



Mental Health (Scotland) Act 1984

1984 CHAPTER 36

PART IX

PROTECTION OF PROPERTY OF PATIENTS

92 Duties of local authority in relation to property

- (1) Where a local authority is satisfied—
- (a) that any person in their area is incapable, by reason of mental disorder, of adequately managing and administering his property and affairs;
 - (b) that a curator bonis ought to be appointed in respect of that person; and
 - (c) that no arrangements have been made or are being made in that behalf,
- they shall petition the court for such appointment as aforesaid ; and, where that person is a patient in a hospital or has been placed under guardianship, the authority shall, on the grant of any such petition, so inform the managers of the hospital or, as the case may be, the guardian within 28 days there from.
- (2) In relation to persons suffering from mental disorder, section 48 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; and
 - (b) references to moveable property in subsections (1) and (2) included a reference to heritable property.

93 Power of Mental Welfare Commission to petition for appointment of curator bonis

Where the Mental Welfare Commission are satisfied—

- (a) that any person is incapable, by reason of mental disorder, of adequately managing and administering his property and affairs;
- (b) that a curator bonis ought to be appointed in respect of that person; and

Status: This is the original version (as it was originally enacted).

(c) that no arrangements have been made or are being made in that behalf, they may petition the court for such appointment as aforesaid ; and, where that person is a patient in a hospital or has been placed under guardianship, the Commission shall, on the grant of any such petition, so inform the managers of the hospital or, as the case may be, the local authority concerned within 28 days therefrom.

94 Powers of managers in relation to property of patients

- (1) The managers 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 managers for any such money or valuables as aforesaid shall be treated as a valid receipt or discharge given by that person.
- (2) The managers shall not, under subsection (1) of this section, receive or hold on behalf of any one person without the consent of the Mental Welfare Commission money or valuables exceeding in the aggregate such sums as the Secretary of State may from time to time direct.
- (3) Where the managers of the hospital hold 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 the managers shall 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 subsection (3) of this section, where the managers of a hospital have 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,
 they 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) The managers of a hospital 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 and of Schedule 5 to the Friendly Societies Act 1974.
- (6) The managers of a hospital 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 managers 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.

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

- (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.
- (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 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.