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SCHEDULES

SCHEDULE 1

Section 91(2).

STATE HOSPITAL MANAGEMENT COMMITTEES

PART I

Constitution

- 1 A State Hospital Management Committee shall be a body corporate and shall have a common seal.
- 2 A State Hospital Management Committee shall consist of a chairman appointed by the Secretary of State and such number of other members so appointed as the Secretary of State thinks fit.
- 3 Not less than one half of the members of a State Hospital Management Committee shall be persons other than medical practitioners.
- 4 The application of the seal of a State Hospital Management Committee to any document shall be attested by at least one member of the Committee and by the person for the time being acting as secretary of the Committee.
- 5 Every document purporting to be an instrument issued by a State Hospital Management Committee and to be sealed and attested as aforesaid or to be duly signed on behalf of the Committee, shall be received in evidence and shall be deemed to be such an instrument without further proof, unless the contrary is shown.

PART II

Supplementary Provisions

- 6 Regulations may make provision—
 - (a) as to the appointment, tenure and vacation of office of the chairman and other members of a State Hospital Management Committee;
 - (b) as to the delegation of functions to committees or sub-committees [^{F1}constituted in accordance with the regulations]; and
 - (c) as to the procedure of a State Hospital Management Committee, its committees and sub-committees.

Textual Amendments

- F1** Words substituted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 27, [Sch. 5 para. 13](#)

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- 7 The proceedings of a State Hospital Management Committee shall not be invalidated by any vacancy in membership or by any defect in the appointment of any member thereof.
- 8 The following provisions of the ^{M1}National Health Service (Scotland) Act 1978 shall apply to a State Hospital Management Committee as they apply to a Health Board, that is to say—
- (a) section 77 (which gives default powers to the Secretary of State);
 - (b) section 78 (which gives emergency powers to the Secretary of State);
 - (c) sections 85(1), (2A), (4) and (6) (which contain provisions as to expenditure being met by the Secretary of State);
 - (d) sections 85A(1) and (3) (which impose financial duties); . . . ^{F2}
 - (e) section 86 (which provides for the auditing and examination of accounts) [^{F3}; and]
 - [^{F3}(f) paragraphs 7A to 7C and 8A of Schedule 1 (which relate to the transfer of staff).]

Textual Amendments

- F2** Words repealed by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 27, [Sch. 5 para. 13](#)
- F3** [Sch. 1 para. 8\(f\)](#) and word inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 27, [Sch. 5 para. 13](#)

Marginal Citations

- M1** [1978 c. 29](#).

SCHEDULE 2

APPLICATION OF PROVISIONS OF PART V TO PATIENTS SUBJECT TO HOSPITAL OR GUARDIANSHIP ORDERS

PART I

HOSPITAL ORDER WITHOUT RESTRICTION ORDER (SECTION 60(1));
TRANSFER FROM PRISON WITHOUT RESTRICTION (SECTION 71).

- 1 Sections 27, 31, [^{F4}to 31B,]32, [^{F5}35A,] 53, 54, 55, 56 and 58 shall apply in relation to the patient without modification.

Extent Information

- E1** For extent of Sch. 2, see [ss. 128, 129](#)

Textual Amendments

- F4** Words in [Sch. 2 para. 1](#) inserted (1.4.1996) by [1995 c. 52, ss. 5\(11\)\(a\), 7\(2\)](#)
- F5** Words in [Sch. 2 para. 1](#) inserted (1.4.1996) by [1995 c. 52, ss. 4\(2\), 7\(2\), Sch. 2, para. 5\(a\)](#)

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- 2 Sections 22, 28, 29, 30, 33, 35, ^{F6}35B,] 57 and 59 shall apply in relation to the patient with the modifications specified in paragraphs 3 to 10 of this Part of this Schedule.

Extent Information

E2 For extent of Sch. 2, see ss. 128, 129

Textual Amendments

F6 Words in Sch. 2, para. 2 inserted (1.4.1996) by 1995 c. 52, ss. 4(2), 7(2), Sch. 2, para. 5(b)

- 3 In section 22—
- (a) subsection (1) shall be omitted; and
 - (b) in subsection (2) for the reference to an application for admission there shall be substituted a reference to the order or direction by virtue of which the patient is liable under Part VI of this Act to be detained.
- 4 In section 28 subsection (4) shall be omitted.
- 5 In section 29(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 by virtue of which he was liable under Part VI of this Act to be detained before being transferred were an order or direction for his admission or removal to the hospital to which he is transferred.”.
- 6 In section 30—
- (a) in subsection (1), for the words “an application for admission” and “day on which he was so admitted” there shall be substituted the words “an order or direction by virtue of which he is liable under Part VI of this Act to be detained” and “date of the relevant order or direction” respectively; and
 - (b) in subsection (3), for the words “this Part” there shall be substituted the words “Part VI”.
- 7 In section 33—
- (a) in subsection (1), for the words “this Part” there shall be substituted the words “Part VI”;
 - (b) in subsection (4), for “26, ^{F7}26A,]30 or 34” there shall be substituted “30”; and
 - (c) in subsection (5) the words “by the nearest relative of the patient or” shall be omitted. ^{F8}; and
 - (d) subsection (7) shall be omitted]

Textual Amendments

F7 Word in Sch. 2 Pt. I para. 7(b) inserted (9.3.1992) by Mental Health (Detention) (Scotland) Act 1991 (c. 47, SIF 85), s. 3(6)(a)(i); S.I. 1992/357, art.2

F8 Sch. 2 Pt. I para. 7(d) and word “; and” preceding it inserted (9.3.1992) by Mental Health (Detention) (Scotland) Act 1991 (c. 47, SIF 85), s. 3(6)(a)(ii); S.I. 1992/357, art.2

- 8 In section 35(1)—
- (a) the words “any of sections 26, 30 or 34 of” shall be omitted;
 - (b) for the words “any of the said sections” there shall be substituted the words “Part V of this Act”; and

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(c) the words from “whether” to “both” shall be omitted.

[^{F9}8A In section 35B(1) for the words “an application for admission” there shall be substituted the words “an order or direction by virtue of which he is liable under Part VI of this Act to be detained.”]

Textual Amendments

F9 Sch. 2 para. 8A inserted (1.4.1996) by 1995 c. 52, s. 4(2), Sch. 2 para. 5(c)

9 In section 57(4) for paragraphs (a) and (b) there shall be substituted the words “on the date when the patient ceases to be liable to be detained in pursuance of the order or direction by virtue of which he was liable under Part VI of this Act to be detained (otherwise than on being transferred in pursuance of section 29(1)(b) or (c) of this Act.”.

10 In section 59 subsections (1)(b) [^{F10}, (2) and (4)] shall be omitted.

Textual Amendments

F10 Words in Sch. 2 Pt. I para. 10 substituted (9.3.1992) by *Mental Health (Detention) (Scotland) Act 1991* (c. 47, SIF 85), s. 3(6)(a)(iii); S.I. 1992/357, art.2

PART II

HOSPITAL ORDER WITH RESTRICTION ORDER, (SECTION 62) AND ORDERS OR DIRECTIONS HAVING THE LIKE EFFECT (SECTIONS 69, 70 AND 72).

1 Sections 53, 54, 56 and 58 shall apply in relation to the patient without modification.

2 Section 22, 27, 28, 29, 55, 57 and 59 shall apply in relation to the patient with the modifications specified in paragraphs 3 to 9 of this Part of this Schedule.

3 In section 22—

- (a) subsection (1) shall be omitted;
- (b) in subsection (2) for the words “application under this Part” there shall be substituted the words “order or direction by virtue of which he is liable under Part VI of this Act to be detained” and paragraph (b) shall be omitted;
- (c) subsections (3) and (4) shall be omitted.

4 In section 27—

- (a) in subsection (1) after the word “may” there shall be inserted the words “with the consent of the Secretary of State”;
- (b) in subsection (2) the word “either” and the words from “or from any specified period” to the end of the subsection shall be omitted; and
- [^{F11}(bb) subsections (2A) to (2C) shall be omitted;]
- (c) in subsection (5) after the words “responsible medical officer” and after the words “that officer” there shall be inserted the words “or the Secretary of State”.

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Textual Amendments

F11 Sch. 2, Pt. II para. 4(bb) inserted (1.4.1996) by 1995 c. 52, ss. 6(4), 7(2)

- 5 In section 28 subsections (3) and (4) shall be omitted.
- 6 In section 29—
- (a) in subsection (1) after the word “may” there shall be inserted the words “with the consent of the Secretary of State” and paragraphs (b) and (c) shall be omitted;
 - (b) 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 by virtue of which he was liable under Part VI of this Act to be detained before being transferred were an order or direction for his admission or removal to the hospital to which he is transferred.”.
- 7 In section 55 subsection (3) shall be omitted.
- 8 In section 57(4) for paragraphs (a) and (b) there shall be substituted the words “on the date when the patient ceases to be liable to be detained in pursuance of the order or direction by virtue of which he was liable under Part VI of this Act to be detained (otherwise than on being transferred in pursuance of section 29(1)(b) or (c) of this Act.)”.
- 9 In section 59, subsections (1)(b) [^{F12},(2) and (4)] shall be omitted.

Textual Amendments

F12 Words in Sch. 2 Pt. II para. 9 substituted (9.3.1992) by Mental Health (Detention) (Scotland) Act 1991 (c. 47, SIF 85), s. 3(6)(b); S.I. 1992/357, art.2

PART III

GUARDIANSHIP ORDER (SECTION 61(2))

- 1 Sections 43, 44, 46, 48, [^{F13}to 48B], 53, 55, 56 and 58 shall apply in relation to the patient without modification.

Textual Amendments

F13 Words in Sch. 2 Pt. III para. 1 inserted (1.4.1996) by 1995 c. 52, ss. 5(11)(a), 7(2)

- 2 Sections 41, 45, 47, 49, 50, 52, 57 and 59 shall apply in relation to the patient with the modifications specified in paragraphs 3 to 10 of this Part of this Schedule.
- 3 In section 41—
- (a) in subsection (1) for the words “an application under this Part of this Act” and “the application” there shall be substituted the words “a guardianship order” and “the order” respectively; and

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- (b) in subsection (2) for the words from “Where” to “shall” and “named in the application” there shall be substituted the words “Where a guardianship order has been made in respect of a patient the order shall” and “named in the order” respectively.
- 4 In section 45(1) and (3) for the words “guardianship application” there shall be substituted the words “guardianship order”.
- 5 In section 47—
- (a) in subsection (1) for the words “guardianship application” and “the day on which he was so received” there shall be substituted the words “guardianship order” and “the date of the order” respectively;
- (b) in subsection (3) for the words “this Part” there shall be substituted the words “Part VI”.
- 6 In section 49(1) for the words “this Part” there shall be substituted the words “Part VI”.
- 7 In section 50—
- (a) in subsection (1) for the words “this Part” there shall be substituted the words “Part VI”;
- (b) in subsection (5) for the words “sections 47 or 51” there shall be substituted the words “section 47”; and
- (c) subsection (6) shall be omitted.
- 8 In section 52(1)—
- (a) for the words “either of sections 47 or 51” and “either of the said sections” there shall be substituted the words “section 47” and “the said section” respectively; and
- (b) the words from “whether” to “both” shall be omitted.
- 9 In section 57(4) for paragraphs (a) and (b) there shall be substituted the words “on the date when the patient ceases to be subject to guardianship under this Act”.
- 10 In section 59(1)—
- (a) in subsection (1) paragraph (a) shall be omitted; and
- (b) in subsection (2) for paragraphs (a) and (b) there shall be substituted the words “to the local authority to whose guardianship he is subject or who approved his guardian.”. ^{F14}; and
- (c) subsection (4) shall be omitted.]

Textual Amendments

F14 Sch. 2 Pt. III para. 10(c) and word “; and” preceding it inserted (9.3.1992) by [Mental Health \(Detention\) \(Scotland\) Act 1991 \(c. 47, SIF 85\)](#), [s. 3\(6\)\(c\)](#); S.I. 1992/357, [art.2](#)

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SCHEDULE 3

Section 127(1).

CONSEQUENTIAL AMENDMENTS

The Improvement of Land Act 1864 (c. 114)

- 1 In section 68 for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.

The Colonial Prisoners Removal Act 1884 (c. 31)

- 2 In section 10(4)—
- (a) in paragraph (a) for the words “section sixty-four of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 69 of the Mental Health (Scotland) Act 1984”; and
 - (b) in paragraph (b) for the words “sixty-six” and “sixty-seven” there shall be substituted “71” and “72” respectively.

Nursing Homes Registration (Scotland) Act 1938 (c. 73)

- 3 In section 10(1)(ii) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.

The Polish Resettlement Act 1947 (c. 19)

- 4 In section 11(3)(b) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.

The Army Act 1955 (c. 18)

- 5 In section 116(7) for the words “section 64 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 69 of the Mental Health (Scotland) Act 1984”.

The Air Force Act 1955 (c. 19)

- 6 In section 116(7) for the words “section 64 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 69 of the Mental Health (Scotland) Act 1984”.

The Naval Discipline Act 1957 (c. 53)

- 7 In section 71(6) for the words “section 64 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 69 of the Mental Health (Scotland) Act 1984”.

Local Government (Scotland) Act 1966 (c. 51)

- 8 In Part II of Schedule 4 in paragraph 25 for the words “section 15(4) of the Mental Health (Scotland) Act 1960” there shall be substituted the words “Section 12(3) of the Mental Health (Scotland) Act 1984”.

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The Criminal Justice Act 1967 (c. 80)

9 In section 72—

- (a) in subsection (1)(b) for the words “section 36 or 106 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 28, 44 or 121 of the Mental Health (Scotland) Act 1984”;
- (b) in subsection (3) for the words “section 105 of the Mental Health (Scotland) Act 1960” and “1960” there shall be substituted the words “section 120 of the Mental Health (Scotland) Act 1984” and “1984” respectively; and
- (c) in subsection (4) for the words “Part V of the Mental Health (Scotland) Act 1960” and “or 1960” there shall be substituted the words “Part VI of the Mental Health (Scotland) Act 1984” and “or Part VI of the said Act of 1984” respectively.

The Courts-Martial (Appeals) Act 1968 (c. 20)

10 In section 20(4) for the words “Part V of the Mental Health (Scotland) Act 1960” there shall be substituted the words “Part VI of the Mental Health (Scotland) Act 1984”.

11 In section 23(1) for the words “Section 64 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 69 of the Mental Health (Scotland) Act 1984”.

12 In section 25(4) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.

13 In section 43(4) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.

The Social Work (Scotland) Act 1968 (c. 49)

14 In section 1(4)(b) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.

15 In section 16(3) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.

16 In section 46—

- (a) in subsection (1) for the words “Part IV of the Mental Health (Scotland) Act 1960” there shall be substituted the words “Part V of the Mental Health (Scotland) Act 1984”; and
- (b) in subsection (2) for the words “section 23(3) of the said Act of 1960” there shall be substituted the words “section 17(2) of the said Act of 1984”.

17 In section 94(1)—

- (a) in the definition of “hospital” for the words “Mental Health (Scotland) Act 1960” and “Part VII of the said Act of 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984” and “Part VIII of the said Act of 1984” respectively;
- (b) in the definition of “mental disorder” for the words “section 6 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 1(2) of the Mental Health (Scotland) Act 1984”; and
- (c) in the definition of “mental health officer” for the words “said Act of 1960” there shall be substituted the words “said Act of 1984”.

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The Local Authority Social Services Act 1970 (c. 42)

- 18 In Schedule 1 for the words “Mental Health (Scotland) Act 1960 (c.61.)” there shall be substituted the words “Mental Health (Scotland) Act 1984”.

Chronically Sick and Disabled Persons Act 1970 (c. 44)

- 19 In section 18(2) for the words “section 6 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 1(2) of the Mental Health (Scotland) Act 1984”.

The Guardianship Act 1973 (c. 29)

- 20 In section 10(7) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.

Local Government (Scotland) Act 1973 (c. 65)

- 21 In section 64(5) for paragraph (bb) there shall be substituted the following paragraph—
“(bb) section 9 of the Mental Health (Scotland) Act 1984 (appointment of mental health officers);”.

The Rehabilitation of Offenders Act 1974 (c. 53)

- 22 In section 5(7) for the words “Part V of the Mental Health (Scotland) Act 1960” there shall be substituted the words “Part VI of the Mental Health (Scotland) Act 1984”.

The Criminal Procedure (Scotland) Act 1975 (c. 21)

- 23 In section 13—
(a) in subsection (1)(b) for the words “section 36 or 106 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 28, 44 or 121 of the Mental Health (Scotland) Act 1984”;
(b) in subsection (3) for the words “section 105 of the Mental Health (Scotland) Act 1960” and “1960” where it second appears there shall be substituted the words “section 120 of the Mental Health (Scotland) Act 1984” and “1984” respectively; and
(c) in subsection (4) for the words “Part V of the Mental Health (Scotland) Act 1960” there shall be substituted the words “Part VI of the Mental Health (Scotland) Act 1984”.
- 24 In section 25(2) for the words “Part IV of the Mental Health (Scotland) Act 1960” there shall be substituted the words “Part V of the Mental Health (Scotland) Act 1984”.
- 25 In section 174A(1) for the words “section 6(1) of the Mental Health (Scotland) Act 1960” there shall be substituted the words “Section 1(2) of the Mental Health (Scotland) Act 1984”.
- 26 In section 175(1) for the words “23(1)”, “25(1A)(a)” and “Mental Health (Scotland) Act 1960” there shall be substituted the words “17(1)”, “36(a)” and “Mental Health (Scotland) Act 1984” respectively.

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- 27 In section 176(1) for the words “section 27 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 20 or section 39 of the Mental Health (Scotland) Act 1984”.
- 28 In section 178—
- (a) in subsection (1) for the words “section 60(3) of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 62(1) of the Mental Health (Scotland) Act 1984”;
 - (b) in subsection (2) for the words “section 27 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 20 or section 39 of the Mental Health (Scotland) Act 1984”; and
 - (c) in subsection (3) for the words “section 58(4) of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 60(4) of the Mental Health (Scotland) Act 1984”.
- 29 In section 184—
- (a) in subsection (1) for the words “section 27 of the Mental Health (Scotland) Act 1960” and “Part V of that Act” there shall be substituted the words “section 20 or 39 of the Mental Health (Scotland) Act 1984” and “Part VI of that Act” respectively;
 - (b) in subsection 2(a) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.
- 30 In section 322—
- (a) in subsection (1)(b) for the words “section 36 or 106 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 28, 44, or 121 of the Mental Health (Scotland) Act 1984”;
 - (b) in subsection (3) for the words “section 105 of the Mental Health (Scotland) Act 1960” and “1960” where it second occurs there shall be substituted the words “section 120 of the Mental Health (Scotland) Act 1984” and “1984” respectively; and
 - (c) in subsection (4) for the words “Part V of the Mental Health (Scotland) Act 1960” there shall be substituted the words “Part VI of the Mental Health (Scotland) Act 1984”.
- 31 In section 330(2) for the words “Part IV of the Mental Health (Scotland) Act 1960” there shall be substituted the words “Part V of the Mental Health (Scotland) Act 1984”.
- 32 In section 375(A)(1) for the words “section 6(1) of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 1(2) of the Mental Health (Scotland) Act 1984”.
- 33 In section 376(1) for the words “23(1)”, “25(1)(a)” and “Mental Health (Scotland) Act 1960” there shall be substituted the words “17(1)”, “36(a)” and “Mental Health (Scotland) Act 1984” respectively.
- 34 In section 377(1) for the words “section 27 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 20 or section 39 of the Mental Health (Scotland) Act 1984”.
- 35 In section 379—
- (a) in subsection (1) for the words “section 60(3) of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 62(1) of the Mental Health (Scotland) Act 1984”;

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- (b) in subsection (2) for the words “section 27 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 20 or section 39 of the Mental Health (Scotland) Act 1984”; and
 - (c) in subsection (3) for the words “section 58(4) of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 62(1) of the Mental Health (Scotland) Act 1984”.
- 36 In section 385—
- (a) in subsection (1) for the words “section 27 of the Mental Health (Scotland) Act 1960” and “Part V of that Act” there shall be substituted the words “section 20 or 39 of the Mental Health (Scotland) Act 1984” and “Part VI of that Act” respectively;
 - (b) in subsection 2(a) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.
- 37 In section 462—
- (a) in the definition of “hospital” for the words “Part III of the Mental Health (Scotland) Act 1960” there shall be substituted the words “Part IV of the Mental Health (Scotland) Act 1984”;
 - (b) in the definition of “responsible medical officer” for the words “section 53 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 59 of the Mental Health (Scotland) Act 1984”; and
 - (c) in the definition of “State hospital” for the words “Part VII of the Mental Health (Scotland) Act 1960” there shall be substituted the words “Part VIII of the Mental Health (Scotland) Act 1984”.

The Adoption (Scotland) Act 1978 (c. 28)

- 38 In section 32(3)(c) for the words “section 23 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 17 or 39 of the Mental Health (Scotland) Act 1984”.

The National Health Service (Scotland) Act 1978 (c. 29)

- 39 In section 100(1) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.
- 40 In section 102(1) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.
- 41 In section 108(1) in the definitions of “illness” and “state hospital” for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.

F15 42

Textual Amendments

F15 Sch. 3 para. 42 repealed (5.2.1994) by 1993 c. 46, s. 20, Sch.3

Status: Point in time view as at 01/04/1997.

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The Child Care Act 1980 (c. 5)

- 43 In section 79(5)(d) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.

The Reserve Forces Act 1980 (c. 9)

- 44 In paragraph (2)(b) of Schedule 2 for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.

The Concessionary Travel for Handicapped Persons (Scotland) Act 1980 (c. 29)

- 45 In section 2(1)(a) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.

Solicitors (Scotland) Act 1980 (c. 46)

- 46 In section 18(1) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.

Tenants’ Rights, Etc. (Scotland) Act 1980 (c. 52)

- 47 In section 1(10)(o) for the words “section 89 of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 90 of the Mental Health (Scotland) Act 1984”.

The Contempt of Court Act 1981 (c. 49)

- 48 In paragraph (10)(b) of Schedule 1 for the words “section 68(1) of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 73(1) of the Mental Health (Scotland) Act 1984”.

The Mental Health Act 1983 (c. 20)

- 49 In section 69(2)(a) for the words “section 73(2) of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 77(2) of the Mental Health (Scotland) Act 1984”.
- 50 In section 79(1)(c) for the words “section 73(2) of the Mental Health (Scotland) Act 1960” there shall be substituted the words “section 77(2) of the Mental Health (Scotland) Act 1984”.
- 51 In section 80, in subsections (4) and (7) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.
- 52 In section 88(3)(a) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.
- 53 In section 90 for the words “Part VI of the Mental Health (Scotland) Act 1960” there shall be substituted the words “Part VII of the Mental Health (Scotland) Act 1984”.
- 54 In section 92(3) for the words “Part VI of the Mental Health (Scotland) Act 1960” there shall be substituted the words “Part VII of the Mental Health (Scotland) Act 1984”.

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- 55 In section 116(2) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.
- 56 In section 135—
- (a) in subsection (2) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.
 - (b) in subsection (4) for the words “Mental Health (Scotland) Act 1960” there shall be substituted the words “Mental Health (Scotland) Act 1984”.

SCHEDULE 4

Section 127(1).

TRANSITIONAL AND SAVINGS PROVISIONS

- 1 Where, apart from this paragraph, anything done under or in pursuance of, for the purposes of, any enactment which is repealed by this Act (in this Schedule referred to as “a repealed enactment”) would cease to have effect by virtue of that repeal it shall have effect as if it had been done under, or in pursuance of, or for the purposes of, the corresponding provision of this Act.
- 2 Without prejudice to any express amendment by this Act, where any enactment or document refers either expressly or by implication, to a repealed enactment, the reference shall, except where the context otherwise requires, be construed as, or as including, a reference to the corresponding provision of this Act.
- 3 Where any period of time specified in a repealed enactment is current at the commencement of this Act, this Act shall have effect as if the corresponding provision of this Act had been in force when that period began to run.
- 4 (1) Nothing in this Act shall affect a repealed enactment in its operation in relation to offences committed before the commencement of this Act.
- (2) Where an offence, for the continuance of which a penalty was provided, has been committed under a repealed enactment proceedings may, in the same manner as if the offence had been committed under the corresponding provision of this Act, be taken under this Act in respect of the continuance, after the commencement of this Act, of the offence.
- 5 This Act shall apply in relation to any authority for the detention or guardianship of a person who was liable to be detained or subject to guardianship under the ^{M2}Mental Health (Scotland) Act 1960 immediately before 30th September 1984 as if the provisions of this Act which derive from provisions amended by section 5 of the ^{M3}Mental Health (Amendment) (Scotland) Act 1983 and any amendments in Schedule 2 to that Act which are consequential on those sections were included in this Act in the form which the provisions from which they derive would take if those amendments were disregarded; but this provision shall not apply to any renewal of that authority on or after that date.

Marginal Citations

- M2** 1960 c. 61.
M3 1983 c. 39.

Status: Point in time view as at 01/04/1997.

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- 6 This Act shall apply to any application made before 30th September 1984 as if the provisions of this Act which derive from provisions amended by sections 8(1) or (2) or (3b) or (3c) or 9 of the ^{M4}Mental Health (Amendment) (Scotland) Act 1983 and any amendments in Schedule 2 to that Act which are consequential on those sections were included in this Act in the form which the provisions from which they derive would take if those amendments were disregarded.

Marginal Citations

M4 1983 c. 39.

- 7 Where on 30th September 1984 a person who has not attained the age of 16 years is subject to guardianship by virtue of a guardianship application the authority for his guardianship shall terminate on that day.
- 8 This Act shall apply to any emergency recommendation or admission following thereon made before 30th September 1984 as if the provisions of this Act which derive from provisions amended by section 12 of the Mental Health (Amendment) (Scotland) Act 1983 and the repeal in Schedule 3 to that Act which is consequential on that section were included in this Act in the form which the provisions from which they derive would take if those amendments were disregarded; but, when the period during which a patient may be detained in pursuance of such an emergency recommendation expires, it shall not be competent for the patient to be further detained immediately thereafter under the said provisions of this Act in the form which they take as so amended.
- 9 This Act shall apply in relation to any renewal of authority made before 30th September 1984 as if the provisions of this Act which derive from provisions amended by section 16(a) to (d) of the Mental Health (Amendment) (Scotland) Act 1983 and any amendments in Schedule 2 to that Act which are consequential on that section were included in this Act in the form which the provisions from which they derive would take if those amendments were disregarded; and, where an authority has been renewed before that date for a period of 2 years of which less than 16 months has expired on that date, that period shall expire at the end of 18 months from the date on which it began.
- 10 This Act shall apply in relation to the definition of “nearest relative” in any proceedings commenced before 30th September 1984 as if the provisions of this Act which derive from provisions amended by section 19 of the Mental Health (Amendment) (Scotland) Act 1983 and any amendments in Schedule 2 to that Act which are consequential on that section were included in this Act in the form which the provisions from which they derive would take if those amendments were disregarded.
- 11 (1) Section 98(3) of this Act shall not apply to any treatment given to a patient in the period of 6 months beginning with 30th September 1984 if—
- (a) the detention of the patient began before the beginning of that period; and
 - (b) that subsection has not been complied with in respect of any treatment previously given to him in that period.
- (2) The Secretary of State may by order reduce the length of the period mentioned in sub-paragraph (1) of this paragraph.

Status: Point in time view as at 01/04/1997.

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- 12 In the case of a patient who is detained at 30th September 1984 the steps to be taken under section 110 shall be taken as soon as practicable after that date, except where such steps have already been taken.
- 13 Section 113 of this Act shall not apply in relation to proceedings commenced before 30th September 1984.

SCHEDULE 5

Section 127(2).

REPEALS

Chapter	Short title	Extent of repeal
1960 c. 61.	The Mental Health (Scotland) Act 1960.	The whole Act.
1961 (N.I.) c. 15.	The Mental Health (Northern Ireland) Act 1961.	In Schedule 5, Part II.
1963 c. 39.	The Criminal Justice (Scotland) Act 1963.	In Schedule 5, the entry relating to the Mental Health (Scotland) Act 1960.
1967 c. 28.	The Superannuation (Miscellaneous Provisions) Act 1967.	Section 14.
1968 c. 20.	The Courts-Martial (Appeals) Act 1968.	In Schedule 4, the entry relating to the Mental Health (Scotland) Act 1960.
1968 c. 46.	The Health Services and Public Health Act 1968.	Section 75.
1968 c. 49.	The Social Work (Scotland) Act 1968.	In Schedule 8, paragraphs 50 to 59.
1969 c. 39.	The Age of Majority (Scotland) Act 1969.	In Schedule 1, Part 1, the entry relating to the Mental Health (Scotland) Act 1960.
1969 c. 54.	The Children and Young Persons Act 1969.	In Schedule 5, paragraphs 42 and 43.
1971 c. 77.	The Immigration Act 1971.	Section 30.
1972 c. 58.	The National Health Service (Scotland) Act 1972.	Section 52(1).
		In Schedule 6, paragraphs 105 to 117.
1974 c. 46.	The Friendly Societies Act 1974.	In Schedule 9, paragraph 17.
1975 c. 21.	The Criminal Procedure (Scotland) Act 1975.	In Schedule 9, paragraphs 17 to 29.

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1976 c. 67.	The Sexual Offences (Scotland) Act 1976.	In Schedule 1, the entry relating to the Mental Health (Scotland) Act 1960.
1976 c. 83.	The Health Services Act 1976.	Section 19(3), (4)(c).
1978 c. 29.	The National Health Service (Scotland) Act 1978.	In Schedule 16, paragraphs 12 and 13.
1980 c. 5.	The Child Care Act 1980.	In Schedule 5, paragraphs 15 and 16.
1980 c. 44.	The Education (Scotland) Act 1980.	In Schedule 4, paragraph 2.
1980 c. 62.	The Criminal Justice (Scotland) Act 1980.	In section 80, subsection (4).
1982 c. 51.	The Mental Health (Amendment) Act 1982.	In Schedule 3 in Part I, paragraph 31.
1983 c. 20.	The Mental Health Act 1983.	In Schedule 4, paragraph 16.
1983 c. 39.	The Mental Health (Amendment) (Scotland) Act 1983.	The whole Act.

Status:

Point in time view as at 01/04/1997.

Changes to legislation:

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