scotland of
criminal
patients.

(2) Where a patient removed under this section is received into a hospital in Scotland in pursuance of such arrangements as aforesaid, then—

- (a) if the patient is a person ordered to be kept in custody under section seventeen of the Lunacy (Ireland) Act, 1821, or under section two of the Trial of Lunatics Act, 1883, he shall, on his reception into the hospital in Scotland, be treated as if he had been removed to that hospital in pursuance of an order under section sixty-three of this Act;
- (b) in any other case, the patient shall be treated, on his reception into the hospital in Scotland, as if he had been removed to that hospital in pursuance of a transfer direction under Part V of this Act, and as if a direction restricting his discharge had been given under section sixty-seven of this Act;

and in any such case the patient shall be treated as if the sentence or order by virtue of which he was detained before being removed under this section had been imposed or made by a court in Scotland.

(3) In this section “criminal lunatic” means a criminal lunatic within the meaning of the Lunacy (Ireland) Act, 1901, or a person detained in a mental hospital or institution within the

PART VI meaning of the Mental Health Act (Northern Ireland), 1948, in pursuance of an order made by the Governor of Northern Ireland or the Minister of Home Affairs for Northern Ireland under section thirty-seven of that Act, or of directions given by the Ministry of Home Affairs for Northern Ireland under section sixteen of the Prison Act (Northern Ireland), 1953.

Other provisions as to removal

Removal of certain patients from Channel Islands and Isle of Man to Scotland.

81.—(1) The Secretary of State may by warrant direct that any offender found by a court in any of the Channel Islands or in the Isle of Man to be insane or to have been insane at the time of the alleged offence, and ordered to be detained during Her Majesty's pleasure, be removed to a hospital in Scotland.

(2) A patient removed under this section shall, on his reception into the hospital in Scotland, be treated as if he had been removed to that hospital in pursuance of an order under section sixty-three of this Act.

(3) The Secretary of State may by warrant direct that any patient removed under this section from any of the Channel Islands or from the Isle of Man be returned to the Island from which he was so removed, there to be dealt with according to law in all respects as if he had not been removed under this section.

Removal of alien patients.

82. If it appears to the Secretary of State, in the case of any patient being an alien who is receiving treatment for mental illness as an in-patient in a hospital in Scotland, that proper arrangements have been made for the removal of that patient 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 by warrant authorise the removal of the patient from the place where he is receiving treatment as aforesaid, and may 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.

Return of patients absent without leave

Patients absent from hospitals in Scotland.

83.—(1) Subject to the provisions of this section, any person who, under section thirty-six or section one hundred and six of this Act or under the said section thirty-six as applied by section forty-two of this Act, may be taken into custody in Scotland may be taken into custody in, and returned to Scotland 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 England and Wales, Northern Ireland, the Channel Islands or the Isle of Man, the expression " constable " includes an English 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 England and Wales or Northern Ireland, any reference to a mental health officer shall be construed as including a reference—

(a) in England and Wales, to any mental welfare officer within the meaning of the Mental Health Act, 1959,

(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.

84.—(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 Scotland by a mental health 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.

Patients absent
from Northern
Irish
institutions.

(2) Any person, being a criminal lunatic within the meaning of section eighty of this Act, who is unlawfully at large in Scotland may be taken into custody there by a mental health 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.

Supplemental

85. Section fifty-two of this Act shall have effect as if references therein to Part IV of this Act included references to this Part of this Act and to Part VI of the Mental Health Act, 1959, so far as the said Parts apply to patients removed to Scotland thereunder.

Regulations
for purposes
of Part VI.

PART VI
General
provisions
as to patients
removed from
Scotland.

86.—(1) Where a patient liable to be detained or subject to guardianship by virtue of an application, order or direction under Part IV or Part V of this Act is removed from Scotland in pursuance of arrangements under this Part of this Act, the application, order or direction shall cease to have effect when he is duly received into a hospital or other institution, or placed under guardianship, in pursuance of those arrangements.

(2) It shall be the duty of the Secretary of State, where he authorises the removal from Scotland of a patient under any of the provisions of this Part of this Act, to send notification of that authorisation to the Mental Welfare Commission and to the nearest relative of the patient not less than seven days before the date of the removal of the patient.

Intimation
of removal of
patients to
Scotland.

87.—(1) Where a patient is admitted to a hospital in Scotland or received into guardianship there in pursuance of arrangements under this Part of this Act, or under Part VI of the Mental Health Act, 1959, the responsible medical officer shall, within twenty-eight days of such admission or reception as aforesaid, furnish to the board of management of the hospital, or, as the case may be, to the local health authority concerned, a report in the prescribed form stating the form of mental disorder, being mental illness or mental deficiency or both, from which, in the opinion of the responsible medical officer, the patient is suffering; and for the purposes of this Act the reason for his admission or reception as aforesaid, and for his being liable to detention or subject to guardianship, shall be that he is suffering from the form or forms of mental disorder so stated.

(2) Where a patient has been admitted to a hospital or received into guardianship as aforesaid, it shall be the duty of the board of management of the hospital or the local health authority concerned, as the case may be, to send notification to the Mental Welfare Commission of that admission or reception together with a copy of the report relating to the patient, made in pursuance of the last foregoing subsection, within seven days of the receipt by them of that report.

Interpretation
of Part VI.

88.—(1) Where a patient is treated by virtue of this Part of this Act as if he had been removed to a hospital in Scotland in pursuance of a direction under Part V of this Act, that direction shall be deemed to have been given on the date of his reception into the hospital.

(2) In relation to a patient who has been received into guardianship in Scotland in pursuance of arrangements under this Part of this Act or under Part VI of the Mental Health Act, 1959, any reference in this Act to the local health authority concerned shall be construed as a reference to the local health authority for the place where he was received into guardianship as aforesaid.

PART VII

STATE HOSPITALS

89.—(1) The Secretary of State shall provide such hospitals as appear to him to be necessary for persons subject to detention under this Act who require treatment under conditions of special security on account of their dangerous, violent or criminal propensities.

Provision of hospitals for patients requiring special security.

(2) Any hospital provided by the Secretary of State under subsection (1) of section sixty-three of the Criminal Justice (Scotland) Act, 1949, or any institution provided under section twenty-eight of the Mental Deficiency and Lunacy (Scotland) Act, 1913, shall be deemed to be hospitals provided by the Secretary of State under this section.

(3) Hospitals provided, or deemed to be provided, by the Secretary of State under this section are in this Act referred to as "State hospitals".

90.—(1) Subject to the following provisions of this section, the State hospitals shall be under the control and management of the Secretary of State, and the provisions of Part II of the National Health Service (Scotland) Act, 1947, relating to the local administration of hospital and specialist services shall not apply to those hospitals.

Administrative provisions.

(2) The Secretary of State may by order constitute one or more committees to manage on his behalf, and subject to such directions as he may give, one or more State hospitals.

(3) The Secretary of State may, in respect of any such committee as aforesaid, provide by regulations for—

- (a) the appointment, tenure and vacation of office of members of the committee ;
- (b) the procedure of the committee ;
- (c) the appointment, remuneration and conditions of service of staff employed at any hospital in respect of which the committee has been appointed ; and
- (d) any other matters which the Secretary of State may think necessary.

(4) The Secretary of State may pay to the members of any such committee such remuneration and allowances as he may, with the approval of the Treasury, determine and may defray the expenses of that committee to such amount as he may, with the like approval, determine.

(5) Subsection (1) of section fifty-seven of the National Health Service (Scotland) Act, 1947 (which enables the Secretary of State to acquire land for the purposes of that Act) shall have effect as if the reference to the purposes of that Act included a reference to the purposes of this Part of this Act and as if the reference to any hospital vested in the Secretary of State included a reference to any State hospital.

PART VIII

PROTECTION OF PROPERTY OF PATIENTS

Duties of
local
authority in
relation to
property.

91.—(1) Where a local health authority is satisfied that any person in their area is incapable, by reason of mental disorder, of adequately managing and administering his property and affairs, that a curator bonis ought to be appointed in respect of that person, and that no arrangements have been made or are being made in that behalf, it shall be the duty of the authority to petition the court for such appointment as aforesaid; and, where that person is a patient in a hospital or has been placed under guardianship, it shall be the duty of the authority, on the grant of any such petition, so to inform the board of management or, as the case may be, the guardian within twenty-eight days therefrom.

(2) In relation to persons suffering from mental disorder, section forty-eight of the National Assistance Act, 1948 (which imposes a duty on certain local authorities to provide protection for property of persons admitted to hospitals, etc.) shall have effect as if—

- (a) in subsection (1) the reference to a person admitted as a patient to hospital included a reference to a person admitted to a private hospital within the meaning of this Act or subject to guardianship thereunder;
- (b) the reference in that subsection to accommodation provided under Part III of that Act included a reference to accommodation provided under Part III of the National Health Service (Scotland) Act, 1947, and to any residential home for persons suffering from mental disorder within the meaning of this Act; and
- (c) references to moveable property in subsections (1) and (2) included a reference to heritable property.

Powers of
board of
management
in relation
to property
of patients.

92.—(1) The board of management of any hospital may receive and hold money and valuables on behalf of any person who is liable to be detained in that hospital under this Act or who is receiving treatment for mental disorder as a patient in that hospital, where the medical officer in charge of his treatment has stated that in his opinion that person is incapable, by reason of his mental disorder, of managing and administering his property and affairs; and a receipt or discharge given by the board for any such money or valuables as aforesaid shall be treated as a valid receipt or discharge given by that person.

(2) The board of management shall not, by virtue of the last foregoing subsection, receive or hold on behalf of any one person money or valuables exceeding in the aggregate an amount of one hundred pounds without the consent of the Mental Welfare Commission.

(3) Where a board of management holds money or valuables on behalf of a person in pursuance of subsection (1) of this section, they may expend that money or dispose of those valuables for the benefit of that person and in the exercise of the powers conferred by this subsection it shall be the duty of a board of management to have regard to the sentimental value that any article may have for the patient, or would have but for his mental disorder.

(4) Without prejudice to the generality of the last foregoing subsection, where a board of management has received money on behalf of a person in pursuance of subsection (1) of this section, being either—

- (a) money becoming payable to that person during his lifetime under an insurance policy on his life, or
- (b) money becoming payable to him as proposer under an insurance policy following the death of the person insured,

the board may arrange for part or all of the money to be used to refund premiums paid on the policy by another person on behalf of the first-mentioned person, if they are satisfied that such other person is legally entitled to such refund.

(5) A board of management may in pursuance of their functions under this section make application for a special death certificate for the purposes of the First Schedule to the Industrial Assurance and Friendly Societies Act, 1948.

(6) A board of management shall not act on behalf of any person in pursuance of the foregoing provisions of this section where a curator bonis, tutor, judicial factor, committee, receiver or any person having the powers of a receiver or guardian has been appointed for that person under the law in force in Scotland, England and Wales or Northern Ireland, as the case may be; and where such an appointment as aforesaid has been made the board of management shall account for any intromission under this section to any such curator bonis, tutor, judicial factor, committee, receiver or any person having the powers of a receiver or guardian as aforesaid.

93.—(1) Where a curator bonis, tutor or judicial factor has been appointed under the law in force in Scotland for any person suffering from mental disorder, the provisions of that law shall apply in relation to the property and affairs of that person in Northern Ireland unless a committee, receiver or guardian has been appointed for him in Northern Ireland.

Reciprocal arrangements in relation to Northern Ireland as to exercise of powers.

(2) Where a committee, receiver or guardian has been appointed under the law in force in Northern Ireland for a person suffering from mental disorder, the provisions of that law shall

PART VIII apply in relation to the property and affairs of that person in Scotland unless a curator bonis, tutor or judicial factor has been appointed for him in Scotland.

(3) In this section references to property do not include references to land or interests in land:

Provided that this subsection shall not prevent the receipt of rent or other income arising from land or interests in land.

(4) Subsections (2) and (3) of section one hundred and thirty-one of the Lunacy Act, 1890, shall cease to have effect.

PART IX

MISCELLANEOUS AND GENERAL

Offences

False
statements.

94.—(1) Any person who makes any statement or entry which is false in a material particular in any application, recommendation, report, record or other document required or authorised to be made for any of the purposes of this Act or, with intent to deceive, makes use of any such entry or statement which he knows to be false, shall be guilty of an offence.

(2) Any person guilty of an offence under this section shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both such fine and imprisonment; or

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds, or to both such fine and imprisonment.

Ill-treatment
of patients.

95.—(1) It shall be an offence for any person being an officer on the staff of or otherwise employed in a hospital or nursing home, or being a member of the board of management of a hospital or a person carrying on a nursing home—

(a) to ill-treat or wilfully neglect a patient for the time being receiving treatment for mental disorder as an in-patient in that hospital or nursing home; or

(b) to ill-treat or wilfully neglect, on the premises of which the hospital or nursing home forms part, a patient for the time being receiving such treatment there as an out-patient.

(2) It shall be an offence for any individual to ill-treat or wilfully neglect a patient who is for the time being subject to his guardianship under this Act or otherwise in his custody or care.

(3) Any person guilty of an offence against this section shall be liable—

PART IX

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both such fine and imprisonment;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds, or to both such fine and imprisonment.

96.—(1) It shall be an offence, subject to the exception mentioned in this section,—

Protection
of female
defectives.

- (a) for a man to have unlawful sexual intercourse with a woman who is a defective;
- (b) for any person to procure or encourage any woman who is a defective to have unlawful sexual intercourse;
- (c) for the owner or occupier of any premises or any person having or assisting in the management or control of premises to induce any woman who is a defective to resort to or be upon such premises for the purpose of unlawful sexual intercourse with any man.

(2) A person shall not be guilty of an offence against this section if he did not know and had no reason to suspect that the woman in respect of whom he is charged was a defective.

(3) Any person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for a term not exceeding two years.

(4) Section ten of the Criminal Law Amendment Act, 1885 (which relates to warrants to search where there is reasonable cause to suspect that a woman or girl is being unlawfully detained for immoral purposes) shall apply in the case of a woman who is a defective in the same manner as that section applies in the case of a girl who is under the age of sixteen years.

(5) Section four of the Criminal Evidence Act, 1898 (which relates to the calling of a spouse as witness in certain cases) shall have effect as if this section of this Act were included in the Schedule to that Act.

(6) If on the trial of an indictment for rape the jury are satisfied that the accused is guilty of an offence against paragraph (a) of subsection (1) of this section, but are not satisfied that he is guilty of rape, the jury may acquit him of rape and find him guilty of such offence as aforesaid, and in that event he shall be liable to be punished as if he had been convicted on an indictment for such offence as aforesaid.

PART IX

(7) In this section "defective" means a person suffering from mental deficiency which is of such a nature or degree that the person is incapable of living an independent life or of guarding herself against serious exploitation, and "woman" includes girl.

**Protection
of female
patients.**

97.—(1) Without prejudice to the last foregoing section, it shall be an offence, subject to the exception mentioned in this section,—

- (a) for a man who is an officer on the staff or is otherwise employed in a hospital or nursing home, or who is a member of the board of management of a hospital or who is a person carrying on a nursing home to have unlawful sexual intercourse with a woman who is for the time being receiving treatment for mental disorder as an in-patient in that hospital or nursing home, or to have such intercourse on the premises of which the hospital or nursing home forms part with a woman who is for the time being receiving such treatment there as an out-patient ;
- (b) for a man to have unlawful sexual intercourse with a woman suffering from mental disorder who is subject to his guardianship under this Act or is otherwise in his custody or care under this Act or in pursuance of arrangements under the National Health Service (Scotland) Act, 1947, or Part III of the National Assistance Act, 1948, or as a resident in a residential home for persons suffering from mental disorder within the meaning of Part III of this Act.

(2) It shall not be an offence under this section for a man to have sexual intercourse with a woman if he does not know and has no reason to suspect her to be a person suffering from mental disorder.

(3) Any person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for a term not exceeding two years.

**Assisting
patients
to absent
themselves
without
leave, etc.**

98.—(1) Any person who induces or knowingly assists any other person—

- (a) being liable to be detained in a hospital or being subject to guardianship under this Act, to absent himself without leave ; or
- (b) being in legal custody by virtue of section one hundred and three of this Act, to escape from such custody,

shall be guilty of an offence.

(2) Any person who knowingly harbours a patient who is absent without leave or is otherwise at large and liable to be retaken under this Act, or gives him any assistance with intent to prevent, hinder or interfere with his being taken into custody or returned to the hospital or other place where he ought to be, shall be guilty of an offence.

(3) Any person guilty of an offence against this section shall be liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both such fine and imprisonment;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds, or to both such fine and imprisonment.

99.—(1) Any person who refuses to allow the inspection of any premises, or without reasonable cause refuses to allow the visiting, interviewing or examination of any person, by a person authorised in that behalf by or under this Act, or to produce for the inspection of any person so authorised any document or record the production of which is duly required by him, or otherwise obstructs any such person in the exercise of his functions, shall be guilty of an offence. **Obstruction.**

(2) Without prejudice to the generality of the last foregoing subsection, any person who insists on being present when requested to withdraw by a person authorised as aforesaid to interview or examine a person in private, shall be guilty of an offence.

(3) Any person guilty of an offence against this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both such fine and imprisonment.

Miscellaneous provisions

100. In any arrangements that may be made for the detention of a patient or his reception into guardianship in pursuance of this Act, regard shall be had to the religious persuasion to which the patient belongs or appears to belong. **Religious persuasion of patients.**

101.—(1) The Secretary of State may pay to persons who are receiving treatment as in-patients (whether liable to be detained or not) in any hospital, other than a private hospital, being a hospital wholly or mainly used for the treatment of persons suffering from mental disorder, such amounts as he thinks fit **Provision of pocket money for in-patients in hospital.**

PART IX

in respect of their occasional personal expenses where it appears to him that they would otherwise be without resources to meet those expenses.

(2) For the purposes of the National Health Service (Scotland) Act, 1947, the making of payments under this section to persons for whom hospital and specialist services are provided under Part II of that Act shall be treated as included among those services.

Correspon-
dence of
patients not
subject to
detention.

102.—(1) Section thirty-four of this Act shall apply in relation to any patient who is receiving treatment for mental disorder in a hospital, having been admitted for that purpose but not being liable to be detained therein, as it applies in relation to a patient detained in a hospital under Part IV of this Act.

(2) In relation to any patient to whom it applies by virtue of this section, the said section thirty-four shall have effect as if for any reference to the responsible medical officer there were substituted a reference to the medical practitioner in charge of the treatment of the patient.

Entry on
premises and
warrant to
search for
and remove
patients.

103.—(1) Where a mental health officer or a medical commissioner has reasonable cause to believe that a person suffering from mental disorder—

- (a) has been or is being ill-treated, neglected or kept otherwise than under control, in any place ; or
- (b) being unable to care for himself, is living alone or uncared for in any place,

he may, on production of some duly authenticated document showing that he is so authorised, demand admission at all reasonable times and, if admission is not refused, may enter and inspect that place.

(2) If it appears to a justice of the peace, on sworn information in writing by such officer or commissioner as aforesaid, that admission when demanded in pursuance of the last foregoing subsection has been refused or that a refusal of such admission is apprehended, he may issue a warrant authorising any constable named therein to enter, if need be by force, any premises specified in the warrant, and to remove, if it appears proper so to do, any person suffering from mental disorder to whom the last foregoing subsection applies to a place of safety with a view to the making of an application or emergency recommendation in respect of him under Part IV of this Act, or of other arrangements for his treatment or care.

(3) If it appears to a justice of the peace, on sworn information in writing by any constable or other person who is authorised by or under this Act or under section ninety-three of the Mental Health Act, 1959, to take a patient to any place, or to

take into custody or retake a patient who is liable to be so taken or retaken—

- (a) that there is reasonable cause to believe that that patient is to be found on any premises ; and
- (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 named therein to enter the premises, if need be by force, and to remove the patient.

(4) A patient who is removed to a place of safety in the execution of a warrant issued under this section may be detained there for a period not exceeding seventy-two hours.

(5) In the execution of a warrant issued under subsection (2) of this section, the constable to whom it is addressed shall be accompanied by a medical practitioner, and in the execution of a warrant issued under subsection (3) of this section the constable to whom it is addressed may be accompanied—

- (a) by a medical practitioner ;
- (b) by any person authorised by or under this Act or section ninety-three of the Mental Health Act, 1959, to take or retake the patient.

(6) It shall not be necessary in any information or warrant under subsection (2) of this section to name the person concerned.

(7) In this section—

- (a) any reference to a justice of the peace includes a reference to the sheriff and to a magistrate ; and
- (b) “ place of safety ” means a hospital as defined by this Act, or residential home for persons suffering from mental disorder or any other suitable place the occupier of which is willing temporarily to receive the patient ; but shall not include a police station unless by reason of emergency there is no place as aforesaid available for receiving the patient.

104.—(1) If a constable finds in a place to which the public have access a person who appears to him to be suffering from mental disorder and to be in immediate need of care or control, the constable may, if he thinks it necessary to do so in the interests of that person or for the protection of other persons, remove that person to a place of safety within the meaning of the last foregoing section.

Mentally
disordered
persons
found in
public places.

(2) A person removed to a place of safety under this section may be detained there for a period not exceeding seventy-two hours for the purpose of enabling him to be examined by a medical practitioner and of making any necessary arrangements for his treatment or care.

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(3) Where a patient is removed as aforesaid, it shall, where practicable, be the duty of the constable who has so removed him without delay to inform some responsible person residing with the patient and the nearest relative of the patient of that removal.

Supplemental

Provisions as to custody, conveyance and detention.

105.—(1) Any person required or authorised by or by virtue of this Act to be conveyed to any place or to be kept in custody or detained in a place of safety or at any place to which he is taken under subsection (5) of section sixty-one of this Act shall, while being so conveyed, detained or kept, as the case may be, be deemed to be in legal custody.

(2) A constable or any other person required or authorised by or by virtue of this Act to take any person into custody, or to convey or detain any person shall, for the purposes of taking him into custody or conveying or detaining him, have all the powers, authorities, protection and privileges which a constable has within the area for which he acts as constable.

(3) In this section “convey” includes any other expression denoting removal from one place to another.

Retaking of patients escaping from custody.

106.—(1) If any person being in legal custody by virtue of the last foregoing section escapes, he may, subject to the provisions of this section, be retaken—

- (a) in any case, by the person who had his custody immediately before the escape, or by any constable or mental health officer;
- (b) if at the time of the escape he was liable to be detained in a hospital, or subject to guardianship under this Act, by any other person who could take him into custody under section thirty-six of this Act if he had absented himself without leave.

(2) A person who escapes as aforesaid when liable to be detained or subject to guardianship as mentioned in paragraph (b) of the foregoing subsection (not being a person subject to an order under Part V of this Act restricting his discharge or an order or direction having the like effect as such an order) shall not be retaken under this section after the expiration of the period within which he could be retaken under section thirty-six of this Act if he had absented himself without leave on the day of the escape; and subsection (3) of the said section thirty-six shall apply, with the necessary modifications, accordingly.

(3) A person who escapes while being taken to or detained in a place of safety under section one hundred and three or one hundred and four of this Act shall not be retaken under this section after the expiration of the period of seventy-two hours beginning with the time when he escapes or the period during which he is liable to be so detained, whichever expires first.

(4) This section, so far as it relates to the escape of a person liable to be detained in a hospital, shall apply in relation to a person who escapes—

PART IX

- (a) while being taken to a hospital in pursuance of an application for admission approved by the sheriff;
- (b) while being taken to or from a hospital in pursuance of section thirty-seven of this Act, or of any order, direction or authorisation under Parts V and VI of this Act; or
- (c) while being taken to or detained in a place of safety in pursuance of an order under Part V of this Act pending his admission to a hospital,

as if he were liable to be detained in that hospital and, if he had not previously been received therein, as if he had been so received.

(5) In computing for the purposes of sections twenty-nine, fifty-eight and fifty-nine of this Act the periods therein mentioned relating to the removal, admission or reception of patients, no account shall be taken of any time during which the patient is at large and liable to be retaken by virtue of this section.

(6) Section forty-one of this Act shall, with any necessary modifications, apply in relation to a patient who is at large and liable to be retaken by virtue of this section as it applies in relation to a patient who is absent without leave within the meaning of section thirty-six of this Act, and references therein to the said section thirty-six shall be construed accordingly.

107.—(1) No person shall be liable, whether on the ground of want of jurisdiction or on any other ground, to any civil or criminal proceedings to which he would have been liable apart from this section in respect of any act purporting to be done in pursuance of this Act or any regulations thereunder, unless the act was done in bad faith or without reasonable care.

Protection
for acts
done in
pursuance of
this Act.

(2) Outwith Scotland section one hundred and forty-one of the Mental Health Act, 1959 (which relates to protection for acts done in pursuance of that Act) shall apply in respect of any act purporting to be done in pursuance of this Act or any regulations thereunder as it applies in relation to an act purporting to be done in pursuance of that Act or any regulations or rules thereunder.

108. The Secretary of State may cause an inquiry to be held in any case where he thinks it advisable to do so in connection with any matter arising under this Act, and subsections (2) to (9) of section three hundred and fifty-five of the Local Government (Scotland) Act, 1947 (which relates to the holding of local inquiries) shall apply to any inquiry held under this Act.

Inquiries.

PART IX
Expenses.

109. There shall be defrayed out of moneys provided by Parliament—

(a) any expenses incurred by a Secretary of State under this Act;

(b) any increase attributable to this Act in the sums payable out of moneys provided by Parliament under any other enactment.

General
provisions as
to regulations
and orders.

110.—(1) Any power of the Secretary of State to make regulations or orders under this Act shall be exercisable by statutory instrument.

(2) Any statutory instrument containing regulations made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation.

111.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“absent without leave” has the meaning assigned to it by section fifty-three of this Act;

“application for admission” and “guardianship application” have the meanings respectively assigned to them by sections twenty-four and twenty-five of this Act;

“board of management” means—

(a) in relation to a hospital vested in the Secretary of State under the National Health Service (Scotland) Act, 1947, the board of management of that hospital;

(b) in relation to a private hospital registered under Part III of this Act, the person or persons carrying on the hospital;

(c) in relation to a State hospital, the Secretary of State, or, if the Secretary of State has appointed a committee to manage that hospital, that committee;

“direction restricting discharge” has the meaning assigned to it by section sixty-seven of this Act;

“hospital” means—

(a) any hospital vested in the Secretary of State under the National Health Service (Scotland) Act, 1947;

(b) any private hospital registered under Part III of this Act; and

(c) any State hospital;

“hospital order” and “guardianship order” have the meanings respectively assigned to them by section fifty-five of this Act;

- “local health authority” has the same meaning as in the National Health Service (Scotland) Act, 1947, and includes a joint committee or board constituted under section twenty of that Act ;
- “medical practitioner” means a registered medical practitioner within the meaning of the Medical Act, 1956 ;
- “medical treatment” includes nursing, and also includes care and training under medical supervision ;
- “mental health officer” means an officer of a local health authority appointed to act as mental health officer for the purposes of this Act ;
- “nearest relative”, in relation to a patient, has the meaning assigned to it in Part IV of this Act ;
- “order restricting discharge” has the meaning assigned to it by section sixty of this Act ;
- “patient” (except in Part VIII of this Act) means a person suffering or appearing to be suffering from mental disorder ;
- “private hospital” has the meaning assigned to it in Part III of this Act ;
- “residential home for persons suffering from mental disorder” has the meaning assigned to it in Part III of this Act ;
- “responsible medical officer” has the meaning assigned to it by section fifty-three of this Act ;
- “State hospital” has the meaning assigned to it in Part VII of this Act ;
- “transfer direction” has the meaning assigned to it by section sixty-six of this Act ;
- “transfer order” has the meaning assigned to it by section sixty-five of this Act.

(2) Unless the context otherwise requires, any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied by or under any other enactment, including this Act.

(3) Without prejudice to the last foregoing subsection, any reference in this Act to an enactment of the Parliament of Northern Ireland, or to an enactment which that Parliament has power to amend, shall be construed, in relation to Northern Ireland, as a reference to that enactment as amended by any Act of that Parliament, whether passed before or after this Act.

(4) In relation to a person who is liable to be detained or subject to guardianship by virtue of an order or direction under Part V of this Act, any reference in this Act to any enactment contained in Part IV of this Act shall be construed as a reference to that enactment as it applies to that person by virtue of the said Part V.

PART IX
Transitional
provisions.

112. The transitional provisions set out in the Third Schedule to this Act shall have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of this Act.

Minor and
consequential
amendments
and repeals.

113.—(1) The enactments described in the Fourth Schedule to this Act shall have effect subject to the amendments therein specified, being minor amendments and amendments consequential on the foregoing provisions of this Act.

(2) The enactments described in the Fifth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) The repeal by this Act of the provisions of the Lunacy Board (Scotland) Salaries and Clerks Act, 1900, and of the Mental Deficiency and Lunacy (Scotland) Act, 1913, relating to the superannuation of officers or employees shall not affect any arrangements for the payment of allowances or other benefits made in accordance with those provisions and in force at the commencement of this Act.

Application
to England
and Wales.

114. The following provisions of this Act shall extend to England and Wales, that is to say—

- subsection (6) of section two ;
- section ten ;
- subsection (5) of section sixty-one ;
- sections seventy-three and seventy-four ;
- section seventy-five ;
- section eighty-three and, so far as applied by that section, sections thirty-six, forty-two and one hundred and six ;
- section ninety-eight, except so far as it relates to patients subject to guardianship ;
- section one hundred and five ;
- subsection (2) of section one hundred and seven ;
- section one hundred and thirteen ;
- the Fourth Schedule ;
- the Fifth Schedule ;

but except as aforesaid, and except so far as it relates to the interpretation or commencement of the said provisions, this Act shall not extend to England and Wales.

Power of
Parliament
of Northern
Ireland
to make
consequential
amendments
of this Act.

115. Notwithstanding any limitation imposed on the powers of the Parliament of Northern Ireland by the Government of Ireland Act, 1920, that Parliament may, by any Act re-enacting (with or without modifications) or amending the law in force in Northern Ireland with respect to persons suffering from mental disorder, make such amendments of the provisions of this Act which extend to Northern Ireland (except section ninety-three) as may be necessary for the purpose of bringing the said provisions into conformity with the provisions of that Act.

116. The following provisions of this Act shall extend to Northern Ireland, that is to say—

PART IX
Application
to Northern
Ireland.

- subsection (6) of section two ;
- sections seventy-seven to eighty ;
- section eighty-three and, so far as applied by that section, sections thirty-six, forty-two and one hundred and six ;
- section eighty-four ;
- section ninety-three ;
- section ninety-eight, except so far as it relates to patients subject to guardianship ;
- section one hundred and five ;
- subsection (2) of section one hundred and seven ;
- section one hundred and thirteen ;
- section one hundred and fifteen ;
- the Fourth Schedule ;
- the Fifth Schedule ;

but except as aforesaid, and except so far as it relates to the interpretation or commencement of the said provisions, this Act shall not extend to Northern Ireland.

117.—(1) This Act (except this section) shall come into operation on such date as the Secretary of State may by order appoint.

Commence-
ment.

(2) Different dates may be appointed by order under this section for different purposes of this Act ; and any reference in any provision of this Act to the commencement of this Act shall, unless otherwise provided by any such order, be construed as a reference to the date on which that provision comes into operation.

(3) Without prejudice to section thirty-seven of the Interpretation Act, 1889 (which authorises the exercise of statutory powers between the passing and the commencement of an Act conferring them), the following powers, that is to say—

- (a) the power of the Secretary of State to give directions under subsection (1) of section twenty-seven of the National Health Service (Scotland) Act, 1947, for defining the duties of local health authorities under that section as amended by this Act ; and
- (b) the powers of the Secretary of State and of local health authorities with respect to the submission, approval or making of proposals under section twenty-one of the said Act of 1947 for modifying in the light of such directions the proposals in force at the passing of this Act for the carrying out of the duties of those authorities under the said section twenty-seven,

may be exercised at any time after the passing of this Act.

118. This Act may be cited as the Mental Health (Scotland) Act, 1960.

Short title.

SCHEDULES

FIRST SCHEDULE

AMENDMENTS TO THE EDUCATION (SCOTLAND) ACT, 1946

1. In section fifty-four, in subsection (1) for the words "incapable of receiving" there shall be substituted the words "unsuitable for" and the words from "or as to" to the end of the subsection shall be omitted.

2.—(1) In section fifty-six, for subsections (1) and (2) there shall be substituted the following subsections:—

"(1) If after considering in accordance with the provisions of subsection (1) of the last foregoing section the advice, reports and information with respect to any child who has attained the age of two years, the education authority decide that the child is suffering from a disability of mind of such a nature or to such an extent as to make him unsuitable for education or training in a special school, it shall be (subject to the next following subsection) the duty of the authority to issue to the local health authority a report of their decision, together with a copy of any document which was taken into account for the purposes of the decision.

(1A) Before issuing a report under this section with respect to any child, the education authority shall give to the parent of the child not less than twenty-one days notice in writing of their intention to do so, and if within that period the parent refers to the Secretary of State the question whether such a report should be issued the report shall not be issued except by his direction.

(1B) Any notice under subsection (1A) of this section shall contain a statement of the functions of the local health authority with respect to the making of arrangements for the treatment, care or training of the child in the event of the report being issued, and, if known to the education authority, a statement of the arrangements proposed to be made by the local health authority in the discharge of those functions.

(2) Where a report has been issued under subsection (1) of this section in respect of a child—

(a) the parent of the child may, at any time (but not earlier than twelve months after the date of the issue of the report nor more often than once in any subsequent period of twelve months) by notice in writing request the education authority to review the decision; and

(b) if at any time it appears to the local health authority, or to any authority or body responsible for the management of an institution in which the child is under care, that the decision ought to be reviewed, they shall give notice to that effect to the education authority,

and thereupon the education authority shall cause the child to be medically examined and the provisions of subsections

(2) and (3) of section fifty-four of this Act shall apply for the purpose of such examination in like manner as they apply for the purpose of the duty of the authority under subsection (1) of the said section."

(2) In subsection (3) of the said section fifty-six after the words "local health authority" there shall be inserted the words "or from the parent of the child", for the words "capable of receiving" there shall be substituted the words "suitable for", and the words from "and that" to "other children" and the words "to the General Board of Control for Scotland" shall be omitted.

3. In section fifty-seven, for subsection (1) there shall be substituted the following subsection:—

"(1) Where the education authority decide that a child in attendance at a school in their area or under their management, or at a special school, is suffering from mental deficiency to such an extent that he may, on leaving school, benefit from services which the local health authority have power to provide, it shall be the duty of the education authority to issue to the parent of the child and to the local health authority, not earlier than six months before the child ceases to be of school age, a report of their decision together, in the latter case, with a copy of any document which was taken into account for the purposes of the decision."

4. In section one hundred and forty, in subsection (2), for paragraph (a) there shall be substituted the following paragraph:—

"(a) any person who is receiving treatment for mental disorder as an in-patient in a hospital within the meaning of the Mental Health (Scotland) Act, 1960."

and paragraphs (b), (c), (d) and (e) shall be omitted.

Sections 58, 60
61, 63, 64, 65,
66, 67, 71.

SECOND SCHEDULE
APPLICATION OF PART IV TO PATIENTS ADMITTED TO HOSPITAL OR
PLACED UNDER GUARDIANSHIP UNDER PART V

		Exceptions and Modifications
Section of Part IV and subject matter		<p>Hospital order without restriction order (s. 58) Transfer from prison without restriction (s. 66) Guardianship order or direction (ss. 58 and 71)</p>
S. 29 (Effect of applications)	...	<p>Subsection (1) shall be omitted; and in subsections (2) to (6), for references to an application for admission or a guardianship application there shall be substituted references to the order or direction under Part V of this Act by virtue of which the patient is liable to be detained or subject to guardianship, and any reference to an application being approved by the sheriff shall be omitted.</p>
S. 33 (Regulations as to guardianship)	...	None
S. 34 (Correspondence of patients)	...	None
		<p>Hospital order with restriction order (s. 60) Order as to person found insane and direction as to Queen's pleasure prisoner (ss. 63 and 64) Transfer from prison with direction restricting discharge (ss. 65 and 67)</p>
		<p>Subsection (1) shall be omitted; in subsection (2), for the words "application under this Part" there shall be substituted the words "order or direction under Part V"; and subsections (3) to (6) are not applicable.</p>
		Not applicable.
		Subsection (5) shall be omitted.

S. 35 (Leave of absence from hospital) ...	None	<p>In subsection (1), after the word "may" there shall be inserted the words "with the consent of the Secretary of State"; in subsection (2) the word "either", and the words from "or for any specified period" to the end of the subsection shall be omitted; and in subsection (5), after the words "responsible medical officer", and after the words "that officer" there shall in each case be inserted the words "or the Secretary of State".</p> <p>Subsections (2) and (3) shall be omitted.</p>
S. 36 (Return and re-admission of patients absent without leave).	None	
S. 37 (Transfer of patients) ...	<p>In subsection (3), for the words from "as follows" to the end of the subsection there shall be substituted the words "as if the order or direction under Part V of this Act by virtue of which he was liable to be detained or subject to guardianship before being transferred were an order or direction for his admission or removal to the hospital to which he is transferred, or placing him under the guardianship of the authority or person into whose guardianship he is transferred, as the case may be".</p>	<p>In subsection (1), after the word "may" there shall be inserted the words "with the consent of the Secretary of State", and sub-paragraphs (ii) and (iii) of paragraph (a) and paragraph (b) shall be omitted; and in subsection (3), for the words from "as follows" to the end of the subsection there shall be substituted the words "as if the order or direction under Part V of this Act by virtue of which he was liable to be detained before being transferred were an order or direction for his admission or removal to the hospital to which he is transferred".</p>
S. 38 (Transfer of guardianship in case of death, incapacity, etc. of guardian).	None	<p>Not applicable.</p>

2ND SCH.

2ND SCH.

		Exceptions and Modifications	
Section of Part IV and subject matter		<p>Hospital order without restriction order (s. 58) Transfer from prison without restriction (s. 66) Guardianship order or direction (ss. 58 and 71)</p>	<p>Hospital order with restriction order (s. 60) Order as to person found insane and direction as to Queen's pleasure prisoner (ss. 63 and 64) Transfer from prison with direction restricting discharge (ss. 65 and 67)</p>
S. 39 (Duration of authority)		<p>In subsection (1), for the words from "day on which he was so" to "as the case may be" there shall be substituted the words "date of the relevant order or direction under Part V of this Act".</p>	<p>The section shall not apply.</p>
S. 41 (Special provisions as to patients absent without leave).		<p>In subsection (2), the words "or subsection (1) of section forty"; and in subsection (3), the words "or section forty", shall be omitted.</p>	<p>The section shall not apply.</p>
S. 42 (Special provisions as to patients sentenced to imprisonment, etc.).		<p>None.</p>	<p>The section shall not apply.</p>

		Exceptions and Modifications	
Section of Part IV and subject matter		Hospital order without restriction order (s. 58) Transfer from prison without restriction (s. 66) Guardianship order or direction (ss. 58 and 71)	Hospital order with restriction order (s. 60) Order as to person found insane and direction as to Queen's pleasure prisoner (ss. 63 and 64) Transfer from prison with direction restricting discharge (ss. 65 and 67)
S. 51 (Appeals to the sheriff) ... ..	...	In subsection (1), the words "section forty, or section forty-four," and the words from "whether" to "both" shall be omitted.	Not applicable.
S. 52 (Regulations for purposes of Part IV)	...	None	None.
S. 53 (Interpretation of Part IV) ... ..	...	In subsection (2), for paragraphs (a) and (b) there shall be substituted the words "to the local health authority to whose guardianship he is subject or who approved his guardian."	Subsection (2) shall be omitted.

S. 43 (Discharge of patients)	...	...	<p>In subsection (3), the words "forty or forty-four" shall be omitted; and in subsection (4), the words "by the nearest relative of the patient or" shall be omitted, and for references to an application for admission or a guardianship application there shall be substituted references to the order or direction under Part V of this Act by virtue of which the patient is liable to be detained or subject to guardianship.</p>	<p>The section shall not apply.</p>
S. 45 (Definition of relative and nearest relative).		None		None.
S. 46 (Children and young persons in care of local authority).		None		None.
S. 47 (Nearest relative of child under guardianship, etc.).		None		Subsection (3) shall be omitted.
S. 48 (Appointment by sheriff of acting nearest relative).		None		None.
S. 49 (Discharge and variation of orders under s. 48).			<p>In subsection (4), in paragraph (a), for the words "in pursuance" to "Part" there shall be substituted the words "or subject to guardianship in pursuance of an order or direction under Part V"; and the words from "or becomes" to "that date", and paragraph (b), shall be omitted.</p>	<p>In subsection (4), in paragraph (a), for the words "in pursuance" to "Part" there shall be substituted the words "or subject to guardianship in pursuance of an order or direction under Part V"; and the words from "or becomes" to "that date", and paragraph (b), shall be omitted.</p>

THIRD SCHEDULE

Section 112.

TRANSITIONAL PROVISIONS

PART I

PROVISIONS RELATING TO PART II

1. Without prejudice to the power of the Secretary of State to give directions under subsection (1) of section twenty-seven of the National Health Service (Scotland) Act, 1947, for defining the extent of the duties of local health authorities under that section, and subject to any such directions as aforesaid, every local health authority shall, subject to any necessary modifications, continue to take such action in respect of persons of unsound mind and mental defectives and provide such services for or for the benefit of such persons as they were required to take or provide under any enactment repealed by this Act, and any proposals in force immediately before the commencement of this Act under section twenty-one of the 1947 Act, with regard to the duties of local health authorities in respect of persons of unsound mind or mental defectives or the provision of services for them or for their benefit, shall continue in force until modified by further proposals under the said section twenty-one.

2. Anything done before the commencement of this Act under any enactment amended by section eleven of, and the First Schedule to, this Act shall have effect as if done under that Act as so amended.

PART II

PROVISIONS RELATING TO PART III

3.—(1) Until the expiration of the period of six months beginning with the commencement of this Act or until registration is effected under sub-paragraph (2) of this paragraph, whichever first occurs—

- (a) any private asylum which, immediately before the commencement of the Act, was the subject of a licence granted and in force under section twenty-seven of the Lunacy (Scotland) Act, 1857; and
- (b) any institution which, immediately before the commencement of the Act, was the subject of a certificate granted and in force under section twenty-nine of the Mental Deficiency and Lunacy (Scotland) Act, 1913,

shall be treated for the purposes of this Act as if they were private hospitals registered under Part III thereof.

(2) Before the expiration of the period of six months the Secretary of State shall, without an application being made in that behalf, register any private asylum or institution as aforesaid as a private hospital under the said Part III and shall issue to the person carrying on the hospital a certificate of registration, specifying as the maximum number of persons who may receive care or treatment at any one time in the hospital the number permitted to be received there immediately before the commencement of this Act.

PART III

PROVISIONS RELATING TO PARTS IV AND V

Patients other than transferred patients

4.—(1) This paragraph applies to patients who immediately before the commencement of this Act were patients of any of the following classes, that is to say—

- (a) patients liable to be detained in a hospital under an order under section fourteen of the Lunacy (Scotland) Act, 1862, or treated as so liable to be detained by virtue of any other enactment except paragraph (a) of subsection (1) of section eighty-three of the Mental Health Act, 1959 ;
- (b) patients who have been received into a house under section thirteen of the Lunacy (Scotland) Act, 1866, or under an order under the said section fourteen ;
- (c) patients liable to be detained in an institution or subject to guardianship in terms of section four or seven of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or treated as so liable or so subject by virtue of any other enactment, except paragraph (b) of subsection (1) of section eighty-three of the Mental Health Act, 1959, or patients, being patients whose sentence or other period of detention ordered by the court had expired before the commencement of this Act, liable to be so detained or subject to guardianship in terms of an order having the like effect as an order under the said section seven.

(2) A patient to whom this paragraph applies, other than a patient to whom head (b) of sub-paragraph (1) applies, shall, notwithstanding the repeal or exclusion by this Act of any enactment by virtue of which he was treated as liable to be so detained or subject to guardianship, continue to be liable to be detained in any hospital in which he might have been detained immediately before the commencement of this Act or, as the case may be, subject to guardianship until the expiration of the period of six months beginning with the commencement of this Act (hereinafter referred to as the initial period).

(3) A patient to whom head (b) of sub-paragraph (1) applies shall, as from the commencement of this Act, until the expiration of the initial period, be regarded as subject to the guardianship of the person under whose care he resides.

(4) During the initial period the responsible medical officer shall record with respect to each such patient as aforesaid his opinion whether the patient is suffering from mental disorder, the form of disorder, being mental illness or mental deficiency or both, and whether the mental disorder is of a nature or degree which warrants the detention of the patient in a hospital for medical treatment or his retention under guardianship.

5.—(1) Any patient who by virtue of the last foregoing paragraph is liable to be detained in a hospital or subject to guardianship during the initial period, shall, subject to the following provisions of this paragraph, be treated during that period as if he had been admitted

to the hospital in pursuance of an application under Part IV of this Act or had been received into guardianship in pursuance of a guardianship application thereunder.

(2) If the patient is also a patient to whom paragraph 14 of this Schedule applies, sections thirty-five and thirty-six of this Act shall apply to him subject to the modifications mentioned in that paragraph, and, if he is not, but no form or forms of mental disorder have been recorded in his case under the last foregoing paragraph, the said section thirty-six shall apply in relation to him as if for paragraphs (a), (b) and (c) of subsection (3) of that section there were substituted the following paragraphs:—

“(a) in the case of a patient mentioned in head (c) of sub-paragraph (1) of paragraph 4 of the Third Schedule to this Act, three months;

(b) in the case of any other patient to whom that paragraph applies, twenty-eight days.”

(3) Subsection (2) of section twenty-three and sections thirty-nine to forty-one of this Act shall not apply in relation to the patient except in so far as the provisions of the said section thirty-nine are applied by the following provisions of this part of this Schedule.

(4) If the patient was immediately before the commencement of this Act liable to be detained by virtue of an order under section ten (whether under that section as originally enacted or as amended) or by virtue of subsection (2) of section seventy-one of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or of an order under paragraph (a) of subsection (2) of section twenty-three or under section twenty-four of the Criminal Justice (Scotland) Act, 1949, or subject to guardianship by virtue of an order under section ten, the power of discharging him under section ten of this Act shall not be exercisable by the nearest relative.

6. Subject to the provisions of sub-paragraph (3) of paragraph 9 of this Schedule, a patient to whom paragraph 4 of this Schedule applies shall, unless previously discharged, continue to be detained in a hospital or, as the case may be, subject to guardianship after the expiration of the initial period if it is recorded under sub-paragraph (4) of paragraph 4 that in the opinion of the responsible medical officer he is suffering from mental disorder of a nature or degree which warrants his being so liable or so subject.

7.—(1) The period for which a patient may, by virtue of the last foregoing paragraph, be detained or kept under guardianship after the expiration of the initial period, without renewal of the authority for his detention or guardianship, shall be the remainder of his current period of treatment.

(2) Where the current period of treatment of a patient, who may be detained or kept as aforesaid, would continue after the expiration of the period of two years beginning with the commencement of this Act, the patient may, between the expiration of the period of two years and the expiration of the current period of treatment, appeal to the sheriff against his continued detention or guardianship.

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8.—(1) Authority for the detention or guardianship of a patient to whom paragraph 4 of this Schedule applies may, on the expiration of the relevant period, unless the patient has previously been discharged, be renewed for whichever of the following periods is applicable, that is to say—

- (a) where the period for which he has, at the expiration of the relevant period, already been detained or subject to guardianship on account of any description of mental disorder (whether before or after the appointed day) is not more than one year, a further period of one year;
- (b) where the period for which he has already been so detained or subject is more than one year, a further period of two years.

(2) Subsections (3) to (7) of section thirty-nine and section fifty-one of this Act shall apply in relation to the renewal of authority for the detention or guardianship of a patient under this paragraph as they apply in relation to the renewal of authority for the detention or guardianship of the patient under subsection (2) of the said section thirty-nine.

(3) In this paragraph “the relevant period” means, in relation to a patient, the patient’s current period of treatment or, if that period expires during the initial period, the initial period or any period subsequent to the said periods for which authority for the detention or guardianship of the patient has previously been renewed under this paragraph.

9.—(1) Any patient who by virtue of paragraph 6 of this Schedule is liable to be detained in a hospital or subject to guardianship after the expiration of the initial period, shall, subject to the following provisions of this paragraph, be treated as if he had been admitted to the hospital in pursuance of an application for admission under Part IV of this Act or had been received into guardianship in pursuance of a guardianship application thereunder and had been so admitted or received as a patient suffering from the form or forms of mental disorder recorded under sub-paragraph (4) of paragraph 4 of this Schedule.

(2) Section thirty-nine of this Act shall not apply in relation to the patient, but the provisions of paragraph 8 of this Schedule shall apply instead.

(3) Subsection (2) of section twenty-three and section forty of this Act shall not apply, but any patient, not being a patient to whom sub-paragraph (4) of paragraph 5 of this Schedule applies, in respect of whom the responsible medical officer has recorded that he is—

- (a) suffering from mental illness which is a persistent disorder manifested only by abnormally aggressive or seriously irresponsible conduct; or
- (b) suffering from mental deficiency, but not incapable of living an independent life or of guarding himself against serious exploitation,

shall cease to be liable to be detained or subject to guardianship on attaining the age of twenty-five years unless, in the case of a patient liable to be detained in a hospital, during the period of two months ending on the date when he attains that age, the responsible medical officer records his opinion that the patient is unfit for discharge.

(4) In the case of patients in any of the classes mentioned in sub-paragraph (4) of paragraph 5 of this Schedule, the power to order discharge under section forty-three of this Act shall not be exercisable by the nearest relative, but not more than once during each period of twelve months after the expiration of the initial period the nearest relative may appeal to the sheriff to discharge the patient.

(5) Subsections (2) and (3) of section fifty-one of this Act shall apply to an appeal under the last foregoing sub-paragraph in like manner as they apply to an appeal referred to in that section.

10. Any person who immediately before the commencement of this Act was the guardian of any such patient as is mentioned in head (c) of sub-paragraph (1) of paragraph 4 of this Schedule, or was in charge of any such patient as is mentioned in head (b) of sub-paragraph (1) of the said paragraph shall be deemed for the purposes of this Act to have been named as the guardian of the patient in an application for his reception into guardianship under Part IV of this Act, approved by the sheriff.

Transferred patients

11.—(1) This paragraph applies to patients who immediately before the commencement of this Act were liable to be detained in a hospital or other place as patients of any of the following classes, that is to say—

- (a) patients authorised to be detained under section nineteen of the Lunacy (Scotland) Act, 1862, or ordered to be detained at Her Majesty's pleasure under section eighty-seven or eighty-eight of the Lunacy (Scotland) Act, 1857, or under section three of the Criminal Appeal (Scotland) Act, 1926 ;
- (b) patients liable to be detained under an order under section fifteen of the Lunacy (Scotland) Act, 1862, or treated as so liable to be detained by virtue of any other enactment ;
- (c) patients liable to be detained by virtue of section four of the Criminal Lunatics (Scotland) Act, 1935 ;
- (d) patients liable to be detained by virtue of section four or section six of the Criminal and Dangerous Lunatics (Scotland) Amendment Act, 1871, or treated as so liable by virtue of subsection (2) of section sixty-five of the Criminal Justice (Scotland) Act, 1949, or liable to be detained by virtue of section ten of the Mental Deficiency and Lunacy (Scotland) Act, 1913, as originally enacted or as amended, not being patients whose sentence or other period of detention ordered by the court had expired before the commencement of this Act ;
- (e) patients liable to be detained by virtue of subsection (3) of section sixty-four of the Criminal Justice (Scotland) Act, 1949 ;
- (f) patients liable to be detained by virtue of section ten of the Colonial Prisoners Removal Act, 1884 ;
- (g) patients liable to be detained by virtue of subsection (1) of section eighty-three of the Mental Health Act, 1959 ;
- (h) patients liable to be detained by virtue of section eighty-nine of the Lunacy (Scotland) Act, 1857 ;

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and any patient to whom this paragraph applies is in this Part of this Schedule referred to as a transferred patient.

(2) A transferred patient who immediately before the commencement of this Act was liable to be detained in a hospital as being or having been required to be kept in custody during Her Majesty's pleasure or until the directions of Her Majesty are known (including a patient of that or a similar description liable to be detained by virtue of section ten of the Colonial Prisoners Removal Act, 1884, or of section nineteen of the Lunacy (Scotland) Act, 1862, but not including a patient transferred to Scotland from the Channel Islands or the Isle of Man) shall be treated for the purposes of this Act as if he were liable to be detained in a hospital in pursuance of an order under section sixty-three of this Act.

(3) A transferred patient who immediately before the commencement of this Act was subject to a sentence of imprisonment within the meaning of section sixty-six of this Act (including a patient liable to be detained by virtue of section eighty-nine of the Lunacy (Scotland) Act, 1857, or of section ten of the Colonial Prisoners Removal Act, 1884, who does not fall within the last foregoing sub-paragraph) shall be treated for the purposes of this Act as if he were liable to be detained in a hospital by virtue of a transfer direction under the said section sixty-six, and as if a direction restricting his discharge had been given under section sixty-seven of this Act.

(4) A transferred patient who immediately before the commencement of this Act was liable to be detained as aforesaid by virtue of section fifteen of the said Act of 1862, or treated as so liable, shall be treated for the purposes of this Act as if he were liable to be detained in a hospital by virtue of a hospital order under section fifty-five thereof, and as if an order restricting his discharge had been made without limit of time under section sixty thereof.

(5) Section eighty-one of this Act shall apply to a transferred patient who having been ordered by a court in any of the Channel Islands or in the Isle of Man to be detained during Her Majesty's pleasure was removed to, and was immediately before the commencement of this Act liable to be detained in, a hospital in Scotland as if he had been removed to such a hospital under that section.

(6) A transferred patient who immediately before the commencement of this Act was liable to be detained by virtue of subsection (1) of section eighty-three of the Mental Health Act, 1959, shall be treated for the purposes of this Act as if he had been removed to Scotland under section eighty-one of the Mental Health Act, 1959, as amended by section seventy-four of this Act, as a person subject to an order or direction restricting his discharge.

(7) Any person to whom this paragraph applies and who does not fall within any of the five last foregoing paragraphs shall be treated for the purposes of this Act as if he were liable to be detained in a hospital in pursuance of a transfer order given under section sixty-five thereof.

12.—(1) References in the last foregoing paragraph to a patient who immediately before the appointed day was required to be kept

in custody during Her Majesty's pleasure, or until the directions of Her Majesty are known, include references to such a patient conditionally liberated by the Secretary of State before the commencement of this Act under section two of the Criminal and Dangerous Lunatics (Scotland) Amendment Act, 1871, and—

- (a) any such patient shall be treated as if he had been discharged subject to conditions by the Secretary of State under section sixty-one of this Act; and
- (b) any direction given before the commencement of this Act under the said section two to take any such patient into custody and convey him to a hospital shall be deemed to have been given under the said section sixty-one.

(2) Sections thirty-five and thirty-six of this Act, in their application to a transferred patient who is also a patient to whom paragraph 14 of this Schedule applies, shall have effect subject to the modifications mentioned in that paragraph.

13. Upon an order or a direction restricting the discharge of a transferred patient ceasing to have effect, the responsible medical officer shall record his opinion whether the patient is suffering from mental illness or mental deficiency or both, and references in this Act to the form or forms of mental disorder specified in the relevant application, order or direction shall be construed as including references to the form or forms of mental disorder so recorded.

Patients on leave or absent without leave

14.—(1) Sections thirty-five and thirty-six of this Act shall apply to a patient to whom paragraph 4 of this Schedule applies or to a transferred patient who in either case was immediately before the commencement of this Act absent on account of his removal or transfer to a licensed house or private dwelling under section sixteen of the Lunacy (Scotland) Act, 1862, as read with subsection (1) of section fifty-five of the Mental Deficiency and Lunacy (Scotland) Act, 1913, or absent on trial, probation or leave or in pursuance of a licence under any enactment repealed by this Act or of any rules or regulations thereunder, as if he had been granted leave of absence under the said section thirty-five for a period of six months as from the commencement of this Act.

(2) Section thirty-six of this Act shall, subject to the next following sub-paragraph, apply to a patient to whom the said paragraph 4 applies or to a transferred patient who in either case immediately before the commencement of this Act was absent otherwise than as mentioned in the foregoing sub-paragraph from the hospital or other place where he was required to be by virtue of any such enactment, rules or regulations, as if he had absented himself without leave or without permission from the hospital or other place as mentioned in subsection (1) of that section or, as the case may be, he were absent without his guardian's permission as mentioned in subsection (2) of that section.

(3) The period within which any patient to whom paragraph 4 of this Schedule applies may be retaken and returned under the said section thirty-six shall be whichever of the following periods is

3RD SCH. applicable instead of that specified in subsection (3) of that section, that is to say—

- (a) in the case of a patient mentioned in head (c) of sub-paragraph (1) of paragraph 4 of this Schedule the period of three months beginning with the commencement of this Act ;
- (b) in the case of any other patient to whom that paragraph applies, the period of twenty-eight days beginning with the commencement of this Act ;

and a transferred patient may be retaken and returned under the said section thirty-six at any time.

Supplemental

15. Any opinion recorded by the responsible medical officer under this Part of this Schedule shall be recorded in such form as may be prescribed by regulations made by the Secretary of State.

16.—(1) In this Part of this Schedule the following expressions have the meanings hereby respectively assigned to them, that is to say—

“current period of treatment” means—

(a) in relation to a patient such as is mentioned in head (b) of sub-paragraph (1) of paragraph 4 of this Schedule or a patient who has been removed or transferred to a licensed house or private dwelling under section sixteen of the Lunacy (Scotland) Act, 1862, as read with subsection (1) of section fifty-five of the Mental Deficiency and Lunacy (Scotland) Act, 1913, the initial period ; and

(b) in relation to any other patient the period for which he would have been liable to be detained or subject to guardianship by virtue of any enactment repealed or excluded by this Act, or any enactment repealed or replaced by any such enactment as aforesaid, being a period which began but has not expired before the commencement of this Act ;

“initial period” has the meaning assigned to it by paragraph 4 of this Schedule.

(2) In relation to a patient who by virtue of this Part of this Schedule is treated as if he had been received into guardianship in pursuance of a guardianship application under Part IV of this Act, any reference in this Act to the local health authority concerned shall be construed as a reference to the local authority who immediately before the commencement of this Act was the local authority responsible for making arrangements for the visitation of the patient or, where no local authority was so responsible, the local authority of the area in which the guardian or other person in whose care the patient had been placed resided immediately before the commencement of this Act.

(3) The sentence or other period of detention of a person who was liable to be detained or subject to guardianship immediately before the commencement of this Act by virtue of section eighty-

nine of the Lunacy (Scotland) Act, 1857, an order under section ten of the said Act of 1913, as originally enacted or as amended, section four or six of the said Act of 1871 or section four of the said Act of 1935, or treated as so liable or so subject by virtue of any other enactment, shall be treated for the purposes of this Part of this Schedule as expiring at the end of the period for which that person would have been liable to be detained in a prison or other institution if the order had not been made.

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FOURTH SCHEDULE

Section 113.

MINOR AND CONSEQUENTIAL AMENDMENTS

The Land Tax Redemption Act, 1802
(42 Geo. 3. c. 116)

In section fourteen, as it applies to Scotland, for the words "lunatics or of idiots" and "lunatics, idiots", wherever they occur, there shall be substituted the words "persons suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960".

The Admiralty (Signal Stations) Act, 1815
(55 Geo. 3. c. 128)

In section three, as it applies to Scotland, for the words "lunatics, idiots" there shall be substituted the words "persons suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960".

The Defence Act, 1842
(5 & 6 Vict. c. 94)

In sections ten and eighteen, as they apply to Scotland, for the words "lunatics, idiots" there shall be substituted the words "persons suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960".

The Companies Clauses Consolidation (Scotland) Act, 1845
(8 & 9 Vict. c. 17)

In section eighty-two, for the words "be a lunatic or idiot, fatuous or furious person, such lunatic or idiot, fatuous or furious person" there shall be substituted the words "is suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960, and is incapable by reason of his mental disorder of managing and administering his property and affairs, he".

The Lands Clauses Consolidation (Scotland) Act, 1845
(8 & 9 Vict. c. 19)

In section seven, for the words "lunatics or idiots, fatuous or furious persons" and for the words "lunatics, idiots, fatuous and furious persons", wherever they occur, there shall be substituted the words "persons suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960".

In section sixty-seven, for the words, "lunatic or idiot, fatuous

4TH SCH. or furious person” there shall be substituted the words “person suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”.

In section sixty-nine, for the word “lunacy” there shall be substituted the words “incapacity by reason of mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”.

In section seventy, for the words “idiotcy, lunacy” there shall be substituted the words “incapacity by reason of mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”.

The Judicial Factors Act, 1849

(12 & 13 Vict. c. 51)

In section one, for the words “insane person or idiot”, wherever they occur, there shall be substituted the words “person suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”.

In section seven, for the word “lunatic” there shall be substituted the words “person suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”.

In section twenty-five, for the words “insane person or idiot”, wherever they occur, there shall be substituted the words “person suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”.

In section twenty-six, for the words “an insane person or idiot” there shall be substituted the words “a person suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”, and for the words “insane persons or idiots” there shall be substituted the words “persons suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”.

In section thirty, for the words “insane person or idiot” there shall be substituted the words “person suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”.

*The Registration of Births, Deaths and Marriages (Scotland)
Act, 1854*

(17 & 18 Vict. c. 80)

In section seventy-six, in the definition of “occupier” the words “lunatic asylum” shall be omitted.

The Defence Act, 1860

(23 & 24 Vict. c. 112)

In section eleven, as it applies to Scotland, for the words “lunatics, idiots” there shall be substituted the words “persons suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”.

The Church of Scotland Courts Act, 1863

(26 & 27 Vict. c. 47)

In section two, for the word “insane” there shall be substituted the words “suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”.

The Improvement of Land Act, 1864
(27 & 28 Vict. c. 114)

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In section twenty-four, as it applies to Scotland, for the words "lunatics, idiots, and furious and fatuous persons" there shall be substituted the words "persons suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960".

In section sixty-eight, as it applies to Scotland, for the words "lunatic, idiot, or furious or fatuous person", there shall be substituted the words "or person suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960".

The Titles to Land Consolidation (Scotland) Act, 1868
(31 & 32 Vict. c. 101)

In section twenty-four, for the word "lunatic", wherever it occurs, there shall be substituted the words "person suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960".

The Building Societies Act, 1874
(37 & 38 Vict. c. 42)

In section twenty-six, as it applies to Scotland, for the words "becomes a lunatic" there shall be substituted the words "is suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960".

The Trade Union Act Amendment Act, 1876
(39 & 40 Vict. c. 22)

In section four, as it applies to Scotland, for the words "becomes a lunatic" there shall be substituted the words "is suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960".

The Habitual Drunkards Act, 1879
(42 & 43 Vict. c. 19)

In section three, as it applies to Scotland, in the definition of "habitual drunkard", for the words "amenable to any jurisdiction in lunacy" there shall be substituted the words "a person suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960".

In section seven, as it applies to Scotland, for the words "who is licensed" to the end of the section there shall be substituted the words "in respect of premises which are a private hospital within the meaning of the Mental Health (Scotland) Act, 1960".

The Judicial Factors (Scotland) Act, 1880
(43 & 44 Vict. c. 4)

In section four, for the words "insane person" there shall be substituted the words "person suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960".

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The Colonial Prisoners Removal Act, 1884

(47 & 48 Vict. c. 31)

In section ten, as it applies to Scotland, after subsection (3) there shall be added the following subsection—

“(4) Without prejudice to the foregoing provisions of this section, where a criminal lunatic is removed to Scotland, then—

(a) except where he is a criminal lunatic by virtue of having been convicted of an offence and afterwards certified or otherwise lawfully proved to be insane, the Secretary of State may give the like direction in respect of him under section sixty-four of the Mental Health (Scotland) Act, 1960, as may be given in the case of a person to whom that section applies ;

(b) in the said excepted case, the Secretary of State may give the like direction in respect of him under section sixty-six of that Act (with or without a direction under section sixty-seven thereof) as may be given in the case of a person serving a sentence of imprisonment with respect to whom the Secretary of State is satisfied as mentioned in subsection (1) of that section.”

The Naval Enlistment Act, 1884

(47 & 48 Vict. c. 46)

Section three shall cease to have effect.

The Merchant Shipping Act, 1894

(57 & 58 Vict. c. 60)

In section fifty-five, in subsection (1), as it applies to Scotland, for the word “lunacy” there shall be substituted the words “mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”.

The Friendly Societies Act, 1896

(59 & 60 Vict. c. 25)

In section thirty-four, as it applies to Scotland, for the words “becomes lunatic” there shall be substituted the words “is suffering from mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”.

The Local Government (Scotland) Act, 1929

(19 & 20 Geo. 5 c. 25)

In section five, in subsection (3), for the words “the General Board of Control for Scotland” there shall be substituted the words “the Secretary of State”.

The Children and Young Persons (Scotland) Act, 1937

(1 Edw. 8 & 1 Geo. 6. c. 37)

In section ninety-six, for the words from “any institution” to the end of the section there shall be substituted the words “any private hospital or residential home for persons suffering from mental disorder within the meaning of Part III of the Mental Health (Scotland) Act, 1960”.

In the Second Schedule, in paragraph 4, for the words "section ten of the Mental Deficiency and Lunacy (Scotland) Act, 1913", there shall be substituted the words "section seventy-one of the Mental Health (Scotland) Act, 1960".

The Divorce (Scotland) Act, 1938
(1 & 2 Geo. 6 c. 50)

In section three, for the words "General Board of Control" there shall be substituted the words "Mental Welfare Commission".

In section six, in subsection (3) (except so far as it relates to any time before the commencement of this Act), for paragraphs (a) and (b) there shall be substituted the words "while he is liable to be detained by reason of mental illness in a hospital or place of safety under the Mental Health (Scotland) Act, 1960, or in a hospital, mental nursing home or place of safety under the Mental Health Act, 1959".

The Polish Resettlement Act, 1947
(10 & 11 Geo. 6 c. 19)

In section eleven, in subsection (3), in paragraph (b), for the words "the Lunacy (Scotland) Acts, 1857 to 1919, and the Mental Deficiency (Scotland) Acts, 1913 and 1940" there shall be substituted the words "the Mental Health (Scotland) Act, 1960".

The National Health Service (Scotland) Act, 1947
(10 & 11 Geo. 6 c. 27)

In section sixty-three, for the words "the Mental Deficiency (Scotland) Acts, 1913 and 1940, or under Part V of this Act" there shall be substituted the words "the said Part III as extended by Part II of the Mental Health (Scotland) Act, 1960, or under the last mentioned Part II".

In section eighty, in subsection (1), in the definition of "illness", for the words "lunacy, mental illness" there shall be substituted the words "mental disorder within the meaning of the Mental Health (Scotland) Act, 1960."

The National Assistance Act, 1948
(11 & 12 Geo. 6 c. 29)

In section twenty-nine, in subsection (1), after the word "dumb" there shall be inserted the words "or who suffer from mental disorder of any description".

In section thirty-seven, in subsection (9), after the word "applies" there shall be inserted the words ", not being persons to whom that section applies by virtue of the amendment thereto made by the Mental Health Act, 1959, or the Mental Health (Scotland) Act, 1960", at the end of paragraph (d) of the proviso there shall be inserted the words "or any private hospital within the meaning of Part III of the Mental Health (Scotland) Act, 1960", and after paragraph (h) there shall be inserted the words "or

(i) except as provided by Part III of the Mental Health (Scotland) Act, 1960, any residential home for persons suffering from mental disorder within the meaning of that Act."

4TH SCH. In section forty-one, in subsection (1), at the end of the subsection there shall be inserted the words “, not being persons to whom that section applies by virtue of the amendment thereto made by the Mental Health Act, 1959, or the Mental Health (Scotland) Act, 1960”.

The Children Act, 1948
(11 & 12 Geo. 6 c. 43)

In section two, as it applies to Scotland, in the proviso to subsection (3), for the words “unsoundness of mind or mental deficiency” there shall be substituted the words “mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”.

In section thirty-nine, in subsection (1), after paragraph (f) there shall be inserted the following paragraph:—

“(g) section nine of the Mental Health (Scotland) Act, 1960, and the provisions of section ten of that Act relating to children and young persons in respect of whom the rights and powers of a parent are vested in a local authority as mentioned in paragraph (a) of subsection (1) of the said section ten”.

The National Service Act, 1948
(11 & 12 Geo. 6 c. 64)

In section fifty-six, for paragraph (c) there shall be substituted the following paragraph:—

“(c) in the First Schedule, for paragraph (3) there shall be substituted the following paragraph:—

‘(3) A person who—

(a) is receiving treatment for mental disorder as an in-patient in a hospital within the meaning of the Mental Health (Scotland) Act, 1960, not being a private hospital, or is receiving such treatment as an in-patient in any other place at the expense of a Regional Hospital Board; or

(b) is suffering from mental deficiency such that he is incapable of leading an independent life or of guarding himself against serious exploitation and is either resident in accommodation provided by, or by arrangement with, a local health authority under section twenty-seven of the National Health Service (Scotland) Act, 1947, or is otherwise receiving care from a local authority under that section.’”

The Recall of Army and Air Force Pensioners Act, 1948
(12, 13 & 14 Geo. 6. c. 8)

In the Schedule, for paragraph 2 there shall be substituted the following paragraph:—

“2. A person who is receiving treatment for mental disorder as an in-patient in a hospital within the meaning of the Mental Health Act, 1959, or in a hospital (other than a private hospital) within the meaning of the Mental Health (Scotland) Act, 1960, or in a hospital or institution within the meaning of the Mental Health Act (Northern Ireland), 1948, or is receiving such treatment

as an in-patient in any other place at the expense of a Regional Hospital Board, or, as the case may be, of the Northern Ireland Hospitals Authority.”

The Legal Aid and Solicitors (Scotland) Act, 1949

(12 & 13 Geo. 6. c. 63)

In section nineteen, in subsection three, for the word “insanity” there shall be substituted the words “mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”.

In the Fifth Schedule, for the word “insanity”, wherever occurring, there shall be substituted the words “mental disorder within the meaning of the Mental Health (Scotland) Act, 1960”; in paragraph 4, for the words “upon an order or warrant being granted for the detention of a solicitor as a lunatic” there shall be substituted the words “where in pursuance of the Mental Health (Scotland) Act, 1960, a solicitor is, by reason of mental disorder, admitted to a hospital and becomes liable to be detained therein or becomes subject to guardianship,” for the words “any such order or warrant remains in force” there shall be substituted the words “he continues to be so liable or so subject”, and in the proviso to the said paragraph, for the words “the order or warrant ceases to be in force” there shall be substituted the words “he ceases to be liable to be detained or subject to guardianship”.

The Representation of the People Act, 1949

(12, 13 & 14 Geo. 6 c. 68)

Section four shall have effect, in its application to Scotland, as if for the words “mental defectiveness” there were substituted the words “mental deficiency”.

The Criminal Justice (Scotland) Act, 1949

(12, 13 & 14 Geo. 6 c. 94)

In section three,—

in subsection (1), for the words from “appearing” to “1913” there shall be substituted the words “approved for the purposes of section twenty-seven of the Mental Health (Scotland) Act, 1960, that the mental condition of an offender is such as requires and may be susceptible to treatment but is not such as to warrant his detention in pursuance of a hospital order under Part V of that Act.”,

in subsection (2), the following paragraph shall be substituted for paragraphs (a) and (b):—

“(a) treatment as a resident patient in a hospital within the meaning of the Mental Health (Scotland) Act, 1960, not being a State hospital within the meaning of that Act”,

in subsection (3) the words “or can be” shall be omitted, and for subsections (7) and (8) there shall be substituted the following subsection:—

“(7) Subsections (2), (3) and (4) of section fifty-seven of the Mental Health (Scotland) Act, 1960, shall apply for the purposes of this section as if for the reference

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in the said subsection (2) to paragraph (a) of subsection (1) of section fifty-five there were substituted a reference to subsection (1) of this section."

In section twenty-seven,—

in subsection (1), for the words "committed the offence" there shall be substituted the words "did the act or made the omission charged" and

in subsection (2), for the words from "shall undergo" to "may be so specified" there shall be substituted the words "shall—

(a) undergo a medical examination by a duly qualified medical practitioner or, where the inquiry is into his mental condition and the bond so specifies, two such practitioners; and

(b) for the purpose attend at an institution or place, or on any such practitioner specified in the bond and, where the inquiry is into his mental condition, comply with any directions which may be given to him for the said purpose by any person so specified or by a person of any class so specified", and

for the words from "for such period" to the end of the subsection there shall be substituted the words "in an institution or place specified as aforesaid, not being an institution or place to which he could have been remanded in custody, until the expiry of such period as may be so specified or he is discharged therefrom, whichever first occurs".

The Matrimonial Causes Act, 1950

(14 Geo. 6. c. 25)

In section one, in subsection (2) (except so far as it relates to any time before the commencement of this Act), for paragraph (b) there shall be substituted the following paragraph:—

"(b) while he is liable to be detained in a hospital or place of safety under the Mental Health (Scotland) Act, 1960".

The Nurses (Scotland) Act, 1951

(14 & 15 Geo. 6 c. 55)

In section two, in subsection (2), in paragraph (b) for the word "diseases" there shall be substituted the word "illness" and in paragraph (c) for the word "defect" there shall be substituted the word "deficiency".

In section five, in subsection (2), in paragraph (b) for the word "diseases" there shall be substituted the word "illness" and for the word "defect" there shall be substituted the word "deficiency".

In section eleven, in subsection (2), for the word "diseases", wherever it occurs, there shall be substituted the word "illness" and for the word "defect", wherever it occurs, there shall be substituted the word "deficiency".

In section thirty-four, for the definition of "mental hospital" there shall be substituted the following definition:—

“‘mental hospital’ means any hospital within the meaning of the Mental Health (Scotland) Act, 1960, wholly or mainly used for the treatment of persons suffering from mental disorder”; and

in the definition of “registered nurse for mental defectives”, for the word “defect” there shall be substituted the word “deficiency” and in the definition of “registered mental nurse” for the word “diseases” there shall be substituted the word “illness”.

In the Third Schedule, in paragraph 1, in sub-paragraph (3), for the word “diseases” there shall be substituted the word “illness”

The Local Government Superannuation Act, 1953

(1 & 2 Eliz. 2 c. 25)

In section fifteen, in subsection (1), in paragraph (a), for the words “the Mental Deficiency (Scotland) Acts, 1913 and 1940” there shall be substituted the words “the Mental Health (Scotland) Act, 1960”.

The Army Act, 1955

(3 & 4 Eliz. 2. c. 18)

Section sixteen shall cease to have effect.

The Air Force Act, 1955

(3 & 4 Eliz. 2. c. 19)

Section sixteen shall cease to have effect.

The Children Act, 1958

(6 & 7 Eliz. 2 c. 65)

In section two, in subsection (4), after the word “1959” there shall be inserted the words “or the Mental Health (Scotland) Act, 1960,” and for the words “that Act” there shall be substituted the words “the Mental Health Act, 1959, or in a residential home for persons suffering from mental disorder within the meaning of Part III of the Mental Health (Scotland) Act, 1960”.

The Mental Health Act, 1959

(7 & 8 Eliz. 2 c. 72)

In section nine, in subsection (1), after “1946” there shall be inserted the words “or under section twenty-seven of the National Health Service (Scotland) Act, 1947”.

In section ten, in subsection (1), in paragraph (b), after the words “this Act” there shall be inserted the words “or under the provisions of the Mental Health (Scotland) Act, 1960”; and in paragraph (c), after the words “this Act” there shall be inserted the words “or under the Mental Health (Scotland) Act, 1960”.

In section eighty-five, in subsection (1), for the words “as mentioned in subsection (1) of section eighty-one of this Act” there shall be substituted the words “under this Act, not being a patient subject to an order or direction restricting his discharge”, and in paragraph (b) for the words “placing him under” there shall be substituted the words “receiving him into”; and in subsection (3)

4TH SCH. for the words "placed under" there shall be substituted the words "received into" and the words "or placed", in each place where they occur, shall be omitted.

In section eighty-six, in subsection (1), for the words "Part V of this Act, not being a patient to whom section eighty-five of this Act applies" there shall be substituted the words "under this Act, being a patient who is also subject to an order or direction restricting his discharge".

In section eighty-seven, in subsection (1), for the words "his admission to a hospital or for placing him under" there shall be substituted the words "admitting him to a hospital or for receiving him into"; and, in subsection (3), for the words "is so received" there shall be substituted the words "arrived at the place where he is to reside".

In section eighty-eight, in subsection (1), for the words "his admission" there shall be substituted the words "admitting him".

In section ninety-three, in subsection (3), for paragraph (a) there shall be substituted the following paragraph:—

"(a) in Scotland, to any mental health officer within the meaning of the Mental Health (Scotland) Act, 1960."

For section ninety-four there shall be substituted the following section:—

"Regulations for purposes of Part VI. 94. Section fifty-six of this Act shall have effect as if references therein to Part IV of this Act included references to this Part of this Act and to Part VI of the Mental Health (Scotland) Act, 1960, so far as the said Parts apply to patients removed to England and Wales thereunder."

In section ninety-six, in subsection (3) for the words "subsection (2) of section sixty-four of the Criminal Justice (Scotland) Act, 1949" there shall be substituted the words "Part VI of the Mental Health (Scotland) Act, 1960."

In section one hundred and thirty-five, in subsections (2) and (4), after the word "Act", in all places where that word occurs, there shall be inserted the words "or under section eighty-three of the Mental Health (Scotland) Act, 1960".

In the Sixth Schedule, in sub-paragraphs (1) of paragraphs 8 and 12, the words "In relation to" shall be omitted, for the words from "Part IV of this Act" to the words "the said Part IV" there shall be substituted the words "shall (subject to the following provisions of this paragraph) be treated as if he had been admitted to the hospital in pursuance of an application for admission for treatment under Part IV of this Act", and the words from "and the other" to the end of each of those sub-paragraphs shall be omitted.

In the Seventh Schedule, in Part II, in the amendments to the Army Act, 1955, and the Air Force Act, 1955, there shall be inserted after the word "Wales" the words "and Scotland".

FIFTH SCHEDULE
ENACTMENTS REPEALED

Section 113.

Session and Chapter	Short Title	Extent of Repeal
51 Geo. 3. c. 37	The Marriage of Lunatics Act, 1811.	The whole Act so far as it extends to Scotland.
20 & 21 Vict. c. 71.	The Lunacy (Scotland) Act, 1857.	The whole Act.
25 & 26 Vict. c. 54.	The Lunacy (Scotland) Act, 1862.	The whole Act.
27 & 28 Vict. c. 59.	The Lunacy Board (Scotland) Act, 1864.	The whole Act.
29 & 30 Vict. c. 51.	The Lunacy (Scotland) Act, 1866.	The whole Act.
34 & 35 Vict. c. 55.	The Criminal and Dangerous Lunatics (Scotland) Amendment Act, 1871.	The whole Act.
47 & 48 Vict. c. 46.	The Naval Enlistment Act, 1884.	Section three.
48 & 49 Vict. c. 61.	The Secretary for Scotland Act, 1885.	In the Schedule, in Part I, the entry relating to lunacy.
48 & 49 Vict. c. 69.	The Criminal Law Amendment Act, 1885.	In section five, paragraph (2) so far as it extends to Scotland.
52 & 53 Vict. c. 50.	The Local Government (Scotland) Act, 1889.	In section eleven, in paragraph (5), head (ii).
53 & 54 Vict. c. 5.	The Lunacy Act, 1890.	The whole Act so far as it extends to Scotland and Northern Ireland.
63 & 64 Vict. c. 54.	The Lunacy Board (Scotland) Salaries and Clerks Act, 1900.	The whole Act.
3 & 4 Geo. 5. c. 38.	The Mental Deficiency and Lunacy (Scotland) Act, 1913.	The whole Act.
19 & 20 Geo. 5. c. 25.	The Local Government (Scotland) Act, 1929.	In section eleven, subsection (4); in section seventy-seven, in subsection (1), in the definition of "Central Department", paragraph (c).
25 & 26 Geo. 5. c. 32.	The Criminal Lunatics (Scotland) Act, 1935.	The whole Act.
2 & 3 Geo. 6. c. 20.	The Reorganisation of Offices (Scotland) Act, 1939.	Section two.
3 & 4 Geo. 6. c. 8.	The Mental Deficiency (Scotland) Act, 1940.	The whole Act.
8 & 9 Geo. 6. c. 37.	The Education (Scotland) Act, 1945.	In the Fourth Schedule, the amendments to the Mental Deficiency and Lunacy (Scotland) Act, 1913.
9 & 10 Geo. 6. c. 72.	The Education (Scotland) Act, 1946.	In section fifty-six, subsection (6); section fifty-eight; in section one hundred and forty, in subsection (2), paragraphs (b), (c), (d), and (e); in section one hundred and forty-three, in subsection (1), the definition of "Mental Deficiency Acts."

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Session and Chapter	Short Title	Extent of Repeal
10 & 11 Geo. 6. c. 27.	The National Health Service (Scotland) Act, 1947.	In section sixteen, in subsection (1), the words "or mental deficiency"; in section seventeen, in subsection (1), the words "or mental deficiency"; in section twenty-seven, in subsection (1), the words "or mental deficiency"; in section twenty-eight, in subsection (1), the words "mentally defective"; Part V; in section eighty, in subsection (1) in the definition of "hospital", the words "or mental deficiency" and the definition of "mental defective"; the Ninth Schedule.
11 & 12 Geo. 6. c. 29.	The National Assistance Act, 1948.	In section thirty-seven, in the proviso to subsection (9), paragraphs (b) and (c), and the word "or" at the end of paragraph (g); in the Sixth Schedule, in paragraph 7, sub-paragraph (2), and in paragraph 9, head (a) of sub-paragraph (3).
12, 13 & 14 Geo. 6. c. 19.	The Education (Scotland) Act, 1949.	In the Schedule, in Part II, the amendments to the Mental Deficiency and Lunacy (Scotland) Act, 1913, and the National Health Service (Scotland) Act, 1947.
12, 13 & 14 Geo. 6. c. 93.	The National Health Service (Amendment) Act, 1949.	Section twenty-seven.
12, 13 & 14 Geo. 6. c. 94.	The Criminal Justice (Scotland) Act, 1949.	In section three, in subsection (3), the words "or can be" and "as a voluntary boarder or"; in subsection (4), the words "as a voluntary boarder or"; in section four, in subsection (2), the words "voluntary boarder or"; in section thirteen, in subsection (1) the words "voluntary boarder or"; sections twenty-three to twenty-five; in section twenty-seven, subsection (5); sections fifty-two, sixty-three, sixty-four and sixty-five; in section seventy-five, in subsection (2) the words from the beginning to "Treasury, and"; in the Third Schedule, in paragraph 3, in head (d) of sub-paragraph (1), the words "voluntary or"; in the Eleventh Schedule, the amendments to the Mental Deficiency and Lunacy (Scotland) Act, 1913.

Session and Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6. & 1 Eliz. 2. c. 61.	The Prisons (Scotland) Act, 1952.	In the Third Schedule, the amendments to the Mental Deficiency and Lunacy (Scotland) Act, 1913.
1 & 2 Eliz. 2. c. 25.	The Local Government Superannuation Act, 1953.	In section fifteen, in subsection (1), in paragraph (b), the words "and V".
3 & 4 Eliz. 2. c. 18.	The Army Act, 1955 ...	Section sixteen.
3 & 4 Eliz. 2. c. 19.	The Air Force Act, 1955	Section sixteen.
3 & 4 Eliz. 2. c. 20.	The Revision of the Army and Air Force Acts (Transitional Provisions) Act, 1955.	In the Second Schedule, paragraph 2 (entry relating to the Naval Enlistment Act, 1884); sub-paragraph (6) of paragraph 13; sub-paragraph (6) of paragraph 14; sub-paragraph (3) of paragraph 18.
5 & 6 Eliz. 2. c. 20.	The House of Commons Disqualification Act, 1957.	In the First Schedule, in Part II, the following entry:— "The General Board of Control for Scotland".
6 & 7 Eliz. 2. c. 40.	The Matrimonial Proceedings (Children) Act, 1958.	In section ten, subsection (5).
6 & 7 Eliz. 2. c. 65.	The Children Act, 1958	In section two, subsection (5).
7 Eliz. 2. c. 5.	The Adoption Act, 1958.	In section thirty-seven, in subsection (3), the words "or subsection (5)".
7 & 8 Eliz. 2. c. 72.	The Mental Health Act, 1959.	Sections eighty-two to eighty-four; in section eighty-five, in subsection (3), the words "or placed" in each place where they occur; section ninety-one; in section one hundred and thirty-three, subsection (3); in section one hundred and fifty, the words "to eighty-four, section ninety-one", "section one hundred and thirty-three"; in the Sixth Schedule, in sub-paragraphs (1) of paragraphs 8 and 12, the words "In relation to", the words from "and the other" to the end of the sub-paragraphs; in the Seventh Schedule, in Part I, the amendment to the Recall of Army and Air Force Pensioners Act, 1948, and, in Part II, the amendments to the Naval Enlistment Act, 1884, the Army Act, 1955, the Air Force Act, 1955, and the Revision of the Army and Air Force Acts (Transitional Provisions) Act, 1955.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Lunacy (Ireland) Act, 1821	1 & 2 Geo. 4. c. 33.
Judicial Factors (Scotland) Act, 1849	12 & 13 Vict. c. 51.
Lunacy (Scotland) Act, 1857	20 & 21 Vict. c. 71.
Lunacy (Scotland) Act, 1862	25 & 26 Vict. c. 54.
Church of Scotland Courts Act, 1863	26 & 27 Vict. c. 47.
Improvement of Land Act, 1864	27 & 28 Vict. c. 114.
Lunacy (Scotland) Act, 1866	29 & 30 Vict. c. 51.
Titles to Land Consolidation (Scotland) Act, 1868	31 & 32 Vict. c. 101.
Criminal and Dangerous Lunatics (Scotland) Amendment Act, 1871	34 & 35 Vict. c. 55.
Habitual Drunkards Act, 1879	42 & 43 Vict. c. 19.
Judicial Factors (Scotland) Act, 1880	43 & 44 Vict. c. 4.
Trial of Lunatics Act, 1883	46 & 47 Vict. c. 38.
Colonial Prisoners Removal Act, 1884	47 & 48 Vict. c. 31.
Naval Enlistment Act, 1884	47 & 48 Vict. c. 46.
Criminal Law Amendment Act, 1885	48 & 49 Vict. c. 69.
Interpretation Act, 1889	52 & 53 Vict. c. 63.
Lunacy Act, 1890	53 & 54 Vict. c. 5.
Criminal Evidence Act, 1898	61 & 62 Vict. c. 36.
Lunacy Board (Scotland) Salaries and Clerks Act, 1900	63 & 64 Vict. c. 54.
Lunacy (Ireland) Act, 1901	1 Edw. 7. c. 17.
Mental Deficiency and Lunacy (Scotland) Act, 1913	3 & 4 Geo. 5. c. 38.
Government of Ireland Act, 1920	10 & 11 Geo. 5. c. 67.
Criminal Appeal (Scotland) Act, 1926	16 & 17 Geo. 5. c. 15.
Local Government (Scotland) Act, 1929	19 & 20 Geo. 5. c. 25.
Children and Young Persons Act, 1933	23 & 24 Geo. 5. c. 12.
Criminal Lunatics (Scotland) Act, 1935	25 & 26 Geo. 5. c. 25.
Children and Young Persons (Scotland) Act, 1937	1 Edw. 8 & 1 Geo. 6. c. 37.
Divorce (Scotland) Act, 1938	1 & 2 Geo. 6. c. 50.
Nursing Homes Registration (Scotland) Act, 1938	1 & 2 Geo. 6. c. 73.
Mental Deficiency (Scotland) Act, 1940	3 & 4 Geo. 6. c. 8.
Education (Scotland) Act, 1946	9 & 10 Geo. 6. c. 72.
National Health Service Act, 1946	9 & 10 Geo. 6. c. 81.
Polish Resettlement Act, 1947	10 & 11 Geo. 6. c. 19.
National Health Service (Scotland) Act, 1947	10 & 11 Geo. 6. c. 27.
Local Government (Scotland) Act, 1947	10 & 11 Geo. 6. c. 43.
National Assistance Act, 1948	11 & 12 Geo. 6. c. 29.
Industrial Assurance and Friendly Societies Act, 1948	11 & 12 Geo. 6. c. 39.
Children Act, 1948	11 & 12 Geo. 6. c. 43.
National Service Act, 1948	11 & 12 Geo. 6. c. 64.
Recall of Army and Air Force Pensioners Act, 1948	12, 13 & 14 Geo. 6. c. 8.
Representation of the People Act, 1949	12, 13 & 14 Geo. 6. c. 68.
Criminal Justice (Scotland) Act, 1949	12, 13 & 14 Geo. 6. c. 94.
Matrimonial Causes Act, 1950	14 Geo. 6. c. 25.
Courts-Martial (Appeals) Act, 1951	14 & 15 Geo. 6. c. 46.
Nurses (Scotland) Act, 1951	14 & 15 Geo. 6. c. 55.
Prisons (Scotland) Act, 1952	15 & 16 Geo. 6 & 1 Eliz. 2. c. 61.

Short Title	Session and Chapter
Local Government Superannuation Act, 1953	1 & 2 Eliz. 2. c. 25.
Post Office Act, 1953	1 & 2 Eliz. 2. c. 36.
Summary Jurisdiction (Scotland) Act, 1954 ...	2 & 3 Eliz. 2. c. 48.
Army Act, 1955	3 & 4 Eliz. 2. c. 18.
Air Force Act, 1955	3 & 4 Eliz. 2. c. 19.
Revision of the Army and Air Force Acts (Transitional Provisions) Act, 1955	3 & 4 Eliz. 2. c. 20.
Medical Act, 1956	4 & 5 Eliz. 2. c. 76.
House of Commons Disqualification Act, 1957	5 & 6 Eliz. 2. c. 20.
Naval Discipline Act, 1957	5 & 6 Eliz. 2. c. 53.
Matrimonial Proceedings (Children) Act, 1958	6 & 7 Eliz. 2. c. 40.
Local Government and Miscellaneous Financial Provisions (Scotland) Act, 1958	6 & 7 Eliz. 2. c. 64.
Children Act, 1958	6 & 7 Eliz. 2. c. 65.
Adoption Act, 1958	7 & 8 Eliz. 2. c. 5.
County Courts Act, 1959	7 & 8 Eliz. 2. c. 22.
Mental Health Act, 1959	7 & 8 Eliz. 2. c. 72.

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