



Mental Health Act 1959

1959 CHAPTER 72 7 and 8 Eliz 2

An Act to repeal the Lunacy and Mental Treatment Acts 1890 to 1930, and the Mental Deficiency Acts 1913 to 1938, and to make fresh provision with respect to the treatment and care of mentally disordered persons and with respect to their property and affairs; and for purposes connected with the matters aforesaid. [29th July 1959]

Modifications etc. (not altering text)

- C1** Functions of Minister of Health under this Act now exercisable by Secretary of State: [S.I. 1968/1699, art. 2](#)
Act: Functions of a Minister of the Crown transferred to the Assembly (W.) (1.7.1999) by [S.I. 1999/672, art. 2, Sch. 1](#)

Commencement Information

- II** Act not in force at Royal Assent by virtue of s. 153(1)(2) (now repealed); Act wholly in force at 1.11.1960

PART I

PRELIMINARY

1—5. ^{F1}

Textual Amendments

- F1** Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983](#) (c. 74, SIF 98:3), [Sch. 7 Part II](#) entries relating to: [Polish Resettlement Act 1947](#) (c. 19), [U.S.A. Veterans' Pensions \(Administration\) Act 1949](#) (c. 45) repealed by [Mental Health Act 1983](#) (c. 20, SIF 85), [Sch. 6](#)

Status: Point in time view as at 01/09/1992.

Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

PART II

LOCAL AUTHORITY SERVICES

Modifications etc. (not altering text)

C2 Pt. II amended by [Local Authority Social Services Act 1970 \(c. 42\)](#), s. 2(1), **Sch. 1**

General Provisions

6, 7. ^{F2}

Textual Amendments

F2 Ss. 6, 7 repealed by [Health Services and Public Health Act 1968 \(c. 46\)](#), s. 12(7), **Sch. 4**

8 Functions of welfare authorities.

[^{F3}(1) For the purposes of subsection (8) of section twenty-one of the ^{M1}National Assistance Act 1948 (which restricts the duties of local authorities in respect of the provision 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 [^{F4}local social services authorities] under [^{F5}paragraph 2 of Schedule 8 to the ^{M2}National Health Service Act 1977], with respect to residential accommodation for persons who are or have been suffering from mental disorder.]

(2) [^{F6}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 mentally disordered persons 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 ^{M3}National Health Service Act 1946), no account shall be taken of the provisions of [^{F7}Schedule 8 to the ^{M4}National Health Service Act 1977], with respect to the provision of [^{F6}accommodation or]services for such persons.

^{F8}(3)

(4) Nothing in this section shall be construed as requiring a local authority to make provision for the same purposes both under . . . ^{F9}Part III of the ^{M5}National Assistance Act 1948 [^{F10}and under Schedule 8 to the ^{M6}National Health Service Act 1977].

Textual Amendments

F3 S. 8(1) repealed (*prosp.*) by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), ss. 66(2), 67(2), **Sch. 10**

F4 Words substituted by [Local Government Act 1972 \(c. 70\)](#), **Sch. 23 para. 9(1)**

F5 Words substituted by [National Health Service Act 1977 \(c. 49\)](#), s. 129, **Sch. 15 para. 24(1)**

Status: Point in time view as at 01/09/1992.

Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

- F6** Words repealed (*prosp.*) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), ss. 66(2), 67(2), **Sch. 10**
- F7** Words substituted by National Health Service Act 1977 (c. 49), s. 129, **Sch. 15 para. 24(2)**
- F8** S. 8(3) repealed (1.9.1992) by Charities Act 1992 (c. 41), s. 78(2), **Sch. 7**; S.I. 1992/1900, art. 2(1), **Sch. 1**
- F9** Words repealed by National Health Service Act 1977 (c. 49), s. 129, **Sch. 16**
- F10** Words added by National Health Service Act 1977 (c. 49), s. 129, **Sch. 15 para. 24(3)**

Marginal Citations

- M1** 1948 c. 29.
- M2** 1977 c. 49.
- M3** 1946 c. 81.
- M4** 1977 c. 49.
- M5** 1948 c. 29.
- M6** 1977 c. 49.

F119 **F12**

Textual Amendments

- F11** S. 9 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch.15** (with Sch. 14 paras. 1(1) and 27(4)); S.I. 1991/828, **art. 3(2)**

10 **F13**

Textual Amendments

- F12** Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the Fines and Recoveries Act 1983 (c. 74, SIF 98:3), **Sch. 7 Part II** entries relating to: Polish Resettlement Act 1947 (c. 19), U.S.A. Veterans' Pensions (Administration) Act 1949 (c. 45) repealed by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 6**

11— **F13**
13.

Textual Amendments

- F13** Ss. 11–13, Sch. 2 repealed by Education (Handicapped Children) Act 1970 (c. 52), **Sch.**

Status: Point in time view as at 01/09/1992.

Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

PART III

MENTAL NURSING HOMES, RESIDENTIAL HOMES, ETC.

14— **F14**
18.

Textual Amendments

F14 Ss. 14—18, 23(2) repealed by [Nursing Homes Act 1975 \(c. 37\)](#), s. 22(3), **Sch. 3**

19— **F15**
21.

Textual Amendments

F15 Ss. 19–21, 23(1), **Sch. 7 Part II** entry relating to: [National Assistance Act 1948 \(c. 29\)](#), s. 37 repealed by [Residential Homes Act 1980 \(c. 7\)](#), **Sch. 2**

22 **F16**

Textual Amendments

F16 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, **Sch. 7 Pt. I** entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), [U.S.A. Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**

23
(1) **F17**
(2) **F18**

Textual Amendments

F17 Ss. 19–21, 23(1), **Sch. 7 Part II** entry relating to: [National Assistance Act 1948 \(c. 29\)](#), s. 37 repealed by [Residential Homes Act 1980 \(c. 7\)](#), **Sch. 2**

F18 Ss. 14—18, 23(2) repealed by [Nursing Homes Act 1975 \(c. 37\)](#), s. 22(3), **Sch. 3**

24 **F19**

Textual Amendments

F19 S. 24 repealed by [London Government Act 1963 \(c. 33\)](#), **Sch. 18 Pt. II**

Status: Point in time view as at 01/09/1992.

Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

PART IV

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

25— F20
35.

Textual Amendments

F20 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), [Sch. 7 Part II](#) entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), U.S.A. [Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

36 F21

Textual Amendments

F21 S. 36 repealed and superseded by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), [Sch. 4 Pt. I](#)

37— F22
43.

Textual Amendments

F22 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), [Sch. 7 Part II](#) entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), U.S.A. [Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

44 F23

Textual Amendments

F23 Ss. 44, 77, 78, 131(2), 134, 144(2), 146, Sch. 7 Part II entry relating to: [Representation of the People Act 1949 \(c. 68\)](#) repealed by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), [Sch. 4 Pt. I](#)

45— F24
59.

Textual Amendments

F24 Ss. 45–59 repealed by [Mental Health Act 1983 \(c.20, SIF 85\)](#), [Sch. 6](#)

Status: Point in time view as at 01/09/1992.

Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

PART V

ADMISSION OF PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS,
ETC., AND TRANSFER OF PATIENTS UNDER SENTENCE

60 **F25**

Textual Amendments

F25 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), U.S.A. [Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**

61 **F26**

Textual Amendments

F26 Ss. 61, 79 repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), **Sch. 6**

62— **F27**
68.

Textual Amendments

F27 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), U.S.A. [Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**

69 **F28**

Textual Amendments

F28 S. 69 repealed by [Criminal Justice Act 1967 \(c. 80\)](#), **Sch. 7 Pt. I**

70— **F29**
76.

Textual Amendments

F29 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry

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relating to: ss. 48 and 49 of the Fines and Recoveries Act 1983 (c. 74, SIF 98:3), **Sch. 7 Part II** entries relating to: Polish Resettlement Act 1947 (c. 19), U.S.A. Veterans' Pensions (Administration) Act 1949 (c. 45) repealed by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 6**

77, 78. F30

Textual Amendments

F30 Ss. 44, 77, 78, 131(2), 134, 144(2), 146, Sch. 7 Part II entry relating to: Representation of the People Act 1949 (c. 68) repealed by Mental Health (Amendment) Act 1982 (c. 51, SIF 85), **Sch. 4 Pt. I**

79 F31

Textual Amendments

F31 Ss. 61, 79 repealed by Children and Young Persons Act 1969 (c. 54), **Sch. 6**

80 F32

Textual Amendments

F32 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the Fines and Recoveries Act 1983 (c. 74, SIF 98:3), **Sch. 7 Part II** entries relating to: Polish Resettlement Act 1947 (c. 19), U.S.A. Veterans' Pensions (Administration) Act 1949 (c. 45) repealed by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 6**

PART VI

REMOVAL AND RETURN OF PATIENTS WITHIN UNITED KINGDOM, ETC.

81 F33

Textual Amendments

F33 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the Fines and Recoveries Act 1983 (c. 74, SIF 98:3), **Sch. 7 Part II** entries relating to: Polish Resettlement Act 1947 (c. 19), U.S.A. Veterans' Pensions (Administration) Act 1949 (c. 45) repealed by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 6**

82— F34

84.

Status: Point in time view as at 01/09/1992.

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Textual Amendments

F34 Ss. 82—84, 91 repealed by [Mental Health \(Scotland\) Act 1960 \(c. 61\)](#), **Sch. 5**

85 **F35**

Textual Amendments

F35 S. 85 (which was substituted for ss. 85 and 86 by [Mental Health Act \(Northern Ireland\) 1961 \(c. 15\)](#), **Sch. 5 Pt. I**) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**

87 **F36**

Textual Amendments

F36 S. 87 (which was substituted for ss. 87 and 88 by [Mental Health Act \(Northern Ireland\) 1961 \(c. 15\)](#), **Sch. 5 Pt. I**) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**

89, 90. **F37**

Textual Amendments

F37 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), U.S.A. [Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**

91 **F38**

Textual Amendments

F38 Ss. 82—84, 91 repealed by [Mental Health \(Scotland\) Act 1960 \(c. 61\)](#), **Sch. 5**

92— **F39**
96.

Textual Amendments

F39 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries

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relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), [U.S.A. Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

PART VII

SPECIAL HOSPITALS

97, 98. **F40**

Textual Amendments

F40 Ss. 97, 98 repealed by [National Health Service Reorganisation Act 1973 \(c. 32\)](#), [Sch. 5](#)

99 **F41**

Textual Amendments

F41 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), [Sch. 7 Part II](#) entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), [U.S.A. Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

PART VIII

MANAGEMENT OF PROPERTY AND AFFAIRS OF PATIENTS

100— **F42**
119.

Textual Amendments

F42 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), [Sch. 7 Part II](#) entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), [U.S.A. Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

120 **F43**

Textual Amendments

F43 S. 120, Sch. 4 repealed by [S.I. 1986/595 \(N.I. 4\)](#), art. 138, [Sch. 7](#)

Status: Point in time view as at 01/09/1992.

Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

121 F44

Textual Amendments

F44 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983](#) (c. 74, SIF 98:3), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947](#) (c. 19), U.S.A. [Veterans' Pensions \(Administration\) Act 1949](#) (c. 45) repealed by [Mental Health Act 1983](#) (c. 20, SIF 85), **Sch. 6**

PART IX

MISCELLANEOUS AND GENERAL

Modifications etc. (not altering text)

C3 Pt. IX amended by [Local Authority Social Services Act 1970](#) (c. 42), s. 2(1), **Sch. 1**

122— F45
124.

Textual Amendments

F45 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983](#) (c. 74, SIF 98:3), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947](#) (c. 19), U.S.A. [Veterans' Pensions \(Administration\) Act 1949](#) (c. 45) repealed by [Mental Health Act 1983](#) (c. 20, SIF 85), **Sch. 6**

Offences

125, F46
126.

Textual Amendments

F46 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983](#) (c. 74, SIF 98:3), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947](#) (c. 19), U.S.A. [Veterans' Pensions \(Administration\) Act 1949](#) (c. 45) repealed by [Mental Health Act 1983](#) (c. 20, SIF 85), **Sch. 6**

127 Amendment of Sexual Offences Act, 1956.

- (1) The Sexual Offences Act, 1956, shall be amended as follows:—
 - (a) For section seven there shall be substituted the following section:—

Status: Point in time view as at 01/09/1992.

Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

“7 Intercourse with defective.

- (1) It is an offence, subject to the exception mentioned in this section, for a man to have unlawful sexual intercourse with a woman who is a defective.
 - (2) A man is not guilty of an offence under this section because he has unlawful sexual intercourse with a woman if he does not know and has no reason to suspect her to be a defective.”
- (b) for section forty-five there shall be substituted the following section:—

“45 Meaning of “defective”.

In this Act “defective” means a person suffering from severe subnormality within the meaning of the Mental Health Act, 1959.”

and section eight of that Act shall cease to have effect.

(2) F47

Textual Amendments

F47 S. 127(2) repealed by [Guardianship Act 1973 \(c. 29\)](#), [Sch. 3](#)

Modifications etc. (not altering text)

C4 The text of s. 127(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

128 Sexual intercourse with patients.

- (1) Without prejudice to section seven of the ^{M7}Sexual Offences Act 1956, it shall be an offence, subject to the exception mentioned in this section,—
 - (a) for a man who is an officer on the staff of or is otherwise employed in, or is one of the managers of, a hospital or mental nursing home to have unlawful sexual intercourse with a woman who is for the time being receiving treatment for mental disorder in that hospital or home, or to have such intercourse on the premises of which the hospital or 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 who is a mentally disordered patient and who is subject to his guardianship under [^{F48}the Mental Health Act 1983] or is otherwise in his custody or care under [^{F48}the Mental Health Act 1983] or in pursuance of arrangements under . . . ^{F49}, or Part III of the ^{M8}National Assistance Act 1948, [^{F50}or the ^{M9}National Health Service Act 1977] or as a resident in a residential [^{F51}care home within the meaning of Part I of the Registered Homes Act 1984]
- (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 mentally disordered patient.
- (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.

Status: Point in time view as at 01/09/1992.

Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

- (4) No proceedings shall be instituted for an offence under this section except by or with the consent of the Director of Public Prosecutions.
- (5) This section shall be construed as one with the ^{M10}Sexual Offences Act 1956; and section forty-seven of that Act (which relates to the proof of exceptions) shall apply to the exception mentioned in this section.

Textual Amendments

- F48** Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 4 para. 15**
- F49** Words repealed by [National Health Service Act 1977 \(c. 49\)](#), s. 129, **Sch. 16**
- F50** Words inserted by [National Health Service Act 1977 \(c. 49\)](#), s. 129, **Sch. 15 para. 29**
- F51** Words substituted by [Registered Homes Act 1984 \(c. 23, SIF 113:3\)](#), s. 57, **Sch. 1 para. 2**

Marginal Citations

- M7** 1956 c. 69.
- M8** 1948 c. 29.
- M9** 1977 c. 49.
- M10** 1956 c. 69.

129, ^{F52}
130.

Textual Amendments

- F52** Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), [U.S.A. Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**

131 Prosecutions by local authorities.

- (1) A [^{F53}local social services authority] may institute proceedings for any offence under this Part of this Act, but without prejudice to any provision of this Part of this Act requiring the consent of the Director of Public Prosecutions for the institution of such proceedings.
- (2) ^{F54}

Textual Amendments

- F53** Words substituted by [Local Government Act 1972 \(c. 70\)](#), **Sch. 23 para. 9(2)**
- F54** Ss. 44, 77, 78, 131(2), 134, 144(2), 146, Sch. 7 Part II entry relating to: [Representation of the People Act 1949 \(c. 68\)](#) repealed by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), **Sch. 4 Pt. I**

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Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

Miscellaneous provisions

132. ^{F55}
133.

Textual Amendments

F55 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983](#) (c. 74, SIF 98:3), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947](#) (c. 19), U.S.A. [Veterans' Pensions \(Administration\) Act 1949](#) (c. 45) repealed by [Mental Health Act 1983](#) (c. 20, SIF 85), **Sch. 6**

134 ^{F56}

Textual Amendments

F56 Ss. 44, 77, 78, 131(2), 134, 144(2), 146, Sch. 7 Part II entry relating to: [Representation of the People Act 1949](#) (c. 68) repealed by [Mental Health \(Amendment\) Act 1982](#) (c. 51, SIF 85), **Sch. 4 Pt. I**

135— ^{F57}
138.

Textual Amendments

F57 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983](#) (c. 74, SIF 98:3), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947](#) (c. 19), U.S.A. [Veterans' Pensions \(Administration\) Act 1949](#) (c. 45) repealed by [Mental Health Act 1983](#) (c. 20, SIF 85), **Sch. 6**

139— Supplemental

141. ^{F58}

Textual Amendments

F58 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983](#) (c. 74, SIF 98:3), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947](#) (c. 19), U.S.A. [Veterans' Pensions \(Administration\) Act 1949](#) (c. 45) repealed by [Mental Health Act 1983](#) (c. 20, SIF 85), **Sch. 6**

142 Default powers of Minister.

(1) Where the Minister is of opinion, on complaint or otherwise, that a [^{F59}local social services authority] have failed to carry out functions conferred or imposed on the

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authority by or under this Act or have in carrying out those functions failed to comply with any regulations relating thereto, he may after such inquiry as he thinks fit make an order declaring the authority to be in default.

- (2) Subsections (3) to (5) of [^{F60}section 85 of the ^{M11}National Health Service Act 1977] (which relates to orders declaring, among others, a local authority to be in default under that Act) shall apply in relation to an order under this section as they apply in relation to an order under that section.

Textual Amendments

- F59** Words substituted by [Local Government Act 1972 \(c. 70\), Sch. 23 para. 9\(2\)](#)
- F60** Words substituted by [National Health Service Act 1977 \(c. 49\), s. 129, Sch. 15 para. 32](#)

Marginal Citations

- M11** [1977 c. 49.](#)

143 Inquiries.

The Minister 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 [^{F61}subsections (2) to (5) of section 250 of the ^{M12}Local Government Act 1972] shall apply to any inquiry held under this Act, except that no local authority shall be ordered to pay costs under subsection (4) of that section in the case of any inquiry unless the authority is a party thereto.

Textual Amendments

- F61** Words substituted by virtue of [Local Government Act 1972 \(c. 70\), s. 272\(2\)](#)

Modifications etc. (not altering text)

- C5** [S. 143](#) extended by [Nursing Homes Act 1975 \(c. 37\), s. 21](#)

Marginal Citations

- M12** [1972 c. 70.](#)

144 Expenses.

- (1) There shall be defrayed out of moneys provided by Parliament—
 - (a) any expenses incurred by the Minister or a Secretary of State under this Act;
 - (b) ^{F62}.....
 - (c) any increase attributable to this Act in the sums payable out of moneys provided by Parliament under any other enactment.
- (2) ^{F63}.....

Textual Amendments

- F62** [Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144\(1\)\(b\), 145\(2\), 147, 148, 149\(3\)–\(5\), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry](#)

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relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), U.S.A. [Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**
F63 Ss. 44, 77, 78, 131(2), 134, 144(2), 146, Sch. 7 Part II entry relating to: [Representation of the People Act 1949 \(c. 68\)](#) repealed by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), **Sch. 4 Pt. I**

145 General provisions as to regulations, orders and rules.

(1) Any power of the Minister or the Lord Chancellor to make regulations, orders or rules under this Act shall be exercisable by statutory instrument.

(2) **F64**

Textual Amendments
F64 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), U.S.A. [Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**

146 **F65**

Textual Amendments
F65 Ss. 44, 77, 78, 131(2), 134, 144(2), 146, Sch. 7 Part II entry relating to: [Representation of the People Act 1949 \(c. 68\)](#) repealed by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), **Sch. 4 Pt. I**

147, **F66**
148.

Textual Amendments
F66 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), U.S.A. [Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**

149 Minor and consequential amendments and repeals.

(1) The enactments described in the first column of the Seventh Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule, being minor amendments and amendments consequential on the foregoing provisions of this Act.

(2) **F67**

(3) **F68**

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Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

Textual Amendments

- F67** S. 149(2) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. 1 Pt. XI**
- F68** Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the Fines and Recoveries Act 1983 (c. 74, SIF 98:3), **Sch. 7 Part II** entries relating to: Polish Resettlement Act 1947 (c. 19), U.S.A. Veterans' Pensions (Administration) Act 1949 (c. 45) repealed by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 6**

Modifications etc. (not altering text)

- C6** The text of s. 149(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

150 Application to Scotland.

The following provisions of this Act shall extend to Scotland, that is to say—

..... **F69**
..... **F70**

section one hundred and forty-five so far as applicable to any Order in Council extending to Scotland;

..... **F70**
Part II of the Seventh Schedule;

Part II of the Eighth 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 Scotland.

Textual Amendments

- F69** Words repealed by House of Commons Disqualification Act 1975 (c. 24), **Sch. 3**
- F70** Words repealed by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 6**

151 **F71**

Textual Amendments

- F71** S. 151 repealed by Northern Ireland Constitution Act 1973 (c. 36), **Sch. 6 Pt. I**

152 Application to Northern Ireland.

..... **F72**, this Act shall not extend to Northern Ireland.

Textual Amendments

- F72** Words repealed by S.I. 1986/595 (N.I. 4), art. 138, **Sch. 7**

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Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

153 F73

Textual Amendments

F73 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), [U.S.A. Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**

154 Short title and application to Scilly Isles.

- (1) This Act may be cited as the Mental Health Act 1959.
- (2) [^{F74}Section 130(4) of the ^{M13}National Health Service Act 1977] (which provides for the extension of that Act to the Isles of Scilly) shall have effect as if the references to that Act included references to this Act.

Textual Amendments

F74 Words substituted by [National Health Service Act 1977 \(c. 49\)](#), **s. 129**. Sch. 15 para. 34

Modifications etc. (not altering text)

C7 [S. 154\(2\)](#) extended by [Mental Health \(Amendment\) Act 1975 \(c. 29\)](#), **s. 2(4)**

Marginal Citations

M13 [1977 c. 49](#).

Status: Point in time view as at 01/09/1992.

Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

SCHEDULES

FIRST SCHEDULE

. . . F75

Textual Amendments

F75 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), [U.S.A. Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**

SECOND SCHEDULE

. . . F76

Textual Amendments

F76 Ss. 11–13, Sch. 2 repealed by [Education \(Handicapped Children\) Act 1970 \(c. 52\)](#), **Sch.**

THIRD SCHEDULE

. . . F77

Textual Amendments

F77 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), [U.S.A. Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**

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Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

FOURTH SCHEDULE

. . . **F78**

Textual Amendments

F78 S. 120, Sch. 4 repealed by S.I. 1986/595 (N.I. 4), art. 138, **Sch. 7**

FIFTH SCHEDULE

. . . **F79**

Textual Amendments

F79 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the Fines and Recoveries Act 1983 (c. 74, SIF 98:3), **Sch. 7 Part II** entries relating to: Polish Resettlement Act 1947 (c. 19), U.S.A. Veterans' Pensions (Administration) Act 1949 (c. 45) repealed by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 6**

SIXTH SCHEDULE

Section 148.

TRANSITIONAL PROVISIONS

PART I

1, 2. **F80**

Textual Amendments

F80 Sch. 6 (except paragraph 15(4)) repealed by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 6**

PART II

3–6. **F81**

Textual Amendments

F81 Sch. 6 (except paragraph 15(4)) repealed by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 6**

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Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

PART III

PROVISIONS RELATING TO PARTS IV AND V

7—14. F82

Textual Amendments

F82 Sch. 6 (except paragraph 15(4)) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

Transferred patients

15 (1) F83

(4) Section eighty-four of this Act shall apply to a transferred patient who having been a state mental patient in Scotland was immediately before the commencement of this Act liable to be detained in a hospital in England and Wales by virtue of subsection (3) of section sixty-three of the ^{M14}Criminal Justice Act 1948, or subsection (2) of section sixty-four of the ^{M15}Criminal Justice (Scotland) Act 1949, as if he had been removed to such a hospital from Scotland in pursuance of an order under the said subsection (2); and where he is treated by virtue of the said section eighty-four as if he had been removed to a hospital in pursuance of a transfer direction, he shall also be treated as if a direction restricting his discharge had been given as aforesaid.

(5) F83

Textual Amendments

F83 Sch. 6 (except paragraph 15(4)) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

Marginal Citations

M14 1948 c. 58.

M15 1949 c. 94.

16—23. F84

Textual Amendments

F84 Sch. 6 (except paragraph 15(4)) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

PART IV

24—28. F85

Textual Amendments

F85 Sch. 6 (except paragraph 15(4)) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

Status: Point in time view as at 01/09/1992.

Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

SEVENTH SCHEDULE

Sections 149, 150, 152.

MINOR AND CONSEQUENTIAL AMENDMENTS

Modifications etc. (not altering text)

- C8** The text of Sch. 7 Pts. I and II is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

PART I

AMENDMENTS EXTENDING TO ENGLAND AND WALES ONLY

Enactment	Amendment
The Fines and Recoveries Act , 1833, 3 & 4 Will,4. c. 74.	In section thirty-three, for the words from “lunatic” where it first occurs to “unsound mind as aforesaid” there shall be substituted the words “incapable, by reason of mental disorder within the meaning of the Mental Health Act, 1959, of managing and administering his property and affairs, the judge having jurisdiction under Part VIII of that Act shall be the protector of the settlement in his stead so long as he is incapable as aforesaid”.
...	...
F86	F86
...	...
F87	F87
...	...
F88	F88
The Improvement of Land Act, 1864, 27 & 28 Vict. c. 114.	In section sixty-eight, for the words “committee, or trustee” there shall be substituted the words “or receiver” and for the words “lunatic, idiot” there shall be substituted the words “or patient within the meaning of Part VIII of the Mental Health Act, 1959”.
...	...
F89	F89
The Colonial Prisoners Removal Act, 1884, 47 & 48 Vict. c. 31.	In section ten, after subsection (2), there shall be added the following subsection— “(3) Without prejudice to the foregoing provisions of this section, where

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a criminal lunatic is removed to England and Wales, 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 seventy-one of the Mental Health Act, 1959, 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 seventy-two of that Act (with or without a direction under section seventy-four 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”

Enactment	Amendment
<p>... F90</p> <p>The Settled Land Act, 1925, 15 & 16 Geo. 5. c. 18.</p> <p>The Trustee Act, 1925, 15 & 16 Geo. 5. c. 19.</p>	<p>... F90</p> <p>In section sixty-eight, in subsection (3), for the words “a lunatic, or a defective” there shall be substituted the words “suffering from mental disorder”.</p> <p>In section thirty-six, the following subsection shall be substituted for subsection (9)—</p> <p>“(9) Where a trustee is incapable, by reason of mental disorder within the meaning of the Mental Health Act, 1959, of exercising his functions as trustee and is also entitled in possession to some beneficial interest in the trust property, no appointment of a new trustee in his place shall be made by virtue of paragraph (b) of subsection (1) of this section unless</p>

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leave to make the appointment has been given by the authority having jurisdiction under Part VIII of the Mental Health Act, 1959”

Enactment

Amendment

In section forty-one, in subsection (1), for the words “a lunatic or a defective” there shall be substituted the words “incapable, by reason of mental disorder within the meaning of the Mental Health Act, 1959, of exercising his functions as trustee”.

The following section shall be substituted for section fifty-four—

“54 Jurisdiction in regard to mental patients.

- (1) Subject to the provisions of this section, the authority having jurisdiction under Part VIII of the Mental Health Act, 1959, shall not have power to make any order, or give any direction or authority, in relation to a patient who is a trustee if the High Court has power under this Act to make an order to the like effect.
- (2) Where a patient is a trustee and a receiver appointed by the said authority is acting for him or an application for the appointment of a receiver has been made but not determined, then, except as respects a trust which is subject to an order for administration made by the High Court, the said authority shall have concurrent jurisdiction with the High Court in relation to—
 - (a) mortgaged property of which the patient has become a trustee merely by reason of the mortgage having been paid off;
 - (b) matters consequent on the making of provision by the said authority for the exercise of a power of appointing trustees or retiring from a trust;

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- (c) matters consequent on the making of provision by the said authority for the carrying out of any contract entered into by the patient;
- (d) property to some interest in which the patient is beneficially entitled but which, or some interest in which, is held by the patient under an express, implied or constructive trust.

The Lord Chancellor may make rules with respect to the exercise of the jurisdiction referred to in this subsection.

- (3) In this section “patient” means a patient as defined by section one hundred and one of the Mental Health Act, 1959, or a person as to whom powers are exercisable and have been exercised under section one hundred and four of that Act.”

Enactment

The Law of Property Act, 1925, 15 & 16
 Geo. 5. c. 20.

Amendment

In section fifty-five (except so far as it applies to vesting orders made before the commencement of this Act), for the words “the Lunacy Act, 1890” there shall be substituted the words “Part VIII of the Mental Health Act, 1959”

The following section shall be substituted for section twenty-two—

“22 Conveyances on behalf of persons suffering from mental disorder and as to land held by them on trust for sale.

- (1) Where a legal estate in land (whether settled or not) is vested in a person suffering from mental disorder, either solely or jointly with any other person or persons, his receiver or (if no receiver is acting for him) any person authorised in that behalf shall, under an order of the authority having jurisdiction under Part VIII of the Mental Health Act, 1959, or of the court, or under any Statutory power, make or concur in making all

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requisite dispositions for conveying or creating a legal estate in his name and on his behalf.

- (2) If land held on trust for sale is vested, either solely or jointly with any other person or persons, in a person who is incapable, by reason of mental disorder, of exercising his functions as trustee, a new trustee shall be appointed in the place of that person, or he shall be otherwise discharged from the trust, before the legal estate is dealt with under the trust for sale or under the powers vested in the trustees for sale.”
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Enactment

Amendment

In section twenty-six, in subsection (2), the words “committee or” shall be omitted, and for the words “lunatic or defective” there shall be substituted the words “person suffering from mental disorder”.

In section twenty-eight, in proviso (i) of subsection (3), for the words “lunatic or defective” there shall be substituted the words “person suffering from mental disorder”, and the words “committee or” shall be omitted.

In section two hundred and five, in subsection (1), the following paragraph shall be substituted for paragraph (xiii)—

“(xiii) “mental disorder” has the meaning assigned to it by section four of the Mental Health Act, 1959, and “receiver”, in relation to a person suffering from mental disorder, means a receiver appointed for that person under Part VIII of that Act;”

Enactment

The Land Registration Act, 1925, 15 & 16 Geo. 5. c. 21.

Amendment

In section one hundred and eleven, in subsection (5), for the words from “a lunatic”

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to the words “lunacy or” there shall be substituted the words “incapable, by reason of mental disorder within the meaning of the Mental Health Act, 1959, of managing and administering his property and affairs, his receiver or (if no receiver is acting for him) any person authorised in that behalf shall, under an order of the authority having jurisdiction under Part VIII of the Mental Health Act, 1959, or” and for the words “lunatic or defective” in each place where they occur there shall be substituted the words “the proprietor”, and in subsection (6), for the words “the lunacy Act, 1890” there shall be substituted the words “Part VIII of the Mental Health Act, 1959”.

The Administration of Estates Act, 1925, 15 & 16 Geo. 5. c.23.

In section forty-one, in subsection (1), in paragraph (ii) of the proviso, for the words “a lunatic or defective” there shall be substituted the words “is incapable, by reason of mental disorder within the meaning of the Mental Health Act, 1959, of managing and administering his property and affairs” and the word “committee” shall be omitted, and in paragraph (iv) of the proviso, for the words from “committee” to “appointed” there shall be substituted the words “receiver is acting for a person suffering from mental disorder”, and for the words “lunatic or defective” in the second place where they occur there shall be substituted the words “said person”.

...
F91

...
F91

The Children and Young Persons Act, 1933, 23 & 24 Goe. 5. c.12.

In section ninety-two, for the words from “but does not include” to the end of the section there shall be substituted the words “but does not include any mental nursing home or residential home for mentally disordered persons within the meaning of Part III of the Mental Health Act, 1959”.

In the Fourth Schedule, in paragraph 4, the words from “and shall” to the end of the paragraph shall be omitted.

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Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

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

In section forty-nine, for the words from “section one” to “that section” there shall be substituted the words “Part VIII of the Mental Health Act, 1959, as receiver for a patient or as a person otherwise having functions in relation to the property and affairs of a patient”, and for the words “the said powers” there shall be substituted the words “such functions”.

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The Sexual Offences Act, 1956, 4 & 5 Eliz. 2.
c. 69.

In the Second Schedule, in paragraph 1, in the fourth column, for the words “an idiot or imbecile” there shall be substituted the words “a defective”; in paragraph 11 in the first column, for the words “idiot or

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Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

<p>... F107</p> <p>... F108</p> <p>The Variation of Trusts Act, 1958, 6 & 7 Eliz. 2. c. 53.</p> <p>The Local Government Act, 1958, 6 & 7 Eliz. 2. c. 55.</p>	<p>imbecile” there shall be substituted the word “defective”; and in paragraph 14, in the fourth column, for the words “an idiot or imbecile” there shall be substituted the words “a defective”.</p> <p>... F107</p> <p>... F108</p> <p>In section one, in subsection (3), for the words from “the Judge” to the end of the subsection there shall be substituted the words “the authority having jurisdiction under Part VIII of the Mental Health Act, 1959, if that person is a patient within the meaning of the said Part VIII”, and in subsection (6), for the words from “section one hundred and seventy-one” to the end of the subsection there shall be substituted the words “the powers of the authority having jurisdiction under Part VIII of the Mental Health Act, 1959”.</p> <p>In section forty-six, in subsection (1), references to Part III of the National Health service Act, 1946, and to section twenty-eight of that Act, and references to sections twenty-nine and thirty of the National Assistance Act, 1948, shall include references to those enactments as amended by this Act; and for paragraphs (d) and (e) there shall be substituted the following paragraph—</p> <p style="padding-left: 40px;">“(d) the Mental Health Act, 1959, except so far as it amends Part III of the National Health Service Act, 1946”</p>
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Enactment

Amendment

In Part III of the First Schedule, in paragraph 4, in sub-paragraph (1), for the words “occupation centres provided for the purposes of paragraph (cc) of section thirteen of the Mental Deficiency Act, 1913” there shall be substituted the words “centres provided under section twenty-eight of the National Health Service Act, 1946, for the occupation or training of persons who are or

Status: Point in time view as at 01/09/1992.

Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

have been suffering from mental disorder”
and, in paragraph (2), after “occupation”
there shall be inserted “or training”.

Textual Amendments

- F86** Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983](#) (c. 74, SIF 98:3), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947](#) (c. 19), [U.S.A. Veterans' Pensions \(Administration\) Act 1949](#) (c. 45) repealed by [Mental Health Act 1983](#) (c. 20, SIF 85), **Sch. 6**
- F87** Sch. 7 entry relating to the [Fines and Recoveries Act 1833](#), the words from “In section ninety-one” onwards repealed by [Statute Law \(Repeals\) Act 1969](#)
- F88** Sch. 7 entry relating to the amendments of the [Court of Chancery of Lancaster Act 1850](#) repealed by [Courts Act 1971](#) (c. 23) s. 56(4), Sch. 11 Pt. II
- F89** Sch. 7 entry relating to the [Habitual Drunkards Act 1879](#) repealed by [Statute Law \(Repeals\) Act 1976](#) (c. 16), **Sch. I Pt. II**
- F90** Sch. 7 Pt. I entry relating to: [Forgery Act 1913](#) (c. 27) repealed by [Forgery and Counterfeiting Act 1981](#) (c. 45, SIF 39:7), **Sch. Pt. I**
- F91** Sch. 7 Pt. I entry relating to: [Supreme Court of Judicature \(Consolidation\) Act 1925](#) (c. 49) repealed by [Supreme Court Act 1981](#) (c. 54, SIF 37), **Sch. 7**
- F92** Sch. 7 entry relating to the [Public Health Act 1936](#) repealed with (saving) by [Nursing Homes Act 1975](#) (c. 37), s. 22(2)(3), Sch. 2 paras. 3, 5, **Sch. 3**
- F93** Sch. 7 entries relating to the [Public Health \(London\) Act 1936](#) and the [London Government Act 1939](#) repealed by [London Government Act 1963](#) (c. 33), s. 93(1), **Sch. 18 Pt. II**
- F94** Sch. 7 Pt. I entry relating to: [Limitation Act 1939](#) (c. 21) repealed by [Limitation Act 1980](#) (c. 58, SIF 79), **Sch. 4**
- F95** Sch. 7 entry relating to [Education Act 1944](#) repealed by [Education \(Handicapped Children\) Act 1970](#) (c. 52), s. 2, **Sch.**
- F96** Sch. 7 entry relating to [The Teachers' Superannuation Act 1945](#) repealed by [The Teachers' Superannuation Act 1965](#) (c. 83), **ss. 2(1)(c)**, 8(1)(b), Sch. 3 Pt. II
- F97** Sch. 7 entry relating to the amendment of s. 63 of the [National Health Service Act 1946](#) repealed by [Health Services and Public Health Act 1968](#) (c. 46), s. 78(2), **Sch. 4**
- F98** Sch. 7 entries relating to the [National Health Service Act 1946](#), and the [National Health Service \(Amendment\) Act 1949](#) repealed by [National Health Service Act 1977](#) (c. 49), s. 129, **Sch. 16**
- F99** Sch. 7 entry relating to the [Children Act 1948](#) repealed by [Children Act 1975](#) (c. 72), **s. 108(1)(b)**, Sch. 4 Pt. V
- F100** Sch. 7 entry relating to the [Criminal Justice Act 1948](#) repealed by [Powers of Criminal Courts Act 1973](#) (c. 62), s. 56(2), **Sch. 6**
- F101** Sch. 7 entry relating to the [National Service Act 1948](#) repealed by [Statute Law \(Repeals\) Act 1977](#) (c. 18), s. 1(1), **Sch. 1 Pt. I**
- F102** Sch. 7 entries relating to the [Recall of Army and Air Force Pensioners Act 1948](#), 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](#) repealed by [Mental Health \(Scotland\) Act 1960](#) (c. 61), s. 113(2), **Sch. 5**
- F103** Sch. 7 entry relating to the [Matrimonial Causes Act 1950](#) repealed by [Matrimonial Causes Act 1965](#) (c. 72), s. 45, **Sch. 2**
- F104** Sch. 7 entry relating to the [Costs in Criminal Cases Act 1952](#) repealed by [Costs in Criminal Cases Act 1973](#) (c. 14), s. 21(2), **Sch. 2**
- F105** Sch. 7 Pt. I entry relating to: [Magistrates' Courts Act 1952](#) (c. 55) repealed by [Magistrates' Courts Act 1980](#) (c. 43, SIF 82), **Sch. 9**

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Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

- F106** Sch. 7 entry relating to the Local Government Superannuation Act 1953 repealed by [Superannuation Act 1972 \(c. 11\), s. 29\(4\), Sch. 8](#)
- F107** Sch. 7 Pt. I entry relating to: [Nurses Act 1957 \(c. 15\)](#) repealed by [Nurses, Midwives and Health Visitors Act 1979 \(c. 36, SIF 83:1\), Sch. 8](#)
- F108** Sch. 7 entry relating to the amendment of the Solicitors Act 1957 repealed by [Solicitors \(Amendment\) Act 1974 \(c. 26\), s. 19\(5\)\(6\), Sch. 3 Pt. I](#)

PART II

OTHER AMENDMENTS

Enactment	Amendments
... F109	... F109
... F110	... F110
... F111	... F111
... F112	... F112
... F113	... F113
... F111	... F111
... F114	... F114
... F115	... F115
... F109	... F109
... F116	... F116
The Adoption Act, 1958, 7 & 8 Eliz. 2. c. 5.	In section thirty-seven, in subsection (3), at the end there shall be added the words “nor while he is liable to be detained, subject to guardianship or resident as mentioned in subsection (4) of that section”.

Textual Amendments

- F109** Sch. 7 entries relating to the Recall of Army and Air Force Pensioners Act 1948, the Naval Enlistment Act 1884, the Army Act 1955, the Air Force Act 1955, and the Revision of the Army and Air Force Acts

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Changes to legislation: There are currently no known outstanding effects for the Mental Health Act 1959. (See end of Document for details)

- (Transitional Provisions) Act 1955 repealed by [Mental Health \(Scotland\) Act 1960 \(c. 61\)](#), s. 113(2), [Sch. 5](#)
- F110** Sch. 7 entry relating to the Pharmacy and Poisons Act 1933 repealed by [Poisons Act 1972 \(c. 66\)](#), s. 12(1), [Sch. 3](#)
- F111** Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), [Sch. 7 Part II](#) entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), [U.S.A. Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)
- F112** Ss. 19–21, 23(1), Sch. 7 Part II entry relating to: [National Assistance Act 1948 \(c. 29\)](#), [s. 37](#) repealed by [Residential Homes Act 1980 \(c. 7\)](#), [Sch. 2](#)
- F113** Sch. 7 entry relating to the Children Act 1948 repealed by [Local Authority Social Services Act 1970 \(c. 42\)](#), s. 14(2), [Sch. 3](#)
- F114** Ss. 44, 77, 78, 131(2), 134, 144(2), 146, Sch. 7 Part II entry relating to: [Representation of the People Act 1949 \(c. 68\)](#) repealed by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), [Sch. 4 Pt. I](#)
- F115** Sch. 7 Part II entry relating to: [Administration of Justice \(Pensions\) Act 1950 \(c. 11\)](#) repealed by [Judicial Pensions Act 1981 \(c. 20, SIF 71:2\)](#), [Sch. 4](#)
- F116** Sch. 7 Part II entry relating to: [Children Act 1958 \(c. 65\)](#) repealed by [Foster Children Act 1980 \(c. 6\)](#), [Sch. 2](#)

F117F117 EIGHTH SCHEDULE

Textual Amendments

- F117** Sch. 8 repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. 1 Pt. XI](#)

F117

Status:

Point in time view as at 01/09/1992.

Changes to legislation:

There are currently no known outstanding effects for the Mental Health Act 1959.