



Mental Health (Scotland) Act 1984

1984 CHAPTER 36

PART V

ADMISSION TO AND DETENTION IN HOSPITAL AND GUARDIANSHIP

Functions of relatives of patients

55 Nearest relative of child under guardianship etc.

- (1) Where a patient who has not attained the age of 18 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) Section 53(4) 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 section 41(2) 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, a measure

Status: This is the original version (as it was originally enacted).

of the Northern Ireland Assembly and an Order in Council under Schedule 1 to the Northern Ireland Act 1974.