



Mental Health Act 1959

1959 CHAPTER 72

PART I

PRELIMINARY

1 Repeal of Lunacy and Mental Treatment Acts and Mental Deficiency Acts

Subject to the transitional provisions contained in this Act, the Lunacy and Mental Treatment Acts, 1890 to 1930, and the Mental Deficiency Acts, 1913 to 1938, shall cease to have effect, and the following provisions of this Act shall have effect in lieu of those enactments with respect to the reception, care and treatment of mentally disordered patients, the management of their property, and other matters related thereto.

2 Dissolution of Board of Control

- (1) The following provisions of this section, shall have effect on the repeal by this Act of the enactments constituting the Board of Control.
- (2) The persons who, immediately before the dissolution of the Board by virtue of the said repeal, were members of the Board or then held office under the Board as commissioners or inspectors shall become officers of the Ministry of Health.
- (3) The dissolution of the Board shall not affect any rights, liabilities or obligations of the Board; but all such rights, liabilities and obligations, and any property held by the Board immediately before the dissolution, shall be transferred to and vest in the Minister, and any proceedings then pending to which the Board was a party may be continued by or against the Minister.

3 Mental Health Review Tribunals

- (1) For every area for which a Regional Hospital Board is constituted under section eleven of the National Health Service Act, 1946, there shall be constituted a Tribunal, to be

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called a Mental Health Review Tribunal, for the purpose of dealing with applications and references by and in respect of patients under the following provisions of this Act.

- (2) The provisions of the First Schedule to this Act shall have effect with respect to the constitution of Mental Health Review Tribunals.
- (3) Subject to the provisions of the said First Schedule, and to rules made by the Lord Chancellor under this Act, the jurisdiction of a Mental Health Review Tribunal may be exercised by any three or more of its members, and references in this Act to a Mental Health Review Tribunal shall be construed accordingly.
- (4) The Minister may pay to the members of Mental Health Review Tribunals such remuneration and allowances as he may with the consent of the Treasury determine, and defray the expenses of such Tribunals to such amount as he may with the like consent determine, and may provide for each such Tribunal such officers and servants, and such accommodation, as the Tribunal may require.
- (5) Part II of the First Schedule to the House of Commons Disqualification Act, 1957 (which specifies certain commissions, tribunals and other bodies all members of which are disqualified under that Act) shall have effect, in its application to the House of Commons of the Parliament of the United Kingdom, as if after the entry relating to Medical Practices Committees there were inserted the following entry:—

“A Mental Health Review Tribunal constituted under the Mental Health Act, 1959.”

4 Definition and classification of mental disorder

- (1) In this Act " mental disorder " means mental illness, arrested or incomplete development of mind, psychopathic disorder, and any other disorder or disability of mind; and " mentally disordered " shall be construed accordingly.
- (2) In this Act "severe subnormality" means a state of arrested or incomplete development of mind which includes subnormality of intelligence and is of such a nature or degree that the patient is incapable of living an independent life or of guarding himself against serious exploitation, or will be so incapable when of an age to do so.
- (3) In this Act " subnormality " means a state of arrested or incomplete development of mind (not amounting to severe sub-normality) which includes subnormality of intelligence and is of a nature or degree which requires or is susceptible to medical treatment or other special care or training of the patient.
- (4) In this Act " psychopathic disorder " means a persistent disorder or disability of mind (whether or not including sub-normality of intelligence) which results in abnormally aggressive or seriously irresponsible conduct on the part of the patient, and requires or is susceptible to medical treatment.
- (5) Nothing in this section shall be construed as implying that a person may be dealt with under this Act as suffering from mental disorder, or from any form of mental disorder described in this section, by reason only of promiscuity or other immoral conduct.

5 Informal admission of patients

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

direction rendering him liable to be detained under this Act, or from remaining in any hospital or mental nursing home in pursuance of such arrangements after he has ceased to be so liable to be detained.

- (2) In the case of an infant who has attained the age of sixteen years and is capable of expressing his own wishes, any such arrangements as are mentioned in the foregoing subsection may be made, carried out and determined notwithstanding any right of custody or control vested by law in his parent or guardian.

PART II

LOCAL AUTHORITY SERVICES

General Provisions

6 Functions of local health authorities

- (1) In relation to persons who are or have been suffering from mental disorder, section twenty-eight of the National Health Service Act, 1946 (which relates to functions of local health authorities with respect to the prevention of illness and the care and after-care of patients) shall have effect subject to the following provisions of this section.
- (2) The purposes for which arrangements are authorised or may be required to be made by a local health authority under subsection (1) of the said section twenty-eight for the care or after-care of such persons as aforesaid shall include the following, that is to say:—
- (a) the provision, equipment and maintenance of residential accommodation, and the care of persons for the time being resident in accommodation so provided;
 - (b) the provision of centres or other facilities for training or occupation, and the equipment and maintenance of such centres;
 - (d) the appointment of officers to act as mental welfare officers under the following provisions of this Act;
 - (d) the exercise by the local health authority of their functions under the following provisions of this Act in respect of persons placed under guardianship thereunder (whether so placed under the guardianship of the local health authority or of other persons); and
 - (e) the provision of any ancillary or supplementary services for or for the benefit of any such persons as are referred to in subsection (1) of this section ;
- and subsections (2) and (3) of the said section twenty-eight shall have effect accordingly.
- (3) Notwithstanding anything in subsection (1) of the said section twenty-eight, the reference in paragraph (a) of subsection (2) of this section to the care of persons for the time being resident in accommodation provided by a local health authority includes, in the case of persons so resident who are under the age of sixteen years, the payment to those persons of such amounts as the local health authority think fit in respect of their occasional personal expenses where it appears to that authority that no such payment would otherwise be made.

7 Conduct of premises of local health authorities

- (1) The Minister may make regulations as to the conduct of any premises in which residential accommodation or facilities for training or occupation are provided by local health authorities under section twenty-eight of the National Health Service Act, 1946, for persons who are or have been suffering from mental disorder.
- (2) Regulations made under this section may in particular confer upon officers of the Minister authorised thereunder such powers of inspection as may be prescribed by the regulations.

8 Functions of welfare authorities

- (1) For the purposes of subsection (8) of section twenty-one of the 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 local health authorities under section twenty-eight of the National Health Service Act, 1946, with respect to residential accommodation for persons who are or have been suffering from mental disorder.
- (2) The persons referred to in subsection (1) of section twenty-nine of the said Act of 1948 (which section enables local authorities to make arrangements for promoting the welfare of blind persons and other disabled persons described in the said subsection (1)) shall include 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 National Health Service Act, 1946), no account shall be taken of the provisions of Part III of the National Health Service Act, 1946, with respect to the provision of accommodation or services for such persons.
- (3) Subsection (2) of this section shall not affect the operation of the provisions of Part IV of the National Assistance Act, 1948, relating to disabled persons' homes or charities for disabled persons, but without prejudice to the provisions of Part III of this Act with respect to the registration of such homes.
- (4) Nothing in this section shall be construed as requiring a local authority to make provision for the same purposes both under Part III of the National Health Service Act, 1946, and under Part III of the National Assistance Act, 1948.

9 Functions of children authorities

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

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

(3) Nothing in this Act, or in any other enactment, shall be construed as preventing a children authority from receiving into their care under section one of the Children Act, 1948, a child who is mentally disordered, nor as preventing a local health authority from accommodating in pursuance of such arrangements as aforesaid any child who is in the care of that or any other authority as a children authority.

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

10 Welfare of certain hospital patients

(1) Subject to the provisions of this section, where a mentally disordered patient being—

(a) a child or young person in respect of whom the rights and powers of a parent are vested in a local authority by virtue of—

(i) section seventy-five of the Children and Young Persons Act, 1933 (which relates to children and young persons committed to the care of fit persons under that Act);

(ii) section seventy-nine of the Children and Young Persons (Scotland) Act, 1937 (which makes corresponding provision in Scotland); or

(iii) section three of the Children Act, 1948 (which relates to children in respect of whom parental rights have been assumed by a local authority under section two of that Act);

(b) a person who is subject to the guardianship of a local health authority under the following provisions of this Act; or

(c) a person the functions of whose nearest relative under this Act are for the time being transferred to a local health authority,

is admitted to a hospital or nursing home in England and Wales (whether for treatment for mental disorder or for any other reason) then, without prejudice to their duties in relation to the patient apart from the provisions of this section, the authority shall arrange for visits to be made to him on behalf of the authority, and shall take such other steps in relation to the patient while in the hospital or nursing home as would be expected to be taken by his parents.

(2) Section eight of the Children Act, 1948, and subsection (6) of section five of the Matrimonial Proceedings (Children) Act, 1958 (which provide for the removal from the care of local authorities of children who come under control under the enactments relating to mental deficiency or to lunacy and mental treatment) shall cease to have effect.

Provision for care and training of children in lieu of education

11 Examination and classification under Education Act, 1944

The sections set out in the Second Schedule to this Act, and therein numbered fifty-seven, fifty-seven A and fifty-seven B, shall be substituted for section fifty-seven of the Education Act, 1944; and section eight of the Education (Miscellaneous Provisions) Act, 1948 (which amended section fifty-seven of the said Act of 1944 as originally enacted) shall cease to have effect.

12 Power to compel attendance at training centres

- (1) Where it appears to the local health authority to be appropriate that a child of compulsory school age who is the subject of a decision recorded under section fifty-seven of the Education Act, 1944, should receive training at a centre provided or made available under arrangements made by that authority under section twenty-eight of the National Health Service Act, 1946, the authority may give notice in writing to the parent of the child requiring him to cause the child to attend, either by the day or, if the notice so directs, as a resident, at such centre, being a centre provided or made available as aforesaid, as may be specified in the notice at such times or for such periods as may be so specified.
- (2) Before giving a notice under this section, the local health authority shall satisfy themselves that the child is not receiving adequate training comparable with the training which he would receive at the centre; and if any person to whom such a notice is given is aggrieved by the notice on the ground that the child is receiving such training, he may require the local health authority to refer the question to the Minister of Health, and that Minister may either confirm the notice or direct that it be amended or withdrawn.
- (3) Subject to subsection (2) of this section, if any person fails to comply with a notice given to him under subsection (1) of this section, he shall, unless the child is receiving adequate training comparable with the training which he would receive at the centre, be guilty of an offence and shall be liable on summary conviction, in the case of a first offence to a fine not exceeding one pound, in the case of a second offence to a fine not exceeding five pounds, and in the case of a third or subsequent offence to a fine not exceeding ten pounds or to imprisonment for a term not exceeding one month, or to both.
- (4) It shall be the duty of the local health authority to institute proceedings for an offence under this section wherever, in their opinion, the institution of such proceedings is necessary, and no such proceedings shall be instituted except by or on behalf of a local health authority.
- (5) For the purposes of this section a child shall be treated as of compulsory school age so long as, under the Education Act, 1944, he would be deemed to be of compulsory school age if he were a registered pupil at a special school, and "parent" has the same meaning as in that Act.

13 Provisions as to regular attendance for training

- (1) For the purposes of any proceedings under section twelve of this Act, the parent of a child of compulsory school age shall be deemed to have failed to cause the child to attend at a training centre on any occasion on which the child has failed without leave to attend at the centre, but the child shall not be deemed to have so failed—
 - (a) at any time when prevented from attending by reason of sickness or any unavoidable cause ;
 - (b) on any day exclusively set apart for religious observance by the religious body to which the parent belongs ; or
 - (c) if it is not reasonably practicable for the child to make his own way, or to be taken by or on behalf of his parent, to and from the centre, and no suitable arrangements have been made by the local health authority either for his transport to and from the centre or for residential accommodation for him at or near the centre.

- (2) If in any such proceedings it is proved that the child has no fixed abode, subsection (1) of this section shall have effect as if paragraph (c) were omitted; but if the parent proves that he is engaged in a trade or business of such a nature as to require him to travel from place to place, and that the child has attended at the training centre as regularly as the nature of the trade or business of the parent permits, the parent shall be acquitted.
- (3) For the purposes of any such proceedings as aforesaid in respect of a child who is residing at a training centre, the parent shall be deemed to have failed to cause the child to attend the centre if the child is absent without leave during any part of the period during which the training is given unless prevented from being present by reason of sickness or any unavoidable cause.
- (4) In this section " child of compulsory school age" and " parent" have the same meaning as in section twelve of this Act, and " leave ", in relation to a training centre, means leave granted by any person authorised in that behalf by the local health authority by whom the training centre is provided.

PART III

MENTAL NURSING HOMES, RESIDENTIAL HOMES, ETC.

Nursing Homes

14 Registration of nursing homes under Public Health Act

- (1) Part VI of the Public Health Act, 1936 (which relates, among other things, to the registration of nursing homes) shall apply in relation to mental nursing homes as it applies to nursing homes to which the said Part VI applied immediately before the commencement of this Act, not being maternity homes, but shall so apply subject to the following provisions of this Part of this Act.
- (2) In this Part of this Act " mental nursing home " means any premises used or intended to be used for the reception of, and the provision of nursing or other medical treatment for, one or more mentally disordered patients (whether exclusively or in common with other persons), not being—
 - (a) a hospital as defined by this Act;
 - (b) any other premises managed by a Government department or provided by a local authority;
- (3) In this Part of this Act " registration authority ", in relation to a mental nursing home, means the council of the county or county borough in which the home is situated ; and the power of a county council under section one hundred and ninety-four of the Public Health Act, 1936, to delegate its functions under Part VI of that Act relating to nursing homes to the council of a county district shall include power to delegate its functions under this Part of this Act relating to mental nursing homes.
- (4) Section one hundred and ninety-two of the Public Health Act, 1936 (which enables the registration authority to exempt certain voluntary institutions from the provisions of Part VI of that Act relating to nursing homes) shall not apply to mental nursing homes.
- (5) Subject to the next following section, the registers to be kept by the registration authority under the said Part VI as applied by this Part of this Act shall be in such

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form, and shall contain such particulars as may be prescribed by regulations made by the Minister; and such regulations may make provision as to the information to be supplied on applications for registration in respect of mental nursing homes.

15 Special provisions as to registration of nursing homes

- (1) Any application for registration under the said Part VI in respect of a mental nursing home shall specify whether or not it is proposed to receive therein patients who are liable to be detained under the following provisions of this Act; and where any person is so registered in pursuance of an application stating that it is proposed to receive such patients, that fact shall be specified in the certificate of registration, and the particulars of the registration shall be entered by the registration authority in a separate part of the register.
- (2) It shall be a condition of the registration of any person in respect of a mental nursing home that the number of persons kept at any one time in the home (excluding persons carrying on or employed in the home and their families) does not exceed such number as may be specified in the certificate of registration ; and without prejudice to the foregoing provision, the registration may be effected subject to such conditions (to be specified in the certificate) as the registration authority consider appropriate for regulating the age, sex or other category of persons who may be received in the home.
- (3) If any condition imposed by or under subsection (2) of this section is not complied with, the person carrying on the home shall be guilty of an offence and liable on summary conviction, in the case of a first offence, to a fine not exceeding five pounds and in the case of a second or subsequent offence, to a fine not exceeding twenty pounds; and without prejudice to the foregoing provision, the power of the registration authority to cancel registration under section one hundred and eighty-eight of the Public Health Act, 1936, shall include power to cancel the registration on the ground that any such condition has not been complied with.

16 Conduct of mental nursing homes

- (1) The Minister may make regulations as to the conduct of mental nursing homes, and such regulations may in particular—
 - (a) make provision as to the facilities and services to be provided in such homes ;
and
 - (b) provide that a contravention or failure to comply with any specified provision of the regulations shall be an offence against the regulations.
- (2) Any person guilty of an offence against regulations made under subsection (1) of this section shall be liable on summary conviction, in the case of a first offence, to a fine not exceeding five pounds and in the case of a second or subsequent offence, to a fine not exceeding twenty pounds; and without prejudice to the foregoing provision, the power of the registration authority to cancel registration under section one hundred and eighty-eight of the Public Health Act, 1936, shall include power to cancel the registration of any person on the ground that he has been convicted of such an offence.
- (3) A registration authority may, and shall if so required by the Minister, make separate byelaws in respect of mental nursing homes under section one hundred and ninety of the Public Health Act, 1936 (which enables byelaws to prescribe the records to be kept and notices to be given in respect of patients in nursing homes).

17 Inspection of mental nursing homes and visiting of patients

- (1) Subject to the provisions of this section, any person authorised in that behalf by the Minister or by the registration authority may, at any time, after producing, if asked to do so, some duly authenticated document showing that he is so authorised, enter and inspect any premises in the area of the authority which are used, or which that person has reasonable cause to believe to be used, for the purposes of a mental nursing home, and may inspect any records kept in accordance with byelaws made under section one hundred and ninety of the Public Health Act, 1936.
- (2) A person authorised under subsection (1) of this section to inspect a mental nursing home may visit and interview in private any mentally disordered patient residing in the home—
 - (a) for the purpose of investigating any complaint as to his treatment made by or on behalf of the patient; or
 - (b) in any case where the person so authorised has reasonable cause to believe that the patient is not receiving proper care;and where the person so authorised is a medical practitioner, he may examine the patient in private and may require the production of and inspect any medical records relating to the treatment of the patient in the nursing home.
- (3) Regulations under subsection (1) of section sixteen of this Act may make provision with respect to the exercise on behalf of registration authorities of the powers conferred by this section; and such regulations may in particular provide—
 - (a) for imposing conditions or restrictions with respect to the exercise of those powers in relation to mental nursing homes which, immediately before the commencement of this Act, were registered hospitals; and
 - (b) subject as aforesaid, for requiring the inspection of mental nursing homes under subsection (1) of this section to be carried out on such occasions, or at such intervals, as may be prescribed by the regulations.
- (4) In this section " registered hospital" means a hospital registered as mentioned in subsection (9) of section two hundred and thirty-one of the Lunacy Act, 1890.
- (5) Section one hundred and ninety-one of the Public Health Act, 1936 (which relates to inspection) shall not apply to mental nursing homes or any premises used or believed to be used as such.

18 Continuance of special registration on cancellation or death

- (1) If in the case of a mental nursing home the particulars of the registration of which are entered in the separate part of the register referred to in subsection (1) of section fifteen of this Act the registration is cancelled under section one hundred and eighty-eight of the Public Health Act, 1936, at a time when any patient is liable to be detained in the home under any of the following provisions of this Act, the registration shall, notwithstanding the cancellation, continue in force until the expiration of the period of two months beginning with the date of the cancellation, or until every such patient has ceased to be so liable, whichever first occurs.
- (2) If the person registered in respect of any such mental nursing home as aforesaid (not being one of two or more persons so registered) dies at a time when any patient is liable to be detained therein as aforesaid, the registration shall continue in force—
 - (a) as from the grant of representation to the estate of the deceased, for the benefit of the personal representative of the deceased ; and

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(b) pending the grant of such representation, for the benefit of any person approved for the purpose by the registration authority, until the expiration of the period of two months beginning with the death, or until every such patient has ceased to be so liable, or until a person other than the deceased has been registered in respect of the home, whichever first occurs; and for the purposes of Part VI of the Public Health Act, 1936, and of this Act any person for whose benefit the registration continues in force under this subsection shall be treated as registered in respect of the home.

Residential Homes

19 Registration of residential homes under National Assistance Act, 1948

- (1) Subject to the provisions of this and the next following section, sections thirty-seven to forty of the National Assistance Act, 1948 (which relate to the registration, inspection and conduct of homes for disabled persons and old persons) shall apply in relation to a residential home for mentally disordered persons as they apply in relation to homes to which those enactments applied immediately before the commencement of this Act.
- (2) In this Part of this Act " residential home for mentally disordered persons" means an establishment the sole or main object of which is, or is held out to be, the provision of accommodation, whether for reward or not, for persons suffering from mental disorder, not being—
 - (a) a mental nursing home;
 - (b) a hospital as defined by this Act; or
 - (c) any other premises managed by a Government department or provided by a local authority ;
 and " registration authority ", in relation to a residential home for mentally disordered persons, has the meaning assigned thereto by subsection (2) of section thirty-seven of the National Assistance Act, 1948.
- (3) A residential home for mentally disordered persons shall be deemed not to be a voluntary home within the meaning of Part V of the Children and Young Persons Act, 1933, or Part IV of the Children Act, 1948; and a child who is resident in a residential home for mentally disordered persons shall not be a foster child within the meaning of Part I of the Children Act, 1958, or a protected child within the meaning of Part IV of the Adoption Act, 1958.

20 Special provisions as to registration of residential homes

- (1) It shall be a condition of the registration of any person in respect of a residential home for mentally disordered persons that the number of persons kept at any one time in the home (excluding persons carrying on or employed in the home and their families) does not exceed such number as may be specified in the certificate of registration; and without prejudice to the foregoing provision, the registration may be effected subject to such conditions (to be specified in the certificate) as the registration authority consider appropriate for regulating the age, sex or other category of persons who may be received in the home.
- (2) If any condition imposed by or under subsection (1) of this section is not complied with, the person carrying on the home shall be guilty of an offence and liable on summary conviction, in the case of a first offence, to a fine not exceeding five pounds

and in the case of a second or subsequent offence, to a fine not exceeding twenty pounds ; and without prejudice to the foregoing provision the power of the registration authority to cancel registration under subsection (4) of section thirty-seven of the National Assistance Act, 1948, shall include power to cancel the registration on the ground that any such condition has not been complied with.

- (3) In relation to residential homes for mentally disordered persons, section forty of the National Assistance Act, 1948, shall have effect as if paragraph (a) of subsection (1) of that section (which enables the Minister to make regulations for purposes corresponding with subsection (1) of this section) were omitted.

21 Records and inspection of residential homes

- (1) The power of the Minister to make regulations under section forty of the National Assistance Act, 1948, with respect to the conduct of residential homes for mentally disordered persons shall include power to make regulations as to the records to be kept and notices to be given in respect of persons received in such homes.
- (2) The powers of inspection conferred by section thirty-nine of the said Act, in its application to residential homes for mentally disordered persons, shall include power to inspect any records required to be, kept in accordance with regulations made by virtue of subsection (1) of this section under section forty of that Act.

Miscellaneous

22 Powers of entry and inspection of other premises

A mental welfare officer of a local health authority may, at all reasonable times, after producing, if asked to do so, some duly authenticated document showing that he is such an officer, enter and inspect any premises (not being a hospital) in the area of that authority in which a mentally disordered patient is living, if he has reasonable cause to believe that the patient is not under proper care.

23 Prosecution of offences

- (1) The registration authority may prosecute for any offence under this Part of this Act, or any enactment thereby applied.
- (2) Section two hundred and ninety-eight of the Public Health Act, 1936 (which restricts the right to prosecute for offences under that Act) shall not apply to offences under Part VI of that Act in respect of mental nursing homes.

24 Application to London

In relation to the administrative county of London the provisions of this Part of this Act shall have effect subject to the following modifications, that is to say—

- (a) for any reference to Part VI of the Public Health Act, 1936, there shall be substituted a reference to Part XI of the Public Health (London) Act, 1936 ;
- (b) for references to sections one hundred and eighty-eight, one hundred and ninety, one hundred and ninety-one and one hundred and ninety-two of the Public Health Act, 1936, there shall be substituted respectively references to sections two hundred and forty-two, two hundred and forty-four, two hundred

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and forty-five and two hundred and forty-six of the Public Health (London) Act, 1936; and

- (c) for subsection (3) of section fourteen there shall be substituted the following subsection:—

“(3) In this Part of this Act 'registration authority', in relation to a mental nursing home, means the local supervising authority as defined by section two hundred and forty of the Public Health (London) Act, 1936; and section two hundred and forty-nine of that Act (which enables the London County Council to delegate to the council of a metropolitan borough certain powers exercisable under Part XI of that Act) shall have effect as if the reference to the said Part XI included a reference to this Part of this Act so far as it relates to mental nursing homes.”

PART IV

COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

Procedure for hospital admission

25 Admission for observation

- (1) A patient may be admitted to a hospital, and there detained for the period allowed by this section, in pursuance of an application (in this Act referred to as an application for admission for observation) made in accordance with the following provisions of this section.
- (2) An application for admission for observation may be made in respect of a patient on the grounds—
 - (a) that he is suffering from mental disorder of a nature or degree which warrants the detention of the patient in a hospital under observation (with or without other medical treatment) for at least a limited period ; and
 - (b) that he ought to be so detained in the interests of his own health or safety or with a view to the protection of other persons.
- (3) An application for admission for observation shall be founded on the written recommendations in the prescribed form of two medical practitioners, including in each case a statement that in the opinion of the practitioner the conditions set out in paragraphs (a) and (b) of subsection (2) of this section are complied with.
- (4) Subject to the provisions of section fifty-two of this Act (in a case where an application is made under that section for transferring the functions of the nearest relative of the patient), a patient admitted to hospital in pursuance of an application for admission for observation may be detained for a period not exceeding twenty-eight days beginning with the day on which he is admitted, but shall not be detained thereafter unless, before the expiration of that period, he has become liable to be detained by virtue of a subsequent application, order or direction under any of the following provisions of this Act.

26 Admission for treatment

- (1) A patient may be admitted to a hospital, and there detained for the period allowed by the following provisions of this Act, in pursuance of an application (in this Act referred to as an application for admission for treatment) made in accordance with the following provisions of this section.
- (2) An application for admission for treatment may be made in respect of a patient on the grounds—
 - (a) that he is suffering from mental disorder, being—
 - (i) in the case of a patient of any age, mental illness or severe subnormality;
 - (ii) in the case of a patient under the age of twenty-one years, psychopathic disorder or subnormality; and that the said disorder is of a nature or degree which warrants the detention of the patient in a hospital for medical treatment under this section ; and
 - (b) that it is necessary in the interests of the patient's health or safety or for the protection of other persons that the patient should be so detained.
- (3) An application for admission for treatment shall be founded on the written recommendations in the prescribed form of two medical practitioners, including in each case a statement that in the opinion of the practitioner the conditions set out in paragraphs (a) and (b) of subsection (2) of this section are complied with ; and each such recommendation shall include—
 - (a) such particulars as may be prescribed of the grounds for that opinion so far as it relates to the conditions set out in the said paragraph (a); and
 - (b) a statement of the reasons for that opinion so far as it relates to the conditions set out in the said paragraph (b), specifying whether other methods of dealing with the patient are available, and if so why they are not appropriate.
- (4) An application for admission for treatment, and any recommendation given for the purposes of such an application, may describe the patient as suffering from more than one of the forms of mental disorder referred to in subsection (2) of this section; but the application shall be of no effect unless the patient is described in each of the recommendations as suffering from the same one of those forms of mental disorder, whether or not he is also described in either of those recommendations as suffering from another of those forms.
- (5) An application for admission for treatment made on the ground that the patient is suffering from psychopathic disorder or subnormality, and no other form of mental disorder referred to in subsection (2) of this section, shall state the age of the patient, or, if his exact age is not known to the applicant, shall state (if it be the fact) that the patient is believed to be under the age of twenty-one years.

27 General provisions as to applications

- (1) Subject to the provisions of this section, an application for the admission of a patient for observation or for treatment may be made either by the nearest relative of the patient or by a mental welfare officer; and every such application shall be addressed to the managers of the hospital to which admission is sought and shall specify the qualification of the applicant to make the application.
- (2) An application for admission for treatment shall not be made by a mental welfare officer if the nearest relative of the patient has notified that officer, or the local health

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authority by whom that officer is appointed, that he objects to the application being made, and, without prejudice to the foregoing provision, shall not be made by such an officer except after consultation with the person (if any) appearing to be the nearest relative of the patient unless it appears to that officer that in the circumstances such consultation is not reasonably practicable or would involve unreasonable delay.

- (3) No application for the admission of a patient shall be made by any person unless that person has personally seen the patient within the period of fourteen days ending with the date of the application.
- (4) An application for the admission of a patient shall be sufficient if the recommendations on which it is founded are given either as separate recommendations, each signed by a medical practitioner, or as a joint recommendation signed by two such practitioners.

28 General provisions as to medical recommendations

- (1) The recommendations required for the purposes of an application for the admission of a patient under this Part of this Act (in this Act referred to as " medical recommendations ") shall be signed on or before the date of the application, and shall be given by practitioners who have personally examined the patient either together or at an interval of not more than seven days.
- (2) Of the medical recommendations given for the purposes of any such application, one shall be given by a practitioner approved for the purposes of this section by a local health authority as having special experience in the diagnosis Or treatment of mental disorder; and unless that practitioner has previous acquaintance with the patient, the other such recommendation shall, if practicable, be given by a medical practitioner who has such previous acquaintance.
- (3) Where the application is for the admission of the patient to a hospital not being a mental nursing home, one (but not more than one) of the medical recommendations may be given by a practitioner on the staff of that hospital, except where the patient is proposed to be accommodated under section five of the National Health Service Act, 1946 (which relates to accommodation for private patients).
- (4) A medical recommendation for the purposes of an application for the admission of a patient under this Part of this Act shall not be given by any of the following persons; that is to say—
 - (a) the applicant;
 - (b) a partner of the applicant or of a practitioner by whom another medical recommendation is given for the purposes of the same application;
 - (c) a person employed as an assistant by the applicant or by any such practitioner as aforesaid ;
 - (d) a person who receives or has an interest in the receipt of any payments made on account of the maintenance of the patient; or
 - (e) except as provided by subsection (3) of this section, a practitioner on the staff of the hospital to which the patient is to be admitted,or by the husband, wife, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister or sister-in-law of the patient, or of any such person as aforesaid, or of a practitioner by whom another medical recommendation is given for the purposes of the same application.

29 Admission for observation in case of emergency

- (1) In any case of urgent necessity, an application for admission for observation may be made in respect of a patient in accordance with the following provisions of this section, and any application so made is in this Act referred to as an emergency application.
- (2) An emergency application may be made either by a mental welfare officer or by any relative of the patient; and every such application shall include a statement (to be verified by the medical recommendation first referred to in subsection (3) of this section) that it is of urgent necessity for the patient to be admitted and detained under section twenty-five of this Act, and that compliance with the foregoing provisions of this Part of this Act relating to applications for admission for observation would involve undesirable delay.
- (3) An emergency application shall be sufficient in the first instance if founded on one of the medical recommendations required by section twenty-five of this Act, given, if practicable, by a practitioner who has previous acquaintance with the patient and otherwise complying with the requirements of section twenty-eight of this Act so far as applicable to a single recommendation, but shall cease to have effect on the expiration of a period of seventy-two hours from the time when the patient is admitted to the hospital unless—
 - (a) the second medical recommendation required as aforesaid is given and received by the managers within that period; and
 - (b) that recommendation and the recommendation first referred to in this subsection together comply with all the requirements of the said section twenty-eight (other than the requirement as to the time of signature of the second recommendation).
- (4) In relation to an emergency application, section twenty-seven of this Act shall have effect as if in subsection (3) of that section for the words " fourteen days " there were substituted the words " three days ".

30 Applications in respect of patients already in hospital

- (1) An application for the admission of a patient to a hospital may be made under this Part of this Act—
 - (a) in any case, notwithstanding that the patient is already an in-patient in that hospital, not being liable to be detained in pursuance of an application under this Part of this Act;
 - (b) in the case of an application for admission for treatment, notwithstanding that the patient is for the time being liable to be detained in the hospital in pursuance of an application for his admission for observation;and where an application is so made the patient shall be treated for the purposes of this Part of this Act as if he had been admitted to the hospital at the time when that application was received by the managers.
- (2) If, in the case of a patient who is an in-patient in a hospital, not being liable to be detained therein under this Part of this Act, it appears to the medical practitioner in charge of the treatment of the patient that an application ought to be made under this Part of this Act for the admission of the patient to hospital, he may furnish to the managers a report in writing to that effect; and in any such case the patient may be detained in the hospital for a period of three days beginning with the day on which the report is so furnished.

31 Effect of application for admission

- (1) An application for the admission of a patient to a hospital under this Part of this Act, duly completed in accordance with the foregoing provisions of this Part of this Act, shall be sufficient authority for the applicant, or any person authorised by the applicant, to take the patient and convey him to the hospital at any time within the following period, that is to say—
 - (a) in the case of an application other than an emergency application, the period of fourteen days beginning with the date on which the patient was last examined by a medical practitioner before giving a medical recommendation for the purposes of the application;
 - (b) in the case of an emergency application, the period of three days beginning with the date on which the patient was examined by the practitioner giving the medical recommendation first referred to in subsection (3) of section twenty-nine of this Act, or with the date of the application, whichever is the earlier.
- (2) Where a patient is admitted within the said, period to the hospital specified in such an application as aforesaid, or, being within that hospital, is treated by virtue of section thirty of this Act as if he had been so admitted, the application shall be sufficient authority for the managers to detain the patient in the hospital in accordance with the provisions of this Act.
- (3) Any application for the admission of a patient under this Part of this Act which appears to be duly made and to be founded on the necessary medical recommendations may be acted upon without further proof of the signature or qualification of the person by whom the application or any such medical recommendation, is made or given, or of any matter of fact or opinion stated therein.
- (4) A patient who is admitted to a hospital in pursuance of an application for admission for treatment may apply to a Mental Health Review Tribunal within the period of six months beginning with the day on which he is so admitted, or with the day on which he attains the age of sixteen years, whichever is the later.
- (5) Where a patient is admitted to a hospital in pursuance of an application for admission for treatment, any previous application under this Part of this Act by virtue of which he was liable to be detained in a hospital or subject to guardianship shall cease to have effect.

32 Rectification of application and recommendations

- (1) If within the period of fourteen days beginning with the day on which a patient has been admitted to a hospital in pursuance of an application for admission for observation or for treatment the application, or any medical recommendation given for the purposes of the application, is found to be in any respect incorrect or defective, the application or recommendation may, within that period and with the consent of the managers of the hospital, be amended by the person by whom it was signed ; and upon such amendment being made the application or recommendation shall have effect and shall be deemed to have had effect as if it had been originally made as so amended.
- (2) Without prejudice to the provisions of the foregoing subsection, if within the period therein mentioned it appears to the managers of the hospital that one of the two medical recommendations on which an application for the admission of a patient is founded is insufficient to warrant the detention of the patient in pursuance of the application, they may, within that period, give notice in writing to that effect to the applicant; and where

any such notice is given in respect of a medical recommendation, that recommendation shall be disregarded, but the application shall be, and shall be deemed always to have been, sufficient if—

- (a) a fresh medical recommendation complying with the relevant provisions of this Part of this Act (other than the provisions relating to the time of signature and the interval between examinations) is furnished to the managers within that period ; and
 - (b) that recommendation, and the other recommendation on which the application is founded, together comply with those provisions.
- (3) Where the medical recommendations upon which an application for admission is founded are, taken together, insufficient to warrant the detention of the patient in pursuance of the application, a notice under subsection (2) of this section may be given in respect of either of those recommendations; but this subsection shall not apply in a case where the application is of no effect by virtue of subsection (4) of section twenty-six of this Act.
- (4) Nothing in this section shall be construed as authorising the giving of notice in respect of an application made as an emergency application under section twenty-nine of this Act, or the detention of a patient admitted in pursuance of such an application, after the period of seventy-two hours referred to in subsection (3) of that section, unless the conditions set out in paragraphs (a) and (b) of that subsection are complied with or would be complied with apart from any error or defect to which this section applies.

Procedure for reception into guardianship

33 Application for guardianship

- (1) A patient may be received into guardianship, for the period allowed by the following provisions of this Act, in pursuance of an application (in this Act referred to as a guardianship application) made in accordance with the following provisions of this section.
- (2) A guardianship application may be made in respect of a patient on the grounds—
 - (a) that he is suffering from mental disorder, being—
 - (i) in the case of a patient of any age, mental illness or severe subnormality;
 - (ii) in the case of a patient under the age of twenty-one years, psychopathic disorder or sub-normality ;and that his disorder is of a nature or degree which warrants the reception of the patient into guardianship under this section; and
 - (b) that it is necessary in the interests of the patient or for the protection of other persons that the patient should be so received.
- (3) The person named as guardian in a guardianship application may be either a local health authority or any other person (including the applicant himself); but a guardianship application in which a person other than a local health authority is named as guardian shall be of no effect unless it is accepted on behalf of that person by the local health authority for the area in which he resides.
- (4) Every such application shall be forwarded to the local health authority therein named as guardian, or, as the case may be, to the local health authority for the area in which the person so named resides, and, except where the person so named is the local health

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authority, shall be accompanied by a statement in writing by the person so named that he is willing to act as guardian.

- (5) Subsections (3) to (5) of section twenty-six and sections twenty-seven and twenty-eight of this Act shall apply in relation to a guardianship application as they apply in relation to an application for admission for treatment, but subject to the following modifications, that is to say—
- (a) in section twenty-six, references to subsection (2) of that section, and to paragraph (a) or paragraph (b) of that subsection, shall be construed as references to subsection (2) of this section and to paragraph (a) or paragraph (b) of that subsection, and in paragraph (b) of subsection (3) of that section the words from " specifying " to the end of the paragraph shall be omitted;
 - (b) in subsection (1) of section twenty-seven, the words " shall be addressed to the managers of the hospital to which admission is sought, and " shall be omitted;
 - (c) subsection (3) of section twenty-eight shall be omitted and for paragraph (e) of subsection (4) of that section there shall be substituted the following paragraph:—
 - “(e) the person named as guardian in the application”.

34 Effect of guardianship application, etc.

- (1) Where a guardianship application, duly made under the foregoing provisions of this Act and forwarded to the local health authority within the period allowed by subsection (2) of this section, is accepted by that authority, the application shall, subject to regulations made by the Minister, confer on the authority or person therein named as guardian, to the exclusion of any other person, all such powers as would be exercisable by them or him in relation to the patient if they or he were the father of the patient and the patient were under the age of fourteen years.
- (2) The period within which a guardianship application is required for the purposes of this section to be forwarded to the local health authority is the period of fourteen days beginning with the date on which the patient was last examined by a medical practitioner before giving a medical recommendation for the purposes of the application.
- (3) A guardianship application which appears to be duly made and to be founded on the necessary medical recommendations may be acted upon without further proof of the signature or qualification of the person by whom the application or any such medical recommendation is made or given, or of any matter of fact or opinion stated therein.
- (4) If within the period of fourteen days beginning with the day on which a guardianship application has been accepted by the local health authority the application, or any medical recommendation given for the purposes of the application, is found to be in any respect incorrect or defective, the application or recommendation may, within that period and with the consent of that authority, be amended by the person by whom it was signed; and upon such amendment being made the application or recommendation shall have effect and shall be deemed to have had effect as if it had been originally made as so amended.
- (5) A patient who is received into guardianship in pursuance of a guardianship application may apply to a Mental Health Review Tribunal within the period of six months beginning with the day on which the application is accepted, or with the day on which he attains the age of sixteen years, whichever is the later.

- (6) Where a patient is received into guardianship in pursuance of a guardianship application, any previous application under this Part of this Act by virtue of which he was subject to guardianship or liable to be detained in a hospital shall cease to have effect.

Care and treatment of patients

35 Regulations as to guardianship

- (1) Subject to the provisions of this Part of this Act, the Minister may make regulations for regulating the exercise by the guardians of patients received into guardianship under this Part of this Act of their powers as such, and for imposing on such guardians, and upon local health authorities in the case of patients under the guardianship of persons other than local health authorities, such duties as he considers necessary or expedient in the interests of the patients.
- (2) Regulations under this section may in particular make provision for requiring the patients to be visited, on such occasions or at such intervals as may be prescribed by the regulations, on behalf of such local health authorities as may be so prescribed, and shall provide for the appointment, in the case of every patient subject to the guardianship of a person other than a local health authority, of a medical practitioner to act as the nominated medical attendant of the patient.

36 Correspondence of patients

- (1) Any postal packet addressed to a patient detained in a hospital under this Part of this Act may be withheld from the patient if, in the opinion of the responsible medical officer, the receipt of the packet would be calculated to interfere with the treatment of the patient or to cause him unnecessary distress; and any packet so withheld shall, if the name and address of the sender are sufficiently identified therein, be returned to him by post.
- (2) Subject to the provisions of this section, any postal packet addressed by a patient so detained and delivered by him for dispatch may be withheld from the Post Office—
- (a) if the addressee has given notice in writing to the managers of the hospital or to the responsible medical officer requesting that communications addressed to him by the patient should be withheld; or
 - (b) if it appears to that officer that the packet would be unreasonably offensive to the addressee, or is defamatory of other persons (other than persons on the staff of the hospital) or would be likely to prejudice the interests of the patient:

Provided that this subsection does not apply to any postal packet addressed as follows, that is to say—

- (i) to the Minister;
- (ii) to any Member of the Commons House of Parliament;
- (iii) to the Master or Deputy Master or any other officer of the Court of Protection;
- (iv) to the managers of the hospital;
- (v) to any other authority or person having power to discharge the patient under this Part of this Act;
- (vi) at any time when the patient is entitled to make application to a Mental Health Review Tribunal, to that tribunal,

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

- (3) Nothing in paragraph (b) of subsection (2) of this section shall be construed as authorising a responsible medical officer to open or examine the contents of any postal packet unless he is of opinion that the patient is suffering from mental disorder of a kind calculated to lead him to send such communications as are referred to in that paragraph.
- (4) Except as provided by this section, it shall not be lawful to prevent or impede the delivery to a patient detained as aforesaid of any postal packet addressed to him and delivered by the Post Office, or the delivery to the Post Office of any postal packet addressed by such a patient and delivered by him for dispatch.
- (5) This section shall apply in relation to a patient who is subject to guardianship under this Part of this Act as it applies in relation to a patient who is detained in a hospital thereunder, and as if—
 - (a) for any reference to the managers of the hospital there were substituted a reference to the guardian ; and
 - (b) for any reference to the responsible medical officer there were substituted a reference to the guardian or any person authorised by the guardian to act for the purposes of this subsection.
- (6) In this section "postal packet" has the same meaning as in the Post Office Act, 1953; and the provisions of this section shall have effect notwithstanding anything in section fifty-six of that Act.

37 Visiting and examination of patients

- (1) For the purpose of advising whether an application to a Mental Health Review Tribunal should be made by or in respect of a patient who is liable to be detained or subject to guardianship under this Part of this Act, or of furnishing information as to the condition of a patient for the purposes of such an application, or of advising as to the exercise by the nearest relative of any such patient of any power to order his discharge, any medical practitioner authorised by or on behalf of the patient or other person who is entitled to make or has made the application, or by the nearest relative of the patient, as the case may be, may, at any reasonable time, visit the patient and examine him in private.
- (2) Where application is made to a registration authority or regional hospital board to exercise, in respect of a patient liable to be detained in a mental nursing home, any power to make an order for his discharge, the following persons, that is to say—
 - (a) any medical practitioner authorised by that authority or board; and
 - (b) any other person (whether a medical practitioner or not) authorised under Part III of this Act to inspect the home,may at any reasonable time visit the patient and interview him in private.
- (3) Any person authorised for the purposes of subsection (2) of this section to visit a patient may require the production of and inspect any documents constituting or alleged to constitute the authority for the detention of the patient under this Part of this Act; and any person so authorised, being a medical practitioner, may examine the

patient in private, and may require the production of and inspect any other medical records relating to the treatment of the patient in the home.

38 Re-classification of patients

- (1) If in the case of a patient who is for the time being detained in a hospital in pursuance of an application for admission for treatment, or subject to guardianship in pursuance of a guardianship application, it appears to the responsible medical officer that the patient is suffering from a form of mental disorder other than the form or forms specified in the application, he may furnish to the managers of the hospital, or to the guardian, as the case may be, a report to that effect; and where a report is so furnished, the application shall have effect as if that other form of mental disorder were specified therein.
- (2) Where a report is furnished under this section, in respect of a patient who has attained the age of sixteen years, the managers or guardian shall cause the patient and the nearest relative to be informed, and the patient or that relative may, within the period of twenty-eight days beginning with the day on which he is so informed, apply to a Mental Health Review Tribunal.
- (3) In relation to a patient who is subject to the guardianship of a person other than a local health authority, this section shall have effect as if for any reference to the responsible medical officer there were substituted a reference to the nominated medical attendant of the patient.

39 Leave of absence from hospital

- (1) The responsible medical officer may grant to any patient who is for the time being liable to be detained in a hospital under this Part of this Act leave to be absent from the hospital subject to such conditions (if any) as that officer considers necessary in the interests of the patient or for the protection of other persons.
- (2) Leave of absence may be granted to a patient under this section either indefinitely or on specified occasions or for any specified period; and where leave is so granted for a specified period, that period may be extended by further leave granted in the absence of the patient.
- (3) Where it appears to the responsible medical officer that it is necessary so to do in the interests of the patient or for the protection of other persons, he may, upon granting leave of absence under this section, direct that the patient remain in custody during his absence; and where leave of absence is so granted the patient may be kept in the custody of any officer on the staff of the hospital, or of any other person authorised in writing by the managers of the hospital.
- (4) In any case where a patient is absent from a hospital in pursuance of leave of absence granted under this section, and it appears to the responsible medical officer that it is necessary so to do in the interests of the patient's health or safety or for the protection of other persons, that officer may, subject to subsection (5) of this section, by notice in writing given to the patient or to the person for the time being in charge of the patient, revoke the leave of absence and recall the patient to the hospital.
- (5) A patient to whom leave of absence is granted under this section shall not be recalled under subsection (4) of this section after he has ceased to be liable to be detained under this Part of this Act; and without prejudice to any other provision of this Part of this

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Act any such patient shall cease to be so liable at the expiration of the period of six months beginning with the first day of his absence on leave unless either—

- (a) he has returned to the hospital, or has been transferred to another hospital under the following provisions of this Act, before the expiration of that period; or
- (b) he is absent without leave at the expiration of that period.

40 Return and re-admission of patients absent without leave

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

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

be taken into custody and returned to the hospital or place by any mental welfare officer, by any officer on the staff of the hospital, by any constable, or by any person authorised in writing by the managers of the hospital.

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

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

- (a) in the case of a patient over the age of twenty-one years on that day who is liable to be detained by virtue of an application for admission for treatment or is subject to guardianship by virtue of a guardianship application, and is so liable or subject as a psychopathic or subnormal patient, six months ;
- (b) in any other case, twenty-eight days ;

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

(4) In this Act " absent without leave " means absent from any hospital or other place and liable to be taken into custody and returned under this section, and kindred expressions shall be construed accordingly.

41 Regulations as to transfer of patients

(1) In such circumstances and subject to such conditions as may be prescribed by regulations made by the Minister—

- (a) a patient who is for the time being liable to be detained in a hospital by virtue of an application under this Part of this Act may be transferred to another

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- hospital or into the guardianship of a local health authority or of any person approved by such an authority;
- (b) a patient who is for the time being subject to the guardianship of a local health authority or other person by virtue of an application under this Part of this Act may be transferred into the guardianship of another local health authority or person, or be transferred to a hospital.
- (2) Where a patient is transferred in pursuance of regulations under this section, the provisions of this Part of this Act (including this subsection) shall apply to him as follows, that is to say—
- (a) where the patient, being liable to be detained in a hospital by virtue of an application for admission for observation or for treatment, is transferred to another hospital, as if the application were an application for admission to that other hospital and as if the patient had been admitted to that other hospital at the time when he was originally admitted in pursuance of the application;
- (b) where the patient, being liable to be detained as aforesaid, is transferred into guardianship, as if the application were a guardianship application duly accepted at the time aforesaid;
- (c) where the patient, being subject to guardianship by virtue of a guardianship application, is transferred into the guardianship of another authority or person, as if the application were for his reception into the guardianship of that authority or person and had been accepted at the time when it was originally accepted;
- (d) where the patient, being subject to guardianship as aforesaid, is transferred to a hospital, as if the guardianship application were an application for admission to that hospital (being an application for admission for treatment) and as if the patient had been admitted to the hospital at the time when the application was originally accepted.
- (3) Without prejudice to the foregoing provisions of this section, any patient who is for the time being liable to be detained under this Part of this Act in a hospital vested in the Minister under the National Health Service Act, 1946, or any accommodation used under Part II of that Act by the managers of such a hospital, may at any time be removed to any other such hospital or accommodation for which the managers of the first mentioned hospital are also the managers; and, paragraph (a) of subsection (2) of this section shall apply in relation to a patient so removed as it applies in relation to a patient transferred in pursuance of regulations made under this section.
- (4) Regulations made under this section may make provision for regulating the conveyance to their destination of patients authorised to be transferred or removed in pursuance of the regulations or under subsection (3) of this section.
- (5) A patient who, having attained the age of sixteen years, is transferred from guardianship to a hospital in pursuance of regulations made under this section may, within the period of six months beginning with the day on which he is so transferred, apply to a Mental Health Review Tribunal.

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

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

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- (b) gives notice-in writing to the local health authority that he desires to relinquish the functions of guardian,
the guardianship of the patient shall thereupon vest in the local health authority, but without prejudice to any power to transfer the patient into the guardianship of another person in pursuance of regulations under section forty-one of this Act.
- (2) If any such person, not having given notice under paragraph (b) of subsection (1) of this section, is incapacitated by illness or any other cause from performing the functions of guardian of the patient, those functions may, during his incapacity, be performed on his behalf by the local health authority or by any other person approved for the purpose by that authority.
- (3) If it appears to the county court, upon application made by a mental welfare officer, that any person other than a local health authority having the guardianship of a patient received into guardianship under this Part of this Act has performed his functions negligently or in a manner contrary to the interests of the patient, the court may order that the guardianship of the patient be transferred to the local health authority or to any other person approved for the purpose by that authority.
- (4) Where the guardianship of a patient is transferred to a local health authority or other person by or under this section, paragraph (c) of subsection (2) of section forty-one of this Act shall apply as if the patient had been transferred into the guardianship of that authority or person in pursuance of regulations under that section.

Duration of authority for detention or guardianship and discharge of patients

43 Duration of authority

- (1) Subject to the following provisions of this Part of this Act, a patient admitted to hospital in pursuance of an application for admission for treatment, and a patient placed under guardianship in pursuance of a guardianship application, may be detained in a hospital or kept under guardianship for a period not exceeding one year beginning with the day on which he was so admitted, or the day on which the guardianship application was accepted, as the case may be, but shall not be so detained or kept for any longer period unless the authority for his detention or guardianship is renewed under the following provisions of this section.
- (2) Authority for the detention or guardianship of a patient may, unless the patient has previously been discharged, be renewed under this section—
- (a) from the expiration of the period referred to in subsection (1) of this section, for a further period of one year;
 - (b) from the expiration of any period of renewal under paragraph (a) of this subsection, for a further period of two years,
- and so on for periods of two years at a time.
- (3) Within the period of two months ending on the day on which a patient who is liable to be detained in pursuance of an application for admission for treatment would cease under this section to be so liable in default of the renewal of the authority for his detention, it shall be the duty of the responsible medical officer to examine the patient; and if it appears to him that it is necessary in the Interests of the patient's health or safety or for the protection of other persons that the patient should continue to be liable to be detained, he shall furnish to the managers of the hospital where the patient is liable to be detained a report to that effect in the prescribed form.

- (4) Within the period of two months ending with the day on which a patient who is subject to guardianship under this Part of this Act would cease under this section to be so liable in default of the renewal of the authority for his guardianship, it shall be the duty—
 - (a) where the patient is subject to the guardianship of a local health authority, of the responsible medical officer ;
 - (b) in any other case, of the nominated medical attendant of the patient, to examine the patient; and, if it appears to him that it is necessary in the interests of the patient or for the protection of other persons that the patient should remain under guardianship, he shall furnish to the guardian and, where the guardian is a person other than a local health authority, to the responsible local health authority a report to that effect in the prescribed form.
- (5) Where a report is duly furnished under subsection (3) or subsection (4) of this section, the authority for the detention or guardianship of the patient shall be thereby renewed for the period prescribed in that case by subsection (2) of this section.
- (6) Where a report under this section is furnished in respect of a patient who has attained the age of sixteen years, the managers or the local health authority, as the case may be, shall, unless they discharge the patient, cause him to be informed, and the patient may, within the period for which the authority for his detention or guardianship is renewed by virtue of the report, apply to a Mental Health Review Tribunal.

44 Special provisions as to psychopathic and subnormal patients

- (1) Notwithstanding anything in section forty-three of this Act, a patient who is subject to guardianship by virtue of a guardianship application as a psychopathic or subnormal patient shall cease to be so subject on attaining the age of twenty-five years; and a patient who is liable to be detained by virtue of an application for admission for treatment as a psychopathic or subnormal patient shall cease to be so liable on attaining that age unless the authority for his detention is renewed under the following provisions of this section.
- (2) Within the period of two months ending on the day on which a patient would cease under this section to be liable to be detained in a hospital in default of the renewal of the authority for his detention, the responsible medical officer shall examine the patient, and if it appears to him that the patient, if released from the hospital upon attaining the age of twenty-five years, would be likely to act in a manner dangerous to other persons or to himself, shall furnish to the managers a report to that effect in the prescribed form; and where a report is duly furnished under this subsection the authority for the detention of the patient shall be thereby renewed, and shall continue in force accordingly after the patient attains the said age, but without prejudice to the application to the patient of the provisions of section forty-three of this Act.
- (3) Where a report under subsection (2) of this section is furnished in respect of a patient, the managers shall cause the patient and the nearest relative of the patient to be informed, and the patient and that relative may, at any time before the expiration of the period of twenty-eight days beginning with the day on which the patient attains the age of twenty-five years, apply to a Mental Health Review Tribunal.

45 Special provisions as to patients absent without leave

- (1) If on the day on which, apart from this section, a patient would cease to be liable to be detained or subject to guardianship under this Part of this Act or, within the period of

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one week ending with that day, the patient is absent without leave, he shall not cease to be so liable or subject—

- (a) in any case, until the expiration of the period during which he can be taken into custody under section forty of this Act, or the day on which he is returned or returns himself to the hospital or place where he ought to be, whichever is the earlier ; and
 - (b) if he is returned or returns himself as aforesaid within the period first mentioned in the foregoing paragraph, until the expiration of the period of one week beginning with the day on which he is returned or returns as aforesaid.
- (2) Where the period for which a patient is liable to be detained or subject to guardianship is extended by virtue of this section, any examination and report to be made and furnished under subsection (3) or subsection (4) of section forty-three or subsection (2) of section forty-four of this Act may be made and furnished within that period as so extended.
- (3) Where the authority for the detention or guardianship of a patient is renewed by virtue of this section after the day on which, apart from this section, that authority would have expired under section forty-three or section forty-four of this Act, the renewal shall take effect as from that day.

46 Special provisions as to patients sentenced to imprisonment, etc.

- (1) Where a patient who is liable to be detained by virtue of an application for admission for treatment or is subject to guardianship by virtue of a guardianship application is detained in custody in pursuance of any sentence or order passed or made by a court in the United Kingdom (including an order committing or remanding him in custody), and is so detained for a period exceeding, or for successive periods exceeding in the aggregate, six months, the application shall cease to have effect at the expiration of that period.
- (2) Where any such patient is detained in custody as aforesaid but the application does not cease to have effect under subsection (1) of this section, then—
- (a) if apart from this subsection the patient would have ceased to be liable to be detained or subject to guardianship as aforesaid on or before the day on which he is discharged from custody, he shall not cease and shall be deemed not to have ceased to be so liable or subject until the end of that day; and
 - (b) in any case, sections forty and forty-five of this Act shall apply in relation to the patient as if he had absented himself without leave on that day.

47 Discharge of patients

- (1) Subject to the provisions of this and the next following section, a patient who is for the time being liable to be detained or subject to guardianship under this Part of this Act shall cease to be so liable or subject if an order in writing discharging him from detention or guardianship (in this Act referred to as an order for discharge) is made in accordance with the following provisions of this section.
- (2) An order for discharge may be made in respect of a patient—
- (a) where the patient is liable to be detained in a hospital in pursuance of an application for admission for observation, by the responsible medical officer or by the managers of the hospital;

- (b) where the patient is liable to be so detained in pursuance of an application for admission for treatment, by the responsible medical officer, by the managers or by the nearest relative of the patient; and
 - (c) where the patient is subject to guardianship, by the responsible medical officer, by the responsible local health authority or by the nearest relative of the patient.
- (3) Where the patient is liable to be detained in a mental nursing home in pursuance of an application for admission for observation or for treatment, an order for his discharge may, without prejudice to subsection (2) of this section, be made by the registration authority within the meaning of Part III of this Act and, if the patient is maintained under a contract with a regional hospital board, by that board.
- (4) The powers conferred by this section on any authority or body of persons may be exercised by any three or more members of that authority or body authorised by them in that behalf.

48 Restrictions on discharge by nearest relative

- (1) Where a report under subsection (2) of section forty-four of this Act has been furnished in respect of a patient, an order for discharge shall not be made by the nearest relative of the patient during the period of six months beginning with the date of the report.
- (2) An order for the discharge of a patient who is liable to be detained in a hospital shall not be made by his nearest relative except after giving not less than seventy-two hours' notice in writing to the managers of the hospital; and if, within seventy-two hours after such notice has been given, the responsible medical officer furnishes to the managers a report certifying that in the opinion of that officer the patient, if discharged, would be likely to act in a manner dangerous to other persons or to himself,—
- (a) any order for the discharge of the patient made by that relative in pursuance of the notice shall be of no effect; and
 - (b) no further order for the discharge of the patient shall be made by that relative during the period of six months beginning with the date of the report.
- (3) In any case where a report under subsection (2) of this section is furnished in respect of a patient, the managers shall cause the nearest relative of the patient to be informed, and that relative may, within the period of twenty-eight days beginning with the day on which he is so informed, apply to a Mental Health Review Tribunal in respect of the patient

Functions of relatives of patients

49 Definition of relative and nearest relative

- (1) In this Part of this Act "relative", means any of the following, that is to say—
- (a) husband or wife;
 - (b) son or daughter ;
 - (c) father;
 - (d) mother;
 - (e) brother or sister ;
 - (f) grandparent;

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- (g) grandchild;
 - (h) uncle or aunt;
 - (i) nephew or niece.
- (2) In deducing relationships for the purposes of this section, an adopted person shall be treated as the child of the person or persons by whom he was adopted and not as the child of any other person; and subject as aforesaid, any relationship of the half-blood shall be treated as a relationship of the whole blood, and an illegitimate person shall be treated as the legitimate child of his mother.
- (3) In this Part of this Act, subject to the provisions of this section and to the following provisions of this Part of this Act, the "nearest relative" means the person first described in subsection (1) of this section who is for the time being surviving, relatives of the whole blood being preferred to relatives of the same description of the half-blood and the elder or eldest of two or more relatives described in any paragraph of that subsection being preferred to the other or others of those relatives, regardless of sex.
- (4) Where the person who, under subsection (3) of this section, would be the nearest relative of a patient—
- (a) is not ordinarily resident within the United Kingdom; or
 - (b) being the husband or wife of the patient, is permanently separated from the patient, either by agreement or under an order of a court, or has deserted or has been deserted by the patient for a period which has not come to an end; or
 - (c) not being the husband, wife, father or mother of the patient, is for the time being under twenty-one years of age; or
 - (d) is a man against whom an order divesting him of authority over the patient has been made under section thirty-eight of the Sexual Offences Act, 1956 (which relates to incest with a girl under twenty-one) and has not been rescinded,
- the nearest relative of the patient shall be ascertained as if that person were dead.
- (5) In this section "adoption order" means an order for the adoption of any person made under Part I of the Adoption Act, 1958, or any previous enactment relating to the adoption of children, or any corresponding enactment of the Parliament of Northern Ireland, and "court" includes a court in Scotland or Northern Ireland.
- (6) In this section "husband" and "wife" include a person who is living with the patient as the patient's husband or wife, as the case may be (or, if the patient is for the time being an in-patient in a hospital, was so living until the patient was admitted), and has been or had been so living for a period of not less than six months; but a person shall not be treated by virtue of this subsection as the nearest relative of a married patient unless the husband or wife of the patient is disregarded by virtue of paragraph (b) of subsection (4) of this section.

50 Children and young persons in care of local authority

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

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

(c) section three of the Children Act, 1948 (which relates to children in respect of whom parental rights have been assumed under section two of that Act), that authority or person shall be deemed to be the nearest relative of the patient in preference to any person except the patient's husband or wife (if any) and except, in a case where the said rights and powers are vested in a local authority by virtue of subsection (2) of the said section three, any parent of the patient not being the person on whose account the resolution mentioned in that subsection was passed.

51 Nearest relative of infant under guardianship, etc.

- (1) Where a patient who has not attained the age of twenty-one years—
 - (a) is, by virtue of an order made by a court in the exercise of jurisdiction (whether under any enactment or otherwise) in respect of the guardianship of infants (including an order under section thirty-eight of the Sexual Offences Act, 1956), or by virtue of a deed or will executed by his father or mother, under the guardianship of a person not being his nearest relative under the foregoing provisions of this Act, or is under the joint guardianship of two persons of whom one is such a person as aforesaid ; or
 - (b) is, by virtue of an order made by a court in the exercise of such jurisdiction as aforesaid or in matrimonial proceedings, or by virtue of a separation agreement between his father and mother, in the custody of any such person, the person or persons having the guardianship or custody of the patient shall, to the exclusion of any other person, be deemed to be his nearest relative.
- (2) Subsection (4) of section forty-nine 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 of another person if he would be in that other person's custody apart from section thirty-four of this Act.
- (4) In this section " court" includes a court in Scotland or Northern Ireland, and " enactment " includes an enactment of the Parliament of Northern Ireland.

52 Appointment by court of acting nearest relative

- (1) The county court may, upon application made in accordance with the provisions of this section in respect of a patient, by order direct that the functions under this Part of this Act of the nearest relative of the patient shall, during the continuance in force of the order, be exercisable by the applicant, or by any other person specified in the application, being a person who, in the opinion of the court, is a proper person to act as the patient's nearest relative and is willing to do so.
- (2) An order under this section may be made on the application of—
 - (a) any relative of the patient;
 - (b) any other person with whom the patient is residing (or, if the patient is then an in-patient in a hospital, was last residing before he was admitted); or
 - (c) a mental welfare officer,

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

- (3) An application for an order under this section may be made upon any of the following grounds, that is to say—
- (a) that the patient has no nearest relative within the meaning of this Act, or that it is not reasonably practicable to ascertain whether he has such a relative, or who that relative is ;
 - (b) that the nearest relative of the patient is incapable of acting as such by reason of mental disorder or other illness;
 - (c) that the nearest relative of the patient unreasonably objects to the making of an application for admission for treatment or a guardianship application in respect of the patient; or
 - (d) that the nearest relative of the patient has exercised without due regard to the welfare of the patient or the interests of the public his power to discharge the patient from hospital or guardianship under this Part of this Act, or is likely to do so.
- (4) If immediately before the expiration of the period for which a patient is liable to be detained by virtue of an application for admission for observation, an application under this section, being an application made on the ground specified in paragraph (c) or paragraph (d) of the last foregoing subsection, is pending in respect of the patient, that period shall be extended—
- (a) in any case, until the application under this section has been finally disposed of; and
 - (b) if an order is made in pursuance of the application under this section, for a further period of seven days;
- and for the purposes of this subsection an application under this section shall be deemed to have been finally disposed of at the expiration of the time allowed for appealing from the decision of the court or, if notice of appeal has been given within that time, when the appeal has been heard or withdrawn, and " pending " shall be construed accordingly.
- (5) While an order made under this section is in force, the provisions of this Part of this Act (other than this and the next following section) shall apply in relation to the patient as if for any reference to the nearest relative of the patient there were substituted a reference to the person having the functions of that relative and (without prejudice to the next following section) shall so apply notwithstanding that the person who was the patient's nearest relative when the order was made is no longer his nearest relative.
- (6) Where an order is made under this section in respect of a patient who is or subsequently becomes liable to be detained or subject to guardianship under this Part of this Act, the nearest relative of the patient may make an application to a Mental Health Review Tribunal in respect of the patient within the period of twelve months beginning with the date of the order, and in any subsequent period of twelve months during which the order continues in force.

53 Discharge and variation of orders under s. 52

- (1) An order made under section fifty-two of this Act in respect of a patient may be discharged by the county court upon application made—

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- (a) in any case, by the person having the functions of the nearest relative of the patient by virtue of the order;
 - (b) where the order was made on the ground specified in paragraph (a) or paragraph (b) of subsection (3) of the said section fifty-two, or where the person who was the nearest relative of the patient when the order was made has ceased to be his nearest relative, on the application of the nearest relative of the patient.
- (2) An order made under the said section fifty-two in respect of a patient may be varied by the county court, on the application of the person having the functions of the nearest relative by virtue of the order or on the application of a mental welfare officer, by substituting for the first-mentioned person a local health authority or any other person who in the opinion of the court is a proper person to exercise those functions, being an authority or person who is willing to do so.
- (3) If the person having the functions of the nearest relative of a patient by virtue of an order under the said section fifty-two dies, the foregoing provisions of this section shall apply as if for any reference to that person there were substituted a reference to any relative of the patient, and until the order is discharged or varied under those provisions the functions of the nearest relative under this Part of this Act shall not be exercisable by any person.
- (4) An order under section fifty-two of this Act shall, unless previously discharged under subsection (1) of this section, cease to have effect—
 - (a) if the patient was on the date of the order liable to be detained in pursuance of an application for admission for treatment or subject to guardianship under this Part of this Act, or becomes so liable or subject within the period of three months beginning with that date, when he ceases to be so liable or subject (otherwise than on being transferred in pursuance of regulations under section forty-one of this Act);
 - (b) if the patient was not on the date of the order, and has not within the said period become, so liable or subject, at the expiration of that period.
- (5) The discharge or variation under this section of an order made under the said section fifty-two shall not affect the validity of anything previously done in pursuance of the order.

Supplemental

54 Duty of mental welfare officer to make application for admission or guardianship

- (1) It shall be the duty of a mental welfare officer to make an application for admission to hospital or a guardianship application in respect of a patient within the area of the local authority by whom that officer is appointed in any case where he is satisfied that such an application ought to be made and is of opinion, having regard to any wishes expressed by relatives of the patient or any other relevant circumstances, that it is necessary or proper for the application to be made by him.
- (2) Nothing in this section shall be construed as authorising or requiring an application to be made by a mental welfare officer in contravention of the provisions of subsection (2) of section twenty-seven of this Act, or of that subsection as applied by

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section thirty-three of this Act, or as restricting the power of a mental welfare officer to make any application under this Act.

55 Procedure on applications to county court

County court rules which relate to applications authorised by this Part of this Act to be made to a county court may make provision—

- (a) for the hearing and determination of such applications otherwise than in open court;
- (b) for the admission on the hearing of such applications of evidence of such descriptions as may be specified in the rules notwithstanding anything to the contrary in any enactment or rule of law relating to the admissibility of evidence;
- (c) for the visiting and interviewing of patients in private by or under the directions of the court.

56 Regulations for purposes of Part IV

- (1) The Minister may make regulations for prescribing anything which, under this Part of this Act, is required or authorised to be prescribed, and otherwise for carrying this Part of this Act into full effect.
- (2) Regulations under this section may in particular make provision—
 - (a) for prescribing the form of any application, recommendation, report, order, notice or other document to be made or given under this Part of this Act;
 - (b) for prescribing the manner in which any such application, recommendation, report, order, notice or other document may be proved, and for regulating the service of any such application, report, order or notice;
 - (c) for requiring the managers of hospitals and local health authorities to keep such registers or other records as may be prescribed by the regulations in respect of patients liable to be detained or subject to guardianship under this Part of this Act, and to furnish or make available to those patients, and their relatives, such written statements of their rights and powers under this Act as may be so prescribed;
 - (d) for requiring local health authorities to consult such bodies or persons as may be prescribed by or determined under the regulations in connection with the approval of medical practitioners for the purposes of section twenty-eight of this Act, and for confining approval to such practitioners as may be agreed upon between those authorities and any bodies or persons required to be consulted by them respectively;
 - (e) for the determination in accordance with the regulations of the age of any person whose exact age cannot be ascertained by reference to the registers kept under the Births and Deaths Registration Act, 1953 ; and
 - (f) for enabling the functions under this Part of this Act of the nearest relative of a patient to be performed, in such circumstances and subject to such conditions (if any) as may be prescribed by the regulations, by any person authorised in that behalf by that relative;

and for the purposes of this Part of this Act any application, report or notice the service of which is regulated under paragraph (b) of this subsection shall be deemed to have been received by or furnished to the authority or person to whom it is authorised or

required to be furnished, addressed or given if it is duly served in accordance with the regulations.

- (3) Without prejudice to the foregoing provisions of this section, but subject to subsection (4) of section forty-seven of this Act, regulations under this section may determine the manner in which functions under this Part of this Act of the managers of hospitals, local health authorities or regional hospital boards are to be exercised, and such regulations may in particular specify the circumstances in which, and the conditions subject to which, any such functions may be performed by officers of or other persons acting on behalf of those managers, authorities or boards.

57 Power of Minister to refer to Tribunal

The Minister may, if he thinks fit, at any time refer to a Mental Health Review Tribunal the case of any patient who is liable to be detained or subject to guardianship under this Part of this Act.

58 Special provisions as to wards of court

- (1) An application for the admission to hospital of an infant who is a ward of court may be made under this Part of this Act with the leave of the court; and subsection (2) of section twenty-seven of this Act shall not apply in relation to an application so made.
- (2) Where an infant being a ward of court is liable to be detained in a hospital by virtue of an application for admission under this Part of this Act, any power exercisable under this Part of this Act in relation to the patient by his nearest relative shall be exercisable by or with the leave of the court.
- (3) Nothing in this Part of this Act shall be construed as authorising the making of a guardianship application in respect of an infant who is a ward of court, or the transfer into guardianship of any such infant.

59 Interpretation of Part IV

- (1) In this Part of this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—
 - " the managers " means—
 - (a) in relation to a hospital vested in the Minister under the National Health Service Act, 1946, and in relation to any accommodation provided by a local authority and used for hospital and specialist services under Part II of that Act, the hospital management committee or board of governors ;
 - (b) in relation to a special hospital, the Minister;
 - (c) in relation to a mental nursing home registered in pursuance of Part III of this Act, the person or persons registered in respect of the home;
 - " the nominated medical attendant ", in relation to a patient who is subject to the guardianship of a person other than a local health authority, means the person appointed in pursuance of regulations made under subsection (2) of section thirty-five of this Act to act as the medical attendant of the patient;
 - " the responsible medical officer " means—
 - (a) in relation to a patient liable to be detained by virtue of an application for admission for observation or an application for admission for treatment, the medical practitioner in charge of the treatment of the patient;

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- (b) in relation to a patient subject to guardianship, the medical officer of health of the responsible local health authority or any other medical officer authorised by that authority to act (either generally or in any particular case or for any particular purpose) as the responsible medical officer.
- (2) Except where otherwise expressly provided, this Part, of this Act applies in relation to a mental nursing home, being a home in respect of which the particulars of registration are for the time being entered in the separate part of the register kept for the purposes of subsection (1) of section fifteen of this Act, as it applies in relation to a hospital, and references in this Part of this Act to a hospital, and any reference in this Act to a hospital to which this Part of this Act applies, shall be construed accordingly.
- (3) For the purposes of this Part of this Act a patient who is liable to be detained or subject to guardianship by virtue of an application for admission for treatment or a guardianship application shall be treated as being so liable or subject as a psychopathic or subnormal patient if the form of disorder specified in the application, or in the application as amended under section thirty-eight of this Act, is psychopathic disorder or subnormality, or psychopathic disorder and subnormality, and no other form of mental disorder.
- (4) In relation to a patient who is subject to guardianship in pursuance of a guardianship application, any reference in this Part of this Act to the responsible local health authority is a reference—
 - (a) where the patient is subject to the guardianship of a local health authority, to that authority ;
 - (b) where the patient is subject to the guardianship of a person other than a local health authority, to the local health authority for the area in which that person resides.

PART V

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

Provisions for compulsory admission or guardianship of patients convicted of criminal offences, etc.

60 Powers of courts to order hospital admission or guardianship

- (1) Where a person is convicted before a court of assize or quarter sessions of an offence other than an offence the sentence for which is fixed by law, or is convicted by a magistrates' court of an offence punishable on summary conviction with imprisonment, and the following conditions are satisfied, that is to say—
 - (a) the court is satisfied, on the written or oral evidence of two medical practitioners (complying with the provisions of section sixty-two of this Act),
 - (i) that the offender is suffering from mental illness, psychopathic disorder, subnormality or severe sub-normality ; and

- (ii) that the mental disorder is of a nature or degree which warrants the detention of the patient in a hospital for medical treatment, or the reception of the patient into guardianship under this Act; and
- (b) the court is of opinion, having regard to all the circumstances including the nature of the offence and the character and antecedents of the offender, and to the other available methods of dealing with him, that the most suitable method of disposing of the case is by means of an order under this section,
- the court may by order authorise his admission to and detention in such hospital as may be specified in the order or, as the case may be, place him under the guardianship of a local health authority or of such other person approved by a local health authority as may be so specified.
- (2) Where a person is charged before a magistrates' court with any act or omission as an offence and the court would have power, on convicting him of that offence, to make an order under subsection (1) of this section in his case as being a person suffering from mental illness or severe subnormality, then, if the court is satisfied that the accused did the act or made the omission charged, the court may, if it thinks fit, make such an order without convicting him.
- (3) An order for the admission of an offender to a hospital (in this Part of this Act referred to as a hospital order) shall not be made under this section unless the court is satisfied that arrangements have been made for the admission of the offender to that hospital in the event of such an order being made by the court, and for his admission thereto within a period of twenty-eight days beginning with the date of the making of such an order.
- (4) An order placing an offender under the guardianship of a local health authority or of any other person (in this Part of this Act referred to as a guardianship order) shall not be made under this section unless the court is satisfied that that authority or person is willing to receive the offender into guardianship.
- (5) A hospital order or guardianship order shall specify the form or forms of mental disorder referred to in paragraph (a) of subsection (1) of this section from which, upon the evidence taken into account under that paragraph, the offender is found by the court to be suffering; and no such order shall be made unless the offender is described by each of the practitioners whose evidence is taken into account as aforesaid as suffering from the same one of those forms of mental disorder, whether or not he is also described by either of them as suffering from another of those forms.
- (6) Where an order is made under this section, the court shall not pass sentence of imprisonment or impose a fine or make a probation order in respect of the offence, but may make any other order which the court has power to make apart from this section; and for the purposes of this subsection " sentence of imprisonment " includes any sentence or order for detention, including an order sending an offender to an approved school.

61 Additional powers in respect of children and young persons

- (1) If in the case of a child or young person brought before a juvenile court under section sixty-two or section sixty-four of the Children and Young Persons Act, 1933.—
- (a) the court is satisfied that the child or young person is in need of care or protection, or that his parent or guardian is unable to control him, as the case may be; and

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

the court shall have the like power to make a hospital order or guardianship order as if the child or young person had been convicted by the court of an offence punishable on summary conviction with imprisonment; and the provisions of the said section sixty shall with the necessary modifications apply accordingly.

- (2) A juvenile court shall not make a hospital order or guardianship order in respect of a person brought before the court under section sixty-four of the Children and Young Persons Act, 1933, as being beyond the control of his parent or guardian unless the court is satisfied that the parent or guardian understands the results which will follow from the order and consents to its being made.
- (3) Where a hospital order is made by virtue of this section in respect of a child or young person, the court may also make an order committing him to the care of a fit person under the Children and Young Persons Act, 1933; but except as aforesaid no order shall be made under section sixty-two or sixty-four of that Act in conjunction with a hospital order or guardianship order.

62 Requirements as to medical evidence

- (1) Of the medical practitioners whose evidence is taken into account under paragraph (a) of subsection (1) of section sixty of this Act, at least one shall be a practitioner approved for the purposes of section twenty-eight of this Act by a local health authority as having special experience in the diagnosis or treatment of mental disorders.
- (2) For the purposes of the said paragraph (a) a report in writing purporting to be signed by a medical practitioner may, subject to the provisions of this section, be received in evidence without proof of the signature or qualifications of the practitioner ; but the court may in any case require that the practitioner by whom such a report was signed be called to give oral evidence.
- (3) Where, in pursuance of directions of the court, any such report as aforesaid is tendered in evidence otherwise than by or on behalf of the accused, then—
- (a) if the accused is represented by counsel or solicitor, a copy of the report shall be given to his counsel or solicitor;
 - (b) if the accused is not so represented, the substance of the report shall be disclosed to the accused or, where he is a child or young person, to his parent or guardian if present in court;
 - (c) in any case, the accused may require that the practitioner by whom the report was signed be called to give oral evidence, and evidence to rebut the evidence contained in the report may be called by or on behalf of the accused.
- (4) In relation to a child or young person brought before a juvenile court under section sixty-two or section sixty-four of the Children and Young Persons Act, 1933, subsection (3) of this section shall have effect as if for references to the accused there were substituted references to the child or young person ; and in the case of a child or young person brought before the court under the said section sixty-four paragraphs (a) to (e) of that subsection shall have effect as if those references included references to his parent or guardian, and as if in the said paragraph (b) the words from " or, where " to the end of the paragraph were omitted.

63 Effects of hospital orders and guardianship orders

- (1) A hospital order shall be sufficient authority—
 - (a) for a constable, a mental welfare officer or any other person directed to do so by the court to convey the patient to the hospital specified in the order within a period of twenty-eight days ; and
 - (b) for the managers of the hospital to admit him at any time within that period and thereafter detain him in accordance with the provisions of this Act.
- (2) A guardianship order shall confer on the authority or person therein named as guardian the like powers as a guardianship application made and accepted under Part IV of this Act.
- (3) A patient who is admitted to a hospital in pursuance of a hospital order, or placed under guardianship by a guardianship order, shall be treated for the purposes of Part IV of this Act (other than sections thirty-one and thirty-two, or section thirty-four, as the case may be) as if he had been so admitted or placed on the date of the order in pursuance of an application for admission for treatment or a guardianship application, as the case may be, duly made under the said Part IV, except that—
 - (a) the power to order the discharge of the patient under section forty-seven shall not be exercisable by his nearest relative; and
 - (b) the special provisions relating to the expiration and renewal of authority for detention and guardianship in the case of psychopathic and subnormal patients shall not apply;and accordingly the provisions of the said Part IV specified in the first column of the Third Schedule to this Act shall apply in relation to him subject to the exceptions and modifications set out in the second column of that Schedule and the remaining provisions of the said Part IV shall not apply.
- (4) Without prejudice to any provision of Part IV of this Act as applied by this section, an application to a Mental Health Review Tribunal may be made in respect of a patient admitted to a hospital in pursuance of a hospital order, or placed under guardianship by a guardianship order, as follows, that is to say—
 - (a) by the patient, within the period of six months beginning with the date of the order or with the day on which he attains the age of sixteen years, whichever is the later;
 - (b) by the nearest relative of the patient, within the period of twelve months beginning with the date of the order, and in any subsequent period of twelve months.
- (5) Where a patient is admitted to a hospital in pursuance of a hospital order, or placed under guardianship by a guardianship order, any previous application, hospital order or guardianship order by virtue of which he was liable to be detained in a hospital or subject to guardianship shall cease to have effect:

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

64 Supplementary provisions as to hospital orders

- (1) The court by which a hospital order is made may give such directions as it thinks fit for the conveyance of the patient to a place of safety and his detention therein pending his admission to the hospital within the period of twenty-eight days referred to in subsection (1) of section sixty-three of this Act.
- (2) If within the said period of twenty-eight days it appears to the Minister that by reason of an emergency or other special circumstances it is not practicable for the patient to be received into the hospital specified in the order, he may give directions for the admission of the patient to such other hospital as appears to be appropriate in lieu of the hospital so specified; and where such directions are given the Minister shall cause the person having the custody of the patient to be informed, and the hospital, order shall have effect as if the hospital specified in the directions were substituted for the hospital specified in the order.

65 Power of higher courts to restrict discharge from hospital

- (1) Where a hospital order is made in respect of an offender by a court of assize or quarter sessions, and it appears to the court, having regard to the nature of the offence, the antecedents of the offender and the risk of his committing further offences if set at large, that it is necessary for the protection of the public so to do, the court may, subject to the provisions of this section, further order that the offender shall be subject to the special restrictions set out in this section, either without limit of time or during such period as may be specified in the order.
- (2) An order under this section (in this Act referred to as an order restricting discharge) shall not be made in the case of any person unless at least one of the medical practitioners whose evidence is taken into account by the court under paragraph (a) of subsection (1) of section sixty of this Act has given evidence orally before the court.
- (3) The special restrictions applicable to a patient in respect of whom an order restricting discharge is in force are as follows, that is to say—
 - (a) none of the provisions of Part IV of this Act relating to the duration, renewal and expiration of authority for the detention of patients shall apply, and the patient shall continue to be liable to be detained by virtue of the relevant hospital order until he is duly discharged under the said Part IV or absolutely discharged under the next following section;
 - (b) no application shall be made to a Mental Health Review Tribunal in respect of the patient under section sixty-three of this Act or under any provision of the said Part IV;
 - (c) the following powers shall be exercisable only with the consent of the Secretary of State, that is to say—
 - (i) power to grant leave of absence to the patient under section thirty-nine of this Act;
 - (ii) power to transfer the patient in pursuance of regulations under section forty-one of this Act; and
 - (iii) power to order the discharge of the patient under section forty-seven of this Act;

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

- (d) the power of the Secretary of State to recall the patient under the said section thirty-nine, and the power to take the patient into custody and return him under section forty of this Act, may be exercised at any time ;

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

- (4) A hospital order shall not cease to have effect under subsection (5) of section sixty-three of this Act if an order restricting the discharge of the patient is in force at the material time.
- (5) Where an order restricting the discharge of a patient ceases to have effect while the relevant hospital order continues in force, the provisions of section sixty-three of this Act and the Third Schedule to this Act shall apply to the patient as if he had been admitted to the hospital in pursuance of a hospital order (without an order restricting his discharge) made on the date on which the order restricting his discharge ceased to have effect.

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

- (1) If the Secretary of State is satisfied that an order restricting the discharge of a patient is no longer required for the protection of the public, he may direct that the patient shall cease to be subject to the special restrictions set out in section sixty-five of this Act; and where the Secretary of State so directs, the order restricting the discharge of the patient shall cease to have effect, and subsection (5) of the last foregoing section shall apply accordingly.
- (2) At any time while an order restricting the discharge of a patient is in force, the Secretary of State may, if he thinks fit, by warrant discharge the patient from hospital, either absolutely or subject to conditions; and where a person is absolutely discharged under this subsection, he shall thereupon cease to be liable to be detained by virtue of the relevant hospital order, and the order restricting his discharge shall cease to have effect accordingly.
- (3) The Secretary of State may at any time during the continuance in force of an order restricting the discharge of a patient who has been conditionally discharged under the last foregoing subsection, by warrant recall the patient to such hospital as may be specified in the warrant; and thereupon—
- (a) if the hospital so specified is not the hospital from which the patient was conditionally discharged, the hospital order and the order restricting his discharge shall have effect as if the hospital specified in the warrant were substituted for the hospital specified in the hospital order;
- (b) in any case, the patient shall be treated for the purposes of section forty of this Act as if he had absented himself without leave from the hospital specified in the warrant, and if the order restricting his discharge was made for a specified period, that period shall not in any event expire until the patient returns to the hospital or is returned to the hospital under that section.
- (4) If an order restricting the discharge of a patient ceases to have effect after the patient has been conditionally discharged under this section, the patient shall, unless previously recalled under the last foregoing subsection, be deemed to be absolutely discharged on the date when the order ceases to have effect, and shall cease to be liable to be detained by virtue of the relevant hospital order accordingly.

- (5) The Secretary of State may, if satisfied that the attendance at any place in Great Britain of a patient who is subject to an order restricting discharge is desirable in the interests of justice or for the purposes of any public inquiry, direct him to be taken to that place; and where a patient is directed under this subsection to be taken to any place he shall, unless the Secretary of State otherwise directs, be kept in custody while being so taken, while at that place and while being taken back to the hospital in which he is liable to be detained.
- (6) The Secretary of State may at any time refer to a Mental Health Review Tribunal for their advice the case of a patient who is for the time being subject to an order restricting his discharge, and, where so requested in writing in accordance with the following provisions of this section by such a patient who is detained in hospital, shall do so within the period of two months beginning with the receipt of the request unless during that period the patient is discharged absolutely or conditionally under subsection (2) of this section or the order restricting his discharge ceases to have effect.
- (7) A patient shall not be entitled to make a request to the Secretary of State under the last foregoing subsection before the expiration of the period of one year beginning with the date of the relevant hospital order, but subject as aforesaid may make one such request during each period during which he could have made an application to a Mental Health Review Tribunal if he had been subject to a hospital order "without an order restricting his discharge and the authority for his detention had been renewed at the requisite intervals.
- (8) Where a patient subject to an order restricting his discharge has been conditionally discharged under subsection (2) of this section and subsequently recalled to hospital, the last foregoing subsection shall apply as if the relevant hospital order had been made on the day on which he returns or is returned to hospital, but he may also make one such request as aforesaid between the expiration of the period of six months and the expiration of the period of one year beginning with that day.

67 Power of magistrates' courts to commit for restriction order

- (1) If in the case of a person of or over the age of fourteen years who is convicted by a magistrates' court of an offence punishable on summary conviction with imprisonment—
 - (a) the conditions which, under subsection (1) of section sixty of this Act, are required to be satisfied for the making of a hospital order are satisfied in respect of the offender; but
 - (b) it appears to the court, having regard to the nature of the offence, the antecedents of the offender and the risk of his committing further offences if set at large, that if a hospital order is made an order restricting his discharge should also be made,

the court may, instead of making a hospital order or dealing with him in any other manner, commit him in custody to quarter sessions to be dealt with in respect of the offence.
- (2) Subsection (2) of section twenty-nine of the Criminal Justice Act, 1948 (which specifies the court of quarter sessions by which an offender committed to quarter sessions for sentence is to be dealt with) shall apply in relation to the committal of an offender under this section as it applies in relation to the committal of an offender for sentence under section twenty-nine of the Magistrates' Courts Act, 1952.

- (3) Where an offender is committed to quarter sessions under this section, the court of quarter sessions shall inquire into the circumstances of the case and may—
- (a) if that court would have power so to do under the foregoing provisions of this Part of this Act upon the conviction of the offender before that court of such an offence as is described in subsection (1) of section sixty of this Act, make a hospital order in his case, with or without an order restricting his discharge;
 - (b) if the court does not make such an order, deal with the offender in any other manner in which the magistrates' court might have dealt with him;
- and the Poor Prisoners Defence Act, 1930, shall apply as if the offender were committed for trial for an indictable offence, subject to the modifications specified in subsections (4) and (5) of section eighteen of the Legal Aid and Advice Act, 1949.
- (4) The power of a magistrates' court under section twenty-nine of the Magistrates' Courts Act, 1952 (which enables such a court to commit an offender to quarter sessions where the court is of opinion that greater punishment should be inflicted for the offence than the court has power to inflict) shall also be exercisable by a magistrates' court where it is of opinion that greater punishment should be inflicted as aforesaid on the offender unless a hospital order is made in his case with an order restricting his discharge.
- (5) The power of a court of quarter sessions to make a hospital order, with or without an order restricting discharge, in the case of a person convicted before that court of an offence may, in the like circumstances and subject to the like conditions, be exercised by such a court in the case of a person committed to the court under section five of the Vagrancy Act, 1824 (which provides for the committal to quarter sessions of persons being incorrigible rogues within the meaning of that section).

68 Committal to hospital under s. 67

- (1) Where an offender is committed under subsection (1) of section sixty-seven of this Act and the magistrates' court by which he is committed is satisfied that arrangements have been made for the admission of the offender to a hospital in the event of an order being made under this section, the court may, instead of committing him in custody, by order direct him to be admitted to that hospital, specifying it, and to be detained there until the case is disposed of by quarter sessions, and may give such directions as it thinks fit for his production from the hospital to attend the court of quarter sessions by which his case is to be dealt with.
- (2) Subsection (1) of section sixty-three and section sixty-four of this Act shall apply in relation to an order under this section as they apply in relation to a hospital order, but as if references to the period of twenty-eight days mentioned in the said subsection (1) were omitted; and subject as aforesaid an order under this section shall, until the offender's case is disposed of by quarter sessions, have the like effect as a hospital order together with an order restricting his discharge, made without limitation of time.
- (3) Where an order has been made under this section in respect of an offender, the notice of the date on which the case will be dealt with required by subsection (2) of section twenty-nine of the Criminal Justice Act, 1948, to be given by the clerk of the peace to the governor of the prison or remand centre shall instead be given to the managers of the hospital in which he is detained.

69 Appeals from assizes and quarter sessions

- (1) Where an order restricting discharge is made by a court of quarter sessions in respect of a person committed under section twenty-nine of the Magistrates' Courts Act, 1952, under section five of the Vagrancy Act, 1824, or under section sixty-seven of this Act, that person may appeal to the Court of Criminal Appeal against the order in like manner as against an order made on his conviction on indictment, and the provisions of the Criminal Appeal Act, 1907, shall apply accordingly.
- (2) On any appeal to the Court of Criminal Appeal against an order restricting the discharge of an offender (including an appeal under subsection (1) of this section) the court shall have the like powers under subsection (3) of section four of the Criminal Appeal Act, 1907, as if the appeal were an appeal against the hospital order in respect of him as well as against the order restricting his discharge.
- (3) On any appeal to the Court of Criminal Appeal by an offender against a hospital order or guardianship order, the court shall have the like powers under subsection (3) of the said section four as if the appeal were an appeal against any further order made by the court which made the hospital order or guardianship order, as well as against the hospital order or guardianship order.

70 Appeals from magistrates' courts

- (1) Where on the trial of an information charging a person with an offence a magistrates' court makes a hospital order or guardianship order in respect of him without convicting him, he shall have the like right of appeal against the order as if it had been made on his conviction; and on any such appeal quarter sessions shall have the like powers as if the appeal had been against both conviction and sentence.
- (2) Where a juvenile court, on being satisfied that a child or young person brought before the court is in need of care or protection or that his parent or guardian is unable to control him, makes such an order as aforesaid, the child or young person may appeal to quarter sessions against the order.
- (3) An appeal by a child or young person with respect to whom any such order has been made, whether the appeal is against the order or against the finding upon which the order was made, may be brought by him or by his parent or guardian on his behalf.
- (4) Section two of the Summary Jurisdiction (Appeals) Act, 1933 (which relates to legal aid) shall with the necessary modifications apply in relation to an appeal against a hospital order or guardianship order made by a magistrates' court (whether or not brought under this section) as it applies in relation to an appeal against sentence.

71 Persons ordered to be kept in custody during Her Majesty's pleasure

- (1) Where under any enactment to which this subsection applies any person is ordered to be kept in custody during Her Majesty's pleasure, that person shall, until detained in pursuance of any directions under subsection (2) of this section, be detained in such place of safety as the court may order, and the order shall be sufficient authority for his conveyance to that place.
- (2) The Secretary of State may by warrant direct that any person who, by virtue of any enactment to which this subsection applies, is required to be kept in custody during Her Majesty's pleasure or until the directions of Her Majesty are known shall be detained in such hospital (not being a mental nursing home) as may be specified in the warrant

and, where that person is not already detained in the hospital, give directions for his removal there.

- (3) The enactments to which subsection (1) of this section applies are section two of the Criminal Lunatics Act, 1800, section two of the Trial of Lunatics Act, 1883, and subsection (4) of section five of the Criminal Appeal Act, 1907; and the enactments to which subsection (2) of this section applies are the aforementioned enactments and subsection (4) of section six of the Courts-Martial (Appeals) Act, 1951, section one hundred and sixteen of the Army Act, 1955, section one hundred and sixteen of the Air Force Act, 1955, and section sixty-three of the Naval Discipline Act, 1957.
- (4) A direction under this section in respect of any person shall have the like effect as a hospital order together with an order restricting his discharge, made without limitation of time; and where such a direction is given in respect of a person while he is in the hospital, he shall be deemed to be admitted in pursuance of, and on the date of, the direction.
- (5) Where the Secretary of State is notified by the responsible medical officer that a person detained in a hospital, being a person ordered under section two of the Criminal Lunatics Act, 1800, to be kept in custody, no longer requires treatment for mental disorder, the Secretary of State may remit that person to prison, or to a remand centre provided under section forty-three of the Prison Act, 1952, for trial at the next quarter sessions or, as the case may be, assizes for the place where, but for the order, he would have been tried, and on his arrival at the prison or remand centre the direction under this section shall cease to have effect.

Transfer to hospital or guardianship of prisoners, etc.

72 Removal to hospital of persons serving sentences of imprisonment etc.

- (1) If in the case of a person serving a sentence of imprisonment the Secretary of State is satisfied, by reports from at least two medical practitioners (complying with the provisions of this section)—
 - (a) that the said person is suffering from mental illness, psychopathic disorder, subnormality or severe sub-normality ; and
 - (b) that the mental disorder is of a nature or degree which warrants the detention of the patient in a hospital for medical treatment;
 the Secretary of State may, if he is of opinion having regard to the public interest and all the circumstances that it is expedient so to do, by warrant direct that that person be removed to and detained in such hospital (not being a mental nursing home) as may be specified in the direction.
- (2) A direction under this section (in this Act referred to as a transfer direction) shall cease to have effect at the expiration of the period of fourteen days beginning with the date on which it is given unless within that period the person with respect to whom it was given has been received into the hospital specified therein.
- (3) A transfer direction with respect to any person shall have the like effect as a hospital order made in his case.
- (4) Of the medical practitioners whose reports are taken into account under subsection (1) of this section, at least one shall be a practitioner approved for the purposes of section twenty-eight of this Act by a local health authority as having special experience in the diagnosis or treatment of mental disorders.

- (5) A transfer direction shall specify the form or forms of mental disorder referred to in paragraph (a) of subsection (1) of this section from which, upon the reports taken into account under that subsection, the patient is found by the Secretary of State to be suffering; and no such direction shall be given unless the patient is described in each of those reports as suffering from the same one of those forms, whether or not he is also described in either of them as suffering from another of those forms.
- (6) References in this section to a person serving a sentence of imprisonment include references—
- (a) to a person detained in pursuance of any sentence or order for detention made by a court in criminal proceedings, or made or having effect as if made in any proceedings under the Children and Young Persons Act, 1933 (other than an order under any enactment to which section seventy-one of this Act applies or an order for detention in a remand home under section fifty-four or in a place of safety under section sixty-seven of the said Act of 1933);
 - (b) to a person committed to custody under subsection (3) of section ninety-one of the Magistrates' Courts Act, 1952 (which relates to persons who fail to comply with an order to enter into recognisances to keep the peace or be of good behaviour); and
 - (c) to a person committed by a court to a prison or other institution to which the Prison Act, 1952, applies in default of payment of any sum adjudged to be paid on his conviction.

73 Removal to hospital of other prisoners

- (1) If in the case of a person to whom this section applies the Secretary of State is satisfied by the like reports as are required for the purposes of the last foregoing section that that person is suffering from mental illness or severe subnormality of a nature or degree which warrants the detention of the patient in a hospital for medical treatment, the Secretary of State shall have the like power of giving a transfer direction in respect of him under that section as if he were serving a sentence of imprisonment.
- (2) This section applies to the following persons, that is to say—
- (a) persons committed in custody for trial at assizes or quarter sessions;
 - (b) persons committed in custody to quarter sessions under section twenty-eight or section twenty-nine of the Magistrates' Courts Act, 1952, section five of the Vagrancy Act, 1824, or section sixty-seven of this Act;
 - (c) persons remanded in custody by a court of assize or quarter sessions to await a judgment or sentence which has been respited;
 - (d) persons remanded in custody by a magistrates' court;
 - (e) civil prisoners, that is to say, persons committed by a court to prison for a limited term (including persons committed to prison in pursuance of a writ of attachment), not being persons falling to be dealt with under section seventy-two of this Act;
 - (f) aliens detained in a prison or other institution to which the Prison Act, 1952, applies, in pursuance of the Aliens Order 1953, or any order amending or replacing that Order.
- (3) Subsections (2) to (5) of the last foregoing section shall apply for the purposes of this section and of any transfer direction given by virtue of this section as they apply for the purposes of that section and of any transfer direction thereunder.

74 Restriction on discharge of prisoners removed to hospital

- (1) Where a transfer direction is given in respect of any person, the Secretary of State, if he thinks fit, may by warrant further direct that that person shall be subject to the special restrictions set out in section sixty-five of this Act; and where the Secretary of State gives a transfer direction in respect of any such person as is described in paragraphs (a) to (d) of subsection (2) of the last foregoing section, he shall also give a direction under this section applying the said restrictions to him.
- (2) A direction under this section (in this Act referred to as a direction restricting discharge) shall have the like effect as an order restricting the discharge of the patient made under the said section sixty-five.

75 Further provisions as to prisoners under sentence

- (1) Where a transfer direction and a direction restricting discharge have been given in respect of a person serving a sentence of imprisonment (other than a person detained in a remand home) and the Secretary of State is notified by the responsible medical officer at any time before the expiration of that person's sentence that that person no longer requires treatment for mental disorder, the Secretary of State may—
 - (a) by warrant direct that he be remitted to any prison or other institution in which he might have been detained ' if he had not been removed to hospital, there to be dealt with as if he had not been so removed; or
 - (b) exercise, or authorise the Prison Commissioners or, as the case may be, the managers of any approved school to which he might have been remitted to exercise, any power of releasing him on licence or discharging him under supervision which would have been exercisable if he had been remitted to such a prison or institution as aforesaid,and on his arrival in the prison or other institution or, as the case may be, his release or discharge as aforesaid, the transfer direction and the direction restricting discharge shall cease to have effect.
- (2) A direction restricting the discharge of a person serving a sentence of imprisonment (including an order for detention in a remand home under section sixty-nine of the Children and Young Persons Act, 1933), shall cease to have effect on the expiration of the sentence.
- (3) Subject to the next following subsection, references in this section to the expiration of a person's sentence are references to the expiration of the period during which he would have been liable to be detained in a prison or other institution if the transfer direction had not been given.
- (4) For the purposes of subsection (2) of section forty-nine of the Prison Act, 1952 (which provides for discounting from the sentence of certain prisoners periods while they are unlawfully at large) a patient who, having been transferred in pursuance of a transfer direction from any such institution as is referred to in that subsection, is at large in circumstances in which he is liable to be taken into custody under any provision of this Act, shall be treated as unlawfully at large and absent from that institution.

76 Further provisions as to persons committed for trial or sentence, etc.

- (1) Any transfer direction given in respect of any such person as is described in paragraphs (a) to (c) of subsection (2) of section seventy-three of this Act shall cease to have effect when his case is disposed of by the court to which he was committed or by which he

was remanded, as the case may be, but without prejudice to any power of that court to make a hospital order or other order under this Part of this Act in his case.

- (2) Where a transfer direction has been given in respect of any such person as aforesaid, then—
- (a) if the Secretary of State is notified by the (responsible medical officer at any time before that person is brought before the court to which he was committed or by which he was remanded that he no longer requires treatment for mental disorder, the Secretary of State may by warrant direct that he be remitted to any place where he might have been detained if he had not been removed to hospital, there to be dealt with as if he had not been so removed, and on his arrival at the place to which he is so remitted the transfer direction shall cease to have effect;
 - (b) if (no direction having been given under paragraph (a) of this subsection) it appears to that court that it is impracticable or inappropriate to bring that person before the court and the conditions set out in the next following subsection are satisfied, the court may make a hospital order (with or without an order restricting discharge) in his case in his absence and, in the case of a person committed for trial, without convicting him.
- (3) A hospital order may be made in respect of a person under paragraph (b) of the last foregoing subsection if the court is satisfied, on the oral evidence of at least two medical practitioners (complying with subsection (1) of section sixty-two of this Act), that that person is suffering from mental illness or severe subnormality of a nature or degree which warrants the detention of the patient in a hospital for medical treatment, and is of opinion, after considering any depositions or other documents required to be sent to the proper officer of the court, that it is proper to make such an order.
- (4) Where a person committed to quarter sessions to be dealt with under section sixty-seven of this Act is admitted to a hospital in pursuance of an order under section sixty-eight of this Act, paragraph (b) of subsection (2) and subsection (3) of this section shall apply as if he were a person subject to a transfer direction.

77 Further provisions as to persons remanded by magistrates' courts

- (1) A transfer direction given in respect of a person remanded in custody by a magistrates' court shall cease to have effect on the expiration of the period of remand unless, upon his being brought before the magistrates' court, he is committed in custody for trial at assizes or quarter sessions.
- (2) Where, on the expiration of the period of remand of any such person, he is committed in custody for trial as aforesaid, section seventy-six of this Act shall apply as if the transfer direction given in his case were a direction given in respect of a person so committed.
- (3) Where a transfer direction has been given in respect of a person remanded as aforesaid, the power of further remanding him under section one hundred and five of the Magistrates' Courts Act, 1952, may be exercised by the court without his being brought before the court; and if the court further remands such a person in custody (whether or not he is brought before the court) the period of remand shall, for the purposes of this section, be deemed not to have expired.

- (4) Where a transfer direction in respect of any person ceases to have effect under this section, then unless the court before which he is brought on the expiration of the period of remand—
- (a) passes a sentence of imprisonment (within the meaning of subsection (6) of section sixty of this Act) on him; or
 - (b) makes a hospital order or guardianship order in his case,
- he shall continue to be liable to be detained in the hospital in which he was detained under the transfer direction as if he had been admitted thereto, on the date on which that direction ceased to have effect, in pursuance of an application for admission for treatment made under Part IV of this Act, and the provisions of this Act shall apply accordingly.

78 Further provisions as to civil prisoners

- (1) Any transfer direction given in respect of a civil prisoner shall cease to have effect on the expiration of the period during which he would, but for his removal to hospital, be liable to be detained in prison.
- (2) Where a transfer direction given in respect of any person ceases to have effect by virtue of this section, he shall continue to be liable to be detained in the hospital in which he was detained under that direction as if he had been admitted thereto, on the date on which the direction ceased to have effect, in pursuance of an application for admission for treatment made under Part IV of this Act, and the provisions of this Act shall apply accordingly.

79 Reception into guardianship of persons sent to approved schools

- (1) If in the case of a child or young person detained in an approved school the Secretary of State is satisfied by the like reports as are required for the purposes of section seventy-two of this Act—
 - (a) that the child or young person is suffering from mental illness, psychopathic disorder, subnormality or severe subnormality; and
 - (b) that the mental disorder is of a nature or degree which warrants the reception of the patient into guardianship under this Act;

the Secretary of State may, if he is of opinion having regard to the public interest and to all the circumstances that it is expedient so to do, by warrant direct that he be placed under the guardianship of a local health authority or of any such other person approved by a local health authority as may be specified in the direction.
- (2) A direction shall not be given under this section placing a person under the guardianship of a local health authority or other person unless the Secretary of State is satisfied that that authority or person is willing to receive that person into guardianship.
- (3) A direction under this section with respect to any person shall have the like effect as a guardianship order made in his case.

Supplemental

80 Interpretation of Part V

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

" approved school " means a school approved under section seventy-nine of the Children and Young Persons Act, 1933;

" child " and " young person " have the same meaning as in the Children and Young Persons Act, 1933 ;

" civil prisoner " has the meaning assigned to it by paragraph (e) of subsection (2) of section seventy-three of this Act;

" guardian ", in relation to a child or young person, has the same meaning as in the Children and Young Persons Act, 1933 ;

" place of safety ", in relation to a person not being a child or young person, means any police station, prison or remand centre, or any hospital the managers of which are willing temporarily to receive him, and in relation to a child or young person means a place of safety within the meaning of the Children and Young Persons Act, 1933 ;

" remand home " means premises established or used by the council of a county or county borough under section seventy-seven of the Children and Young Persons Act, 1933 ;

" responsible medical officer ", in relation to a person liable to be detained in a hospital within the meaning of Part IV of this Act, means the medical practitioner in charge of the treatment of the patient.

- (2) Any reference in this Part of this Act to an offence punishable on summary conviction with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of young offenders.

- (3) Where a patient who is liable to be detained in a hospital in pursuance of an order or direction under this Part of this Act is treated by virtue of any provision of this Part of this Act as if he had been admitted to the hospital in pursuance of a subsequent order or direction under this Part of this Act or a subsequent application for admission for treatment under Part IV thereof, he shall be treated as if the subsequent order, direction or application had described him as suffering from the form or forms of mental disorder specified in the earlier order or direction or, where he is treated as if he had been so admitted by virtue of a direction under subsection (1) of section sixty-six of this Act, such form of mental disorder as may be specified in the direction under that subsection.

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

subsections (2) to (5) of section sixty-three ;

subsections (3) to (5) of section sixty-five ; and

section sixty-six,

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

- (5) Subsection (2) of section fifty-nine of this Act shall apply for the purposes of this Part of this Act as it applies for the purposes of Part IV of this Act.
- (6) References in this Part of this Act to a court of quarter sessions include references to an appeal committee of quarter sessions.
- (7) References in this Part of this Act to persons serving a sentence of imprisonment shall be construed in accordance with subsection (6) of section seventy-two of this Act.
- (8) Section ninety-nine of the Children and Young Persons Act, 1933 (which relates to the presumption and determination of age) shall apply for the purposes of this Part of this Act as it applies for the purposes of that Act.

PART VI

REMOVAL AND RETURN OF PATIENTS WITHIN UNITED KINGDOM, ETC.

Removal to and from Scotland

81 Removal to Scotland of patients not subject to restriction

- (1) If it appears to the Minister, in the case of a patient who is for the time being liable to be detained or subject to guardianship under this Act, being—
 - (a) a patient who is so liable or subject by virtue of an application under Part IV of this Act;
 - (b) a patient who is so liable or subject by virtue of a hospital order or transfer direction without an order or direction restricting discharge;
 - (c) a patient who is so liable or subject by virtue of a guardianship order or a direction under section seventy-nine of this Act,that it is in the patient's interests to remove him to Scotland, and that arrangements have been made for his reception into a mental hospital, asylum or house in Scotland where persons of unsound mind may be detained under the Lunacy (Scotland) Acts, 1857 to 1913, or for placing him in an institution for defectives or under guardianship within the meaning of the Mental Deficiency and Lunacy (Scotland) Act, 1913, the Minister may authorise the removal of the patient to Scotland and give any necessary directions for his conveyance to his destination.
- (2) Where a person removed in pursuance of an authority under this section is received into any such hospital, asylum or house as is mentioned in subsection (1) of this section, then—
 - (a) if, immediately before his removal, he was liable to be detained in a hospital within the meaning of Part IV of this Act, he shall on his reception be treated for all purposes as having been so received by virtue of an order under section fourteen of the Lunacy (Scotland) Act, 1862;
 - (b) if, immediately before his removal, he was subject to guardianship under this Act, he shall on his reception be treated for all purposes as a person in whose case an order under section thirteen of the Lunacy (Scotland) Act, 1866 is in force ;

and for the purposes of paragraph (b) of subsection (1) of section nine of the said Act of 1866 the person entitled to discharge a patient transferred to Scotland under

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the foregoing provisions of this section shall be ascertained as if the person at whose instance he is detained were dead.

- (3) Where a person removed in pursuance of an authority under this section is placed in an institution for defectives or under guardianship within the meaning of the Mental Deficiency and Lunacy (Scotland) Act, 1913, then—
- (a) if before the removal the patient was liable to be detained or subject to guardianship as mentioned in paragraph (a) of subsection (1) of this section, he shall on being so placed be treated for all purposes as having been so placed by his parent or guardian under section four of that Act;
 - (b) if before the removal the patient was liable to be detained or subject to guardianship as mentioned in paragraph (b) or paragraph (c) of the said subsection (1), he shall on being so placed be treated for all purposes as if he were detained in the institution or placed under guardianship in pursuance of a judicial order under section seven of the Mental Deficiency and Lunacy (Scotland) Act, 1913, made on the date on which he is so placed.

82 Removal to Scotland of patients subject to restriction on discharge

- (1) If it appears to the Secretary of State, in the case of a patient who is for the time being liable to be detained by virtue of an order or direction under Part V of this Act, not being a patient to whom section eighty-one of this Act applies, that it is in the patient's interests to remove him to Scotland and that arrangements have been made for him in accordance with the following provisions of this section, the Secretary of State may by warrant authorise the removal of the patient to Scotland, and may give any necessary directions for his conveyance to his destination.
- (2) Where the patient is liable to be detained by virtue of a hospital order and an order restricting his discharge is in force, arrangements may be made for his reception into a State Mental Hospital within the meaning of the Criminal Justice (Scotland) Act, 1949, or a mental hospital, asylum or house where persons of unsound mind may be detained in pursuance of an order under section fourteen of the Lunacy (Scotland) Act, 1862, or for placing him in a State institution within the meaning of section twenty-eight of the Mental Deficiency and Lunacy (Scotland) Act, 1913.
- (3) Where the patient is liable to be detained by virtue of a transfer direction and a direction restricting his discharge is in force, arrangements may be made for his reception into a hospital eligible to receive patients under section six of the Criminal and Dangerous Lunatics (Scotland) Amendment Act, 1871, or under subsection (1) of section four of the Criminal Lunatics (Scotland) Act, 1935, or for placing him in an institution for defectives within the meaning of the Mental Deficiency and Lunacy (Scotland) Act, 1913.
- (4) Where the patient is liable to be detained in a hospital by virtue of a direction under section seventy-one of this Act, arrangements may be made for his reception into a State Mental Hospital within the meaning of the Criminal Justice (Scotland) Act, 1949, or a mental hospital, asylum or house where persons of unsound mind may be detained in pursuance of an order under section fourteen of the Lunacy (Scotland) Act, 1862.

83 Application of Scottish enactments to patients removed under s. 82

- (1) Where a patient is removed to Scotland in pursuance of such arrangements as are mentioned in subsection (2) of section eighty-two of this Act, then—

- (a) if in pursuance of those arrangements he is received into a mental hospital, asylum or house where persons of unsound mind may be detained in pursuance of an order under section fourteen of the Lunacy (Scotland) Act, 1862, subsection (2) of section eighty-one of this Act shall apply to him as it applies to a patient removed under that section to such a hospital, asylum or house as aforesaid, but, unless the Secretary of State otherwise directs, any power to discharge the patient, to grant him leave of absence or to transfer him from the hospital, asylum or house shall, so long as the order restricting the discharge of the patient would have continued in force apart from his removal, be exercisable only with the consent of the Secretary of State ;
- (b) if in pursuance of those arrangements he is placed in a State institution, he shall be treated as if he were detained therein in pursuance of a judicial order under section seven of the Mental Deficiency and Lunacy (Scotland) Act, 1913, made on the date on which he is so placed;

and for the purposes of paragraph (a) of this subsection any reference in section fourteen of the Lunacy (Scotland) Act, 1862, to a mental hospital shall be construed as including a reference to a State Mental Hospital.

- (2) Where a patient is removed in pursuance of such arrangements as are mentioned in subsection (3) of the said section eighty-two, then—
 - (a) if in pursuance of those arrangements he is received into a hospital being a State Mental Hospital, he shall be treated as if he had been ordered to be detained therein under subsection (1) of section four of the Criminal Lunatics (Scotland) Act, 1935 ;
 - (b) if in pursuance of those arrangements he is detained in any other hospital described in that subsection, he shall be treated as if he had been ordered to be removed to that hospital under section six of the Criminal and Dangerous Lunatics (Scotland) Amendment Act, 1871 ;
 - (c) if in pursuance of those arrangements he is removed to an institution for defectives, he shall be treated as if he were detained under an order for his transfer to that institution made under section ten of the Mental Deficiency and Lunacy (Scotland) Act, 1913, on the date of his removal;

and in any such case the patient shall be treated as if the sentence or order by virtue of which he was detained before the transfer direction was given had been imposed or made by a court in Scotland.

- (3) Where a patient is removed in pursuance of such arrangements as are mentioned in subsection (4) of the said section eighty-two, the patient shall be treated as if he had been ordered by a court in Scotland to be kept in strict custody until Her Majesty's pleasure shall be known in pursuance of section eighty-seven or section eighty-eight of the Lunacy (Scotland) Act, 1857, and as if an order for his safe custody in the place of reception had been made on behalf of Her Majesty under the said section eighty-seven or the said section eighty-eight.

84 Removal to England and Wales of state mental patients

- (1) In subsection (2) of section sixty-four of the Criminal Justice (Scotland) Act, 1949 (which provides for the removal of state mental patients from mental hospitals in Scotland to mental hospitals in England and Wales) the reference to a mental hospital in England shall be construed as a reference to any hospital within the meaning of this Act,

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- (2) Where, under the said subsection (2) an order is made by the Secretary of State for the removal of a state mental patient from a mental hospital in Scotland to a hospital in England and Wales, then—
- (a) if the patient is a person ordered to be kept in safe custody during Her Majesty's pleasure in pursuance of section eighty-seven or section eighty-eight of the Lunacy (Scotland) Act, 1857, the patient shall, on his reception into the hospital in England and Wales, be treated as if he had been removed to that hospital in pursuance of a direction of the Secretary of State under section seventy-one of this Act;
 - (b) in any other case, the patient shall be treated, on his reception into the hospital in England and Wales, as if he had been removed to that hospital in pursuance of a transfer direction under Part V of this Act, and a direction restricting his discharge may be given under section seventy-four of this Act accordingly;
- and in any such case the patient shall be treated as if the sentence or order by virtue of which he was detained before being removed under this section had been imposed or made by a court in England and Wales.

Removal to and from Northern Ireland

85 Removal to Northern Ireland of patients not subject to restriction

- (1) If it appears to the Minister, in the case of a patient who is for the time being liable to be detained or subject to guardianship as mentioned in subsection (1) of section eighty-one of this Act, that it is in the patient's interest to remove him to Northern Ireland and that arrangements have been made—
- (a) for his reception into a mental hospital within the meaning of the Mental Health Act (Northern Ireland), 1948; or
 - (b) for his reception into an institution within the meaning of that Act or for placing him under the guardianship of the Northern Ireland Hospitals Authority;
- the Minister may authorise the removal of the patient to Northern Ireland and give any necessary directions for his conveyance to his destination.
- (2) Where a person is removed under this section to Northern Ireland, and is received in pursuance of the arrangements into a mental hospital, he shall, on his reception, be treated for all purposes as having been so received in pursuance of a judicial order made under Part II of the Mental Health Act (Northern Ireland), 1948, on the date on which he is so received.
- (3) Where a person is removed under this section to Northern Ireland, and is received in pursuance of the arrangements into an institution within the meaning of the said Act of 1948, or is placed under the guardianship of the Northern Ireland Hospitals Authority, he shall, on being so received or placed, be treated for all purposes as if he had been so received or placed in pursuance of a judicial order made under Part III of that Act on the date on which he is so received or placed.

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

- (1) If it appears to the Secretary of State, in the case of a patient who is for the time being liable to be detained by virtue of an order or direction under Part V of this Act, not

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being a patient to whom section eighty-five of this Act applies, that it is in the patient's interests to remove him to Northern Ireland and that arrangements have been made—

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

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

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

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

- (3) Where a patient liable to be detained by virtue of a transfer direction and subject to a direction restricting his discharge is removed under this section, he shall, upon being received into such a hospital or institution as aforesaid in pursuance of the arrangements, be treated as if the sentence or order by virtue of which he was detained before the transfer direction was given had been imposed or made by a court in Northern Ireland, and as if—
 - (a) where the patient is received into such a mental hospital as aforesaid, he had been transferred to that hospital under section sixteen of the Prison Act (Northern Ireland) 1953;
 - (b) where he is received into such an institution as aforesaid, he had been transferred to that institution under section V thirty-seven of the said Act of 1948.
- (4) Where a patient who is liable to be detained by virtue of a direction under section seventy-one of this Act is removed under this section, he shall, on his reception into a mental hospital or institution in pursuance of the arrangements, be treated as if he had been ordered by a court in Northern Ireland to be kept in safe custody during the pleasure of the Governor of Northern Ireland in pursuance of section seventeen of the Lunacy (Ireland) Act, 1821, or of section two of the Trial of Lunatics Act, 1883, as the case may be, and as if—
 - (a) where he is received into a mental hospital, an order had been made by or on behalf of the Governor of Northern Ireland for his safe custody in that hospital;

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(b) where he is received into an institution within the meaning of the said Act of 1948, he had been transferred to that institution under section thirty-seven of that Act.

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

87 Removal to England and Wales of patients other than criminal patients

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

(a) a certified patient within the meaning of the Mental Health Act (Northern Ireland), 1948, or

(b) a person declared under Part III of that Act to be a person requiring special care (other than a person to whom section eighty-eight of this Act applies),

that it is in the patient's interests to remove him to England and Wales, and that arrangements have been made for his admission to a hospital or for placing him under guardianship there, the Ministry may authorise his removal to England and Wales, and may give any necessary directions for his conveyance to his destination.

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

(3) Where a patient so removed is received into guardianship in pursuance of such arrangements as aforesaid, this Act shall apply to him as if he had been received into guardianship in pursuance of a guardianship application under the said Part IV accepted on the date on which he is so received.

88 Removal to England and Wales of criminal patients

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

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

(a) if the patient is a person ordered to be kept in custody under section seventeen of the Lunacy (Ireland) Act, 1821, or under section two of the Trial of Lunatics Act, 1883, he shall, on his reception into the hospital in . England and Wales, be treated as if he had been removed to that hospital in pursuance of a direction under section seventy-one of this Act;

(b) in any other case, the patient shall be treated, on his reception into the hospital in England and Wales, as if he had been removed to that hospital in pursuance of a transfer direction under Part V of this Act, and as if a direction restricting his discharge had been given under section seventy-four of this Act;

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

- (3) In this section "criminal lunatic" means a criminal lunatic within the meaning of the Lunacy (Ireland) Act, 1901, or a person detained in a mental hospital or institution within the meaning of the Mental Health Act (Northern Ireland), 1948, in pursuance of an order made by the Governor of Northern Ireland or the Minister of Home Affairs for Northern Ireland under section thirty-seven of that Act, or of directions given by the Ministry of Home Affairs for Northern Ireland under section sixteen of the Prison Act (Northern Ireland), 1953.

Other provisions as to removal

89 Removal of certain patients from Channel Islands and Isle of Man to England and Wales

- (1) The Secretary of State may by warrant direct that any offender found by a court in any of the Channel Islands or in the Isle of Man to be insane or to have been insane at the time of the alleged offence, and ordered to be detained during Her Majesty's pleasure, be removed to a hospital in England and Wales.
- (2) A patient removed under this section shall, on his reception into the hospital in England and Wales, be treated as if he had been removed to that hospital in pursuance of a direction under section seventy-one of this Act.
- (3) The Secretary of State may by warrant direct that any patient removed under this section from any of the Channel Islands or from the Isle of Man be returned to the Island from which he was so removed, there to be dealt with according to law in all respects as if he had not been removed under this section.

90 Removal of alien patients

If it appears to the Secretary of State, in the case of any patient being an alien who is receiving treatment for mental illness as an in-patient—

- (a) in a hospital in England and Wales; or
(b) in a mental hospital or institution within the meaning of the Mental Health (Northern Ireland) Act, 1948,

that proper arrangements have been made for the removal of the patient to a country or territory outside the United Kingdom, the Isle of Man and the Channel Islands and for his care or treatment there, the Secretary of State may by warrant authorise the removal of the patient from the place where he is receiving treatment as aforesaid, and may give such directions as the Secretary of State thinks fit for the conveyance of the patient to his destination in that country or territory and for his detention in any place or on board any ship or aircraft until his arrival at any specified port or place in any such country or territory.

Return of patients absent without leave

91 Persons absent from Scottish institutions

- (1) Where a lunatic, defective, or state mental patient liable to detention under the Lunacy (Scotland) Acts, 1857 to 1913, the Mental Deficiency (Scotland) Acts, 1913 and 1940, the Criminal Lunatics (Scotland) Act, 1935, or the Criminal Justice (Scotland) Act, 1949, in an institution to which this section applies is absent from the institution without leave, he may, not later than the expiration of any period within which he might be retaken in Scotland under the said enactments, be retaken in England or Wales by a mental welfare officer, by any constable or by any person for the time being authorised by or by virtue of any such enactment to apprehend him without warrant and may be returned to that institution by any person so authorised.
- (2) The institutions to which this section applies are mental hospitals, institutions for mental defectives and State Mental Hospitals within the meaning of the enactments specified in the foregoing subsection, and private asylums licensed thereunder.

92 Patients absent from Northern Irish institutions

- (1) Any person who, under section sixty-three of the Mental Health Act (Northern Ireland), 1948 (which provides for the retaking of patients absent without leave), is liable to be retaken in Northern Ireland may, within the period within which he might be so retaken, be taken into custody in England or Wales by a mental welfare officer, by any constable or by any person for the time being authorised by or by virtue of that section to retake him, and may be returned by any person so authorised to any hospital, institution or place to which he could lawfully be returned if retaken under that enactment.
- (2) Any person being a criminal lunatic within the meaning of section eighty-eight of this Act who is unlawfully at large in England or Wales may be taken into custody in England or Wales by a mental welfare officer, by any constable or by any person authorised by subsection (1) of section thirty-eight of the Prison Act (Northern Ireland), 1953, to arrest him without warrant, and may be returned by any person so authorised to the place in which he is required by the law in force in Northern Ireland to be detained.

93 Patients absent from hospitals in England and Wales

- (1) Subject to the provisions of this section, any person who, under section forty or section one hundred and forty of this Act or under the said section forty as applied by section forty-six of this Act, may be taken into custody in England and Wales may be taken into custody in, and returned to England and Wales from, any other part of the United Kingdom or the Channel Islands or the Isle of Man.
- (2) For the purposes of the enactments referred to in subsection (1) of this section, in their application by virtue of this section to Scotland, Northern Ireland, the Channel Islands or the Isle of Man, the expression " constable " includes a Scottish' constable, an officer or constable of the Royal Ulster Constabulary, a member of the police in Jersey, an officer of police within the meaning of section forty-three of the Larceny (Guernsey) Law, 1958, or any corresponding law for the time being in force, or a constable in the Isle of Man, as the case may be.

- (3) For the purposes of the said enactments in their application by virtue of this section to Scotland or Northern Ireland, any reference to a mental welfare officer shall be construed as including a reference—
- (a) in Scotland, to any person (other than a constable) who, under the Lunacy (Scotland) Acts, 1857 to 1913, the Mental Deficiency (Scotland) Acts, 1913 and 1940, or the Criminal Lunatics (Scotland) Act, 1935, would have power to apprehend a person absent without leave from an institution to which section ninety-one of this Act applies;
 - (b) in Northern Ireland, to any person (other than a constable) who, under section sixty-three of the Mental Health Act (Northern Ireland) 1948, would be authorised to retake a patient absent without leave from a hospital to which that section applies.
- (4) This section shall not apply to any person who is subject to guardianship.

Supplemental

94 Regulations for purposes of Part VI

Section fifty-six of this Act shall have effect as if references therein to Part IV of this Act included references to this Part of this Act so far as it applies to patients removed to England and Wales thereunder or under subsection (2) of section sixty-four of the Criminal Justice (Scotland) Act, 1949.

95 General provisions as to patients removed from England and Wales

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

96 Interpretation of Part VI

- (1) References in this Part of this Act to a hospital, being a hospital in England and Wales, shall be construed as references to a hospital within the meaning of Part IV of this Act.
- (2) Where a patient is treated by virtue of this Part of this Act as if he had been removed to a hospital in England and Wales in pursuance of a direction under Part V of this Act, that direction shall be deemed to have been given on the date of his reception into the hospital.
- (3) A patient removed to England and Wales under this Part of this Act or under subsection (2) of section sixty-four of the Criminal Justice (Scotland) Act, 1949, shall be treated for the purposes of this Act as suffering from such form of mental disorder as may be recorded in his case in pursuance of regulations made by virtue of section ninety-four of this Act, and references in this Act to the form or forms of mental disorder specified in the relevant application, order or direction shall be construed as including references to the form or forms of mental disorder so recorded.

PART VII

SPECIAL HOSPITALS

97 Provision of institutions for treatment under conditions of special security

- (1) The Minister shall provide such institutions as appear to him to be necessary for persons subject to detention under this Act, being persons who, in the opinion of the Minister, require treatment under conditions of special security on account of their dangerous, violent or criminal propensities.
- (2) The institutions vested in the Minister by subsection (3) of section sixty-two of the Criminal Justice Act, 1948, and by subsection (4) of section forty-nine of the National Health Service Act, 1946, shall be deemed to be institutions provided by the Minister under this section.
- (3) Institutions provided, or deemed to be provided, by the Minister under this section are in this Act referred to as special hospitals.

98 Administrative provisions

- (1) The special hospitals shall be under the control and management of the Minister, and the provisions of Part II of the National Health Service Act, 1946, relating to the local administration of hospital and specialist services shall not apply to those hospitals.
- (2) Subsection (1) of section fifty-eight of the National Health Service Act, 1946 (which enables the Minister to acquire land for the purposes of that Act) shall have effect as if the reference to the purposes of that Act included a reference to the purposes of this Part of this Act and as if the reference to any hospital vested in the Minister included a reference to any special hospital.

99 Transfers to and from special hospitals

- (1) Without prejudice to any other provisions of this Act with respect to the transfer of patients, any patient who is for the time being liable to be detained under this Act in a special hospital may, upon the directions of the Minister, at any time be removed into any other special hospital.
- (2) Without prejudice to any such provision as aforesaid, the Minister may give directions for the transfer of any patient who is for the time being liable to be detained under this Act in a special hospital into a hospital not being a special hospital.
- (3) Subsections (2) and (4) of section forty-one of this Act shall apply in relation to the transfer or removal of a patient under this section as they apply in relation to the transfer or removal of a patient from one hospital to another under that section.

PART VIII

MANAGEMENT OF PROPERTY AND AFFAIRS OF PATIENTS

100 Judicial authorities and Court of Protection

- (1) The Lord Chancellor shall from time to time nominate one or more judges of the Supreme Court (hereinafter referred to as "nominated judges") to act for the purposes of this Part of this Act.
- (2) There shall continue to be an office of the Supreme Court, called the Court of Protection, for the protection and management, as provided by this Part of this Act, of the property of persons under disability; and there shall be a Master and a Deputy Master of the Court of Protection appointed by the Lord Chancellor.
- (3) The Lord Chancellor may nominate other officers of the Court of Protection to act for the purposes of this Part of this Act.
- (4) The functions expressed to be conferred by this Part of this Act on the judge shall be exercisable by the Lord Chancellor or by any nominated judge, and shall also be exercisable by the Master or Deputy Master of the Court of Protection or by any officer nominated under the foregoing subsection, but—
 - (a) in the case of the Master, Deputy Master or any such nominated officer, subject to any express provision to the contrary in this Part of this Act or any rules thereunder,
 - (b) in the case of the Deputy Master or any such nominated officer, subject to any directions of the Master,
 - (c) in the case of any such nominated officer, so far only as may be provided by the instrument by which he is nominated;

and references in this Part of this Act to the judge shall be construed accordingly.

101 Persons within the jurisdiction of the judge: "the patient"

The functions of the judge under this Part of this Act shall be exercisable where, after considering medical evidence, he is satisfied that a person is incapable, by reason of mental disorder, of managing and administering his property and affairs; and a person as to whom the judge is so satisfied is in this Part of this Act referred to as a patient.

102 General functions of the judge with respect to property and affairs of patient

- (1) The judge may, with respect to the property and affairs of a patient, do or secure the doing of all such things as appear necessary or expedient—
 - (a) for the maintenance or other benefit of the patient,
 - (b) for the maintenance or other benefit of members of the patient's family,
 - (c) for making provision for other persons or purposes for whom or which the patient might be expected to provide if he were not mentally disordered, or
 - (d) otherwise for administering the patient's affairs.
- (2) In the exercise of the powers conferred by this section regard shall be had first of all to the requirements of the patient, and the rules of law which restricted the enforcement by a creditor of rights against property under the control of the judge in lunacy shall apply to property under the control of the judge; but subject to the foregoing provisions

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of this subsection the judge shall, in administering a patient's affairs, have regard to the interests of creditors and also to the desirability of making provision for obligations of the patient notwithstanding that they may not be legally enforceable.

103 Powers of the judge as to patient's property and affairs

- (1) Without prejudice to the generality of the foregoing section, the judge shall have power to make such orders and give such directions and authorities as he thinks fit for the purposes of that section, and in particular may for those purposes make orders or give directions or authorities for—
- (a) the control (with or without the transfer or vesting of property or the payment into or lodgment in court of money or securities) and management of any property of the patient;
 - (b) the sale, exchange, charging or other disposition of or dealing with any property of the patient;
 - (c) the acquisition of any property in the name or on behalf of the patient;
 - (d) the settlement of any property of the patient, or the gift of any property of the patient to any such persons or for any such purposes as are mentioned in paragraphs (b) and (c) of subsection (1) of the foregoing section, so however that in such cases as a nominated judge may direct the powers conferred by this paragraph shall not be exercisable except by the Lord Chancellor or a nominated judge;
 - (e) the carrying on by a suitable person of any profession, trade or business of the patient;
 - (f) the dissolution of a partnership of which the patient is a member;
 - (g) the carrying out of any contract entered into by the patient;
 - (h) the conduct of legal proceedings in the name of the patient or on his behalf, so however that an order, direction or authority to present a petition in the name or on behalf of the patient for divorce or nullity of marriage, for presumption of death and dissolution of marriage, or for judicial separation shall be made or given only by the Lord Chancellor or a nominated judge;
 - (i) the reimbursement out of the property of the patient, with or without interest, of money applied by any person either in payment of the patient's debts (whether legally enforceable or not) or for the maintenance or other benefit of the patient or members of his family or in making provision for other persons or purposes for whom or which he might be expected to provide if he were not mentally disordered ;
 - (j) the exercise of any power (including a power to consent) vested in the patient, whether beneficially, or as guardian or trustee, or otherwise, so however that the powers of a patient as patron of a benefice shall be exercisable by the Lord Chancellor only.
- (2) If under the foregoing subsection provision is made for the settlement of any property of a patient, or the exercise of a power vested in a patient of appointing trustees or retiring from a trust, the judge may also make as respects the property settled or trust property such consequential vesting or other orders as the case may require, including (in the case of the exercise of such a power as aforesaid) any order which could have been made in such a case under Part IV of the Trustee Act, 1925.
- (3) The power of the judge to provide for the settlement of the property of a patient shall not be exercisable at any time when the patient is an infant.

- (4) Where under this section a settlement has been made of any property of a patient, and the Lord Chancellor or a nominated judge is satisfied, at any time before the death of the patient, that any material fact was not disclosed when the settlement was made, or that there has been any substantial change in circumstances, he may by order vary the settlement in such manner as he thinks fit, and give any consequential directions.

104 Judge's powers in cases of emergency

Where it is represented to the judge, and he has reason to believe, that a person may be incapable, by reason of mental disorder, of managing and administering his property and affairs, and the judge is of opinion that it is necessary to make immediate provision for any of the matters referred to in section one hundred and two of this Act, then pending the determination of the question whether the said person is incapable as aforesaid the judge may exercise in relation to the property and affairs of that person any of the powers conferred on him in relation to the property and affairs of a patient by this Part of this Act so far as is requisite for enabling that provision to be made.

105 Power to appoint receiver

- (1) The judge may by order appoint as receiver for a patient a person specified in the order or the holder for the time being of an office so specified; and the receiver shall do all such things in relation to the property and affairs of the patient as the judge, in the exercise of the powers conferred on him by sections one hundred and two and one hundred and three of this Act, orders or directs him to do and may do any such thing in relation thereto as the judge, in the exercise of those powers, authorises him to do.
- (2) A receiver appointed for any person shall be discharged by order of the judge on the judge being satisfied that that person has become capable of managing and administering his property and affairs, and may be discharged by order of the judge at any time if the judge considers it expedient to do so and a receiver shall be discharged (without any order) on the death of the patient.

106 Vesting of stock in curator appointed outside England and Wales

- (1) Where the judge is satisfied—
- (a) that under the law prevailing in a place outside England and Wales a person has been appointed to exercise powers with respect to the property or affairs of any other person on the ground (however formulated) that that other person is incapable, by reason of mental disorder, of managing and administering his property and affairs, and
 - (b) that having regard to the nature of the appointment and to the circumstances of the case it is expedient that the judge should exercise his powers under this section,
- the judge may direct any stock standing in the name of the said other person or the right to receive the dividends thereof to be transferred into the name of the person so appointed or otherwise dealt with as requested by that person, and may give such directions as the judge thinks fit for dealing with accrued dividends thereof.
- (2) In this section " stock " includes shares and also any fund, annuity or security transferable in the books kept by any body corporate or unincorporated company or society, or by an instrument of transfer either alone or accompanied by other formalities, and " dividends " shall be construed accordingly.

107 Preservation of interests in patient's property

- (1) Where any property of a person has been disposed of under this Part of this Act, and under his will or any codicil thereto or his intestacy, or by any gift perfected or nomination taking effect on his death, any other person would have taken an interest in the property but for the disposal, he shall take the like interest, if and so far as circumstances allow, in any property belonging to the estate of the deceased which represents the property disposed of; and if the property disposed of was real property any property representing it shall so long as it remains part of his estate be treated as if it were real property.
- (2) The judge, in ordering, directing or authorising under this Part of this Act any disposal of property which apart from this section would result in the conversion of personal property into real property, may direct that the property representing the property disposed of shall, so long as it remains the property of the patient or forms part of his estate, be treated as if it were personal property.
- (3) In the foregoing subsections references to the disposal of property are references to the sale, exchange, charging or other dealing with property other than money, the removal of property from one place to another, the application of money in acquiring property or the transfer of money from one account to another, and references to property representing property disposed of shall be construed accordingly and as including the result of successive disposals.
- (4) The judge may give such directions as appear to him necessary or expedient for the purpose of facilitating the operation of subsection (1) of this section, including the carrying of money to a separate account and the transfer of property other than money.
- (5) Where the judge has ordered, directed or authorised the expenditure of money for the carrying out of permanent improvements on, or otherwise for the permanent benefit of, any property of the patient, he may order that the whole or any part of the money expended or to be expended shall be a charge upon the property, whether without interest or with interest at a specified rate; and—
 - (a) a charge under this subsection may be made in favour of such person as may be just, and in particular, where the money charged is paid out of the patient's general estate, may be made in favour of a person as trustee for the patient;
 - (b) an order under this subsection may provide for excluding or restricting the operation of subsection (1) of this section:

Provided that a charge created under this subsection shall not confer any right of sale or foreclosure during the lifetime of the patient.

108 Lord Chancellor's Visitors

- (1) There shall continue to be Medical and Legal Visitors of patients, appointed by the Lord Chancellor, and the Visitors shall be known as the Lord Chancellor's Visitors.
- (2) As respects appointments of Lord Chancellor's Visitors made after the commencement of this Act, the concurrence of the Treasury shall be required as to numbers.
- (3) A person shall not be qualified to be appointed a Medical Visitor unless he is a medical practitioner who appears to the Lord Chancellor to have special knowledge and experience of cases of mental disorder.

- (4) Subsection (3) of section one hundred and sixteen of the Supreme Court of Judicature (Consolidation) Act, 1925 (which precludes the appointment as deputy in any office of the Supreme Court of a person who is not qualified for appointment to that office) shall not prevent a person who has previously held an appointment as Medical Visitor or as Legal Visitor being appointed as deputy for a Medical Visitor or, as the case may be, a Legal Visitor.
- (5) The Lord Chancellor may, with the concurrence of the Treasury as to numbers, appoint persons to be clerks and other officers of the Lord Chancellor's Visitors.

109 Functions of Visitors

- (1) It shall be the duty of the Lord Chancellor's Visitors to visit patients in accordance with the directions of the judge for the purpose of investigating matters relating to the capacity of any patient to manage and administer his property and affairs or otherwise relating to the exercise, in relation to him, of the functions of the judge under this Part of this Act; and the Visitors shall make such reports on their visits as the judge may direct.
- (2) A Visitor making a visit under this section may interview the patient in private.
- (3) A Medical Visitor making a visit under this section may carry out in private a medical examination of the patient and may require the production of and inspect any medical records relating to the patient.
- (4) The Master or Deputy Master of the Court of Protection may visit any patient for the purpose mentioned in subsection (1) of this section, and subsection (2) thereof shall have effect accordingly.
- (5) A report made by a Visitor under this section, and information contained in such a report, shall not be disclosed except to the judge and any person authorised by the judge to receive the disclosure.
- (6) If any person discloses any report or information in contravention of the last foregoing subsection, he shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or both.
- (7) In this section references to patients include references to persons alleged to be incapable, by reason of mental disorder, of managing and administering their property and affairs.

110 General powers of the judge with respect to proceedings

- (1) For the purposes of any proceedings before him with respect to persons suffering or alleged to be suffering from mental disorder, the judge shall have the like powers as are vested in the High Court in respect of securing the attendance of witnesses and the production of documents.
- (2) Subject to the provisions of this section, any act or omission in the course of such proceedings as aforesaid which, if occurring in the course of proceedings in the High Court would have been a contempt of the Court, shall be punishable by the judge in any manner in which it could have been punished by the High Court.

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- (3) The foregoing subsection shall not authorise the Master or Deputy Master, or any other officer, of the Court of Protection to exercise any power of attachment or committal, but the Master, Deputy Master or officer may certify any such act or omission to the Lord Chancellor or a nominated judge, and the Lord Chancellor or judge may thereupon inquire into the alleged act or omission and take any such action in relation thereto as he could have taken if the proceedings had been before him.
- (4) Subsections (1) to (4) of section forty-nine of the Supreme Court of Judicature (Consolidation) Act, 1925 (which provides a special procedure for the issue of writs of subpoena ad testificandum and duces tecum so as to be enforceable throughout the United Kingdom) shall apply in relation to proceedings under this Part of this Act with the substitution for references to the High Court of references to the judge and for references to such writs as aforesaid of references to such document as may be prescribed by rules under this Part of this Act for issue by the judge for securing the attendance of witnesses or the production of documents.

111 Appeals

- (1) Subject to and in accordance with rules under this Part of this Act, an appeal shall lie to a nominated judge from any decision of the Master or Deputy Master of the Court of Protection or any officer of the Court of Protection nominated under subsection (3) of section one hundred of this Act.
- (2) The Court of Appeal shall have the like jurisdiction as to appeals from any decision of the Lord Chancellor or from any decision of a nominated judge, whether given in the exercise of his original jurisdiction or on the hearing of an appeal under the foregoing subsection, as they had immediately before the coming into operation of this Part of this Act as to appeals from orders in lunacy made by the Lord Chancellor or any other person having jurisdiction in lunacy, and the provisions of the Supreme Court of Judicature (Consolidation) Act, 1925, relating to appeals shall have effect accordingly.

112 Rules of procedure

- (1) Proceedings before the judge with respect to persons suffering or alleged to be suffering from mental disorder (in this section referred to as " proceedings ") shall be conducted in accordance with the provisions of rules made under this Part of this Act.
- (2) Rules under this Part of this Act may make provision as to the carrying out of preliminary or incidental inquiries, as to the persons by whom and manner in which proceedings may be instituted and carried on, as to the persons who are to be entitled to be notified of, to attend, or to take part in proceedings, as to the evidence which may be authorised or required to be given in proceedings and the manner (whether on oath or otherwise and whether orally or in writing) in which it is to be given, as to the administration of oaths and taking of affidavits for the purposes of proceedings, and as to the enforcement of orders made and directions given in proceedings.
- (3) Without prejudice to the provisions of subsection (1) of section one hundred and ten of this Act, rules under this Part of this Act may make provision for authorising or requiring the attendance and examination of persons suffering or alleged to be suffering from mental disorder, the furnishing of information and the production of documents.

- (4) Rules under this Part of this Act may make provision as to the termination of proceedings, whether on the death or recovery of the person to whom the proceedings relate or otherwise, and for the exercise, pending the termination of the proceedings, of powers exercisable under this Part of this Act in relation to the property or affairs of a patient.
- (5) Rules under this Part of this Act made with the consent of the Treasury may make provision as to the scale of costs, fees and percentages payable in relation to proceedings, and as to the manner in which and funds out of which such costs, fees and percentages are to be paid, may contain provision for charging any percentage upon the estate of the person to whom the proceedings relate and for the payment of costs, fees and percentages within such time after the death of the person to whom the proceedings relate or the termination of the proceedings as may be provided by the rules, and may provide for the remission of fees and percentages.
- (6) A charge upon the estate of a person created by virtue of the foregoing subsection shall not cause any interest of that person in any property to fail or determine or to be prevented from recommencing.
- (7) Rules under this Part of this Act may authorise the making of orders for the payment of costs to or by persons attending, as well as persons taking part in, proceedings.

113 Security and accounts

- (1) Rules under this Part of this Act may make provision as to the giving of security by a receiver and as to the enforcement and discharge of the security.
- (2) It shall be the duty of a receiver to render accounts in accordance with the requirements Of rules under this Part of this Act, as well after his discharge as during his receivership; and rules under this Part of this Act may make provision for the rendering of accounts by persons, not being receivers, ordered, directed or authorised under this Part of this Act to carry out any transaction.

114 General provisions as to rules under Part VIII

- (1) Any power to make rules conferred by this Part of this Act shall be exercisable by the Lord Chancellor.
- (2) Rules under this Part of this Act may contain such incidental and supplemental provisions as appear requisite for the purposes of the rules.

115 Supplementary provisions as to Court of Protection

- (1) The Master of the Court of Protection shall take in the presence of the Lord Chancellor the oath of allegiance and judicial oath; and the Promissory Oaths Act, 1868, shall have effect as if the officers named in the Second Part of the Schedule to that Act included the Master of the Court of Protection.
- (2) A person shall not be qualified for appointment as Deputy Master of the Court of Protection unless at the time of his appointment he is a barrister or solicitor of not less than five years' standing or is an officer of the Court of Protection who for not less than five years (whether continuously or not) has been an officer nominated under subsection (3) of section one hundred of this Act.

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- (3) The Lord Chancellor may, with the concurrence of the Treasury as to numbers, appoint persons to be clerks and other officers of the Court of Protection.

116 Effect and proof of orders, etc.

- (1) Section two hundred and four of the Law of Property Act, 1925 (by which orders of the High Court are made conclusive in favour of purchasers) shall apply in relation to orders made and directions and authorities given, by the judge as it applies in relation to orders of the High Court.
- (2) Office copies of orders made, directions or authorities given, or other instruments issued by the judge and sealed with the official seal of the Court of Protection shall be admissible in all legal proceedings as evidence of the originals without any further proof.

117 Reciprocal arrangements in relation to Scotland and Northern Ireland as to exercise of powers

- (1) This Part of this Act shall apply in relation to the property and affairs in Scotland or Northern Ireland of a patient in relation to whom powers have been exercised under this Part of this Act, or a person as to whom powers are exercisable and have been exercised under section one hundred and four of this Act, as it applies in relation to his property and affairs in England and Wales unless a curator bonis, tutor, judicial factor, committee, receiver or guardian has been appointed for him in Scotland or, as the case may be, Northern Ireland.
- (2) Where under the law in force in Scotland or Northern Ireland with respect to the property and affairs of persons suffering from mental disorder a curator bonis, tutor, judicial factor, committee, receiver or guardian has been appointed for any person, the provisions of that law shall apply in relation to that person's property and affairs in England and Wales unless he is a patient in relation to whom powers have been exercised under this Part of this Act, or a person as to whom powers are exercisable and have been exercised under section one hundred and four of this Act.
- (3) In this section references to property do not include references to land or interests in land:
- Provided that this subsection shall not prevent the receipt of rent or other income arising from land or interests in land.

118 Construction of references in other Acts to judge or authority having jurisdiction under Part VIII

- (1) The functions expressed to be conferred by any enactment not contained in this Part of this Act on the judge having jurisdiction under this Part of this Act shall be exercisable by the Lord Chancellor or by a nominated judge.
- (2) The functions expressed to be conferred by any such enactment on the authority having jurisdiction under this Part of this Act shall, subject to any express provision to the contrary, be exercisable by the Lord Chancellor, a nominated judge, the Master or Deputy Master of the Court of Protection or any officer nominated under subsection (3) of section one hundred of this Act:

Provided that the exercise of those functions by the Deputy Master or any such nominated officer shall be subject to any directions of the Master, and the said functions shall be exercisable by any such nominated officer so far only as may be provided by the instrument by which he is nominated.

- (3) Subject to the provisions of the foregoing subsections,—
- (a) references in any enactment not contained in this Part of this Act to the judge having jurisdiction under this Part of this Act shall be construed as references to the Lord Chancellor or a nominated judge, and
 - (b) references in any such enactment to the authority having jurisdiction under this Part of this Act shall be construed as references to the Lord Chancellor, a nominated judge, the Master or Deputy Master of the Court of Protection or any officer nominated under subsection (3) of section one hundred of this Act.

119 Interpretation of Part VIII

- (1) In this Part of this Act, unless the context otherwise requires,—
- " nominated judge " means a judge nominated in pursuance of subsection (1) of section one hundred of this Act;
 - " patient " has the meaning assigned to it by section one hundred and one of this Act;
 - " property " includes any thing in action, and any interest in real or personal property ;
 - " the judge " shall be construed in accordance with section one hundred of this Act.
- (2) Any power conferred by this Part of this Act to make an order shall be construed as including a power, exercisable in like manner and subject to the like conditions if any, to revoke or vary the order.

120 Modifications of Lunacy Regulation (Ireland) Act, 1871

The provisions of the Lunacy Regulation (Ireland) Act, 1871, described in the Fourth Schedule to this Act (which relate to the management and protection of the property of mentally disordered persons and to the procedure on inquisitions) shall have effect subject to the modifications specified in that Schedule.

121 Repeal of certain enactments in relation to persons within the jurisdiction of the judge

The provisions of the Acts described in the Fifth Schedule to this Act which are specified in the third column of that Schedule, so far as they make special provision for persons suffering from mental disorder, shall cease to have effect in relation to patients and to persons as to whom powers are exercisable and have been exercised under section one hundred and four of this Act.

PART IX

MISCELLANEOUS AND GENERAL

Powers and proceedings of Mental Health Review Tribunals

122 Applications to tribunals

- (1) Where, under any provision of this Act, an application to a Mental Health Review Tribunal is authorised to be made by or in respect of a patient, the application shall be made by notice in writing addressed to the tribunal for the area in which the hospital or nursing home in which the patient is detained is situated or in which the patient, is residing under guardianship, as the case may be.
- (2) Except in such cases and at such times as are expressly provided by this Act, no application shall be made to a Mental Health Review Tribunal by or in respect of a patient; and where, under any provision of this Act, any person is authorised to make an application to such a tribunal within a specified period, not more than one such application shall be made by that person within that period.

123 Powers of tribunals

- (1) Where application is made to a Mental Health Review Tribunal by or in respect of a patient who is liable to be detained under this Act, the tribunal may in any case direct that the patient be discharged, and shall so direct if they are satisfied—
 - (a) that he is not then suffering from mental illness, psychopathic disorder, subnormality or severe sub-normality ; or
 - (b) that it is not necessary in the interests of the patient's health or safety or for the protection of other persons that the patient should continue to be liable to be detained; or
 - (c) in the case of an application under subsection (3) of section forty-four or subsection (3) of section forty-eight of this Act, that the patient, if released, would not be likely to act in a manner dangerous to other persons or to himself.
- (2) Where application is made to a Mental Health Review Tribunal by or in respect of a patient who is subject to guardianship under this Act, the tribunal may in any case direct that the patient be discharged, and shall so direct if they are satisfied—
 - (a) that he is not then suffering from mental illness, psychopathic disorder, subnormality or severe sub-normality ; or
 - (b) that it is not necessary in the interests of the patient, or for the protection of other persons, that the patient should remain under such guardianship.
- (3) Where application is made to a Mental Health Review Tribunal under any provision of this Act by or in respect of a patient and the tribunal do not direct that the patient be discharged, the tribunal may, if satisfied that the patient is suffering from a form of mental disorder other than the form specified in the relevant application, order or direction, direct that that application, order or direction be amended by substituting for the form of mental disorder specified therein such other form of mental disorder as appears to the tribunal to be appropriate.
- (4) This section applies in relation to any reference to a Mental Health Review Tribunal made by the Minister under section fifty-seven of this Act as it applies in relation to

an application made to such tribunal by or in respect of a patient, but does not apply in relation to any reference by the Secretary of State under subsection (6) of section sixty-six of this Act.

124 Rules as to procedure

- (1) The Lord Chancellor may make rules with respect to the making of applications to Mental Health Review Tribunals, and with respect to the proceedings of such tribunals and matters incidental to or consequential on such proceedings.
- (2) Rules made under this section may in particular make provision—
 - (a) for enabling a tribunal, or the chairman of a tribunal, to postpone the consideration of any application by or in respect of a patient, or of any such application of any specified class, until the expiration of such period (not exceeding twelve months) as may be specified in the rules from the date on which an application by or in respect of the same patient was last considered and determined by that or any other tribunal under this Act;
 - (b) for the transfer of proceedings from one tribunal to another in any case where, after the making of the application, the patient is removed out of the area of the tribunal to which it was made ;
 - (c) for restricting the persons qualified to serve as members of a tribunal for the consideration of any application, or of an application of any specified class;
 - (d) for enabling a tribunal to dispose of an application without a formal hearing where such a hearing is not requested by the applicant or it appears to the tribunal that such a hearing would be detrimental to the health of the patient;
 - (e) for enabling a tribunal to exclude members of the public, or any specified class of members of the public, from any proceedings of the tribunal, or to prohibit the publication of reports of any such proceedings or the names of any persons concerned in such proceedings ;
 - (f) for regulating the circumstances in which, and the persons by whom, applicants and patients in respect of whom applications are made to a tribunal may, if not desiring to conduct their own case, be represented for the purposes of those applications ;
 - (g) for regulating the methods by which information relevant to an application may be obtained by or furnished to the tribunal, and in particular for authorising the members of a tribunal, or any one or more of them, to visit and interview in private any patient by or in, respect of whom an application has been made;
 - (h) for making available to any applicant, and to any patient in respect of whom an application is made to a tribunal, copies of any documents obtained by or furnished to the tribunal in connection with the application, and a statement of the substance of any oral information so obtained or furnished except where the tribunal considers it undesirable in the interests of the patient or for other special reasons;
 - (i) for requiring a tribunal, if so requested in accordance with the rules, to furnish such statements of the reasons for any decision given by the tribunal as may be prescribed by the rules, subject to any provision made by the rules for withholding such a statement from a patient or any other person in cases where the tribunal considers that furnishing it would be undesirable in the interests of the patient or for other special reasons;

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- (j) for conferring on the tribunals such ancillary powers as the Lord Chancellor thinks necessary for the purposes of the exercise of their functions under this Act.
- (3) The foregoing provisions of this section apply in relation to references to Mental Health Review Tribunals as they apply in relation to applications to such tribunals by or in respect of patients.
- (4) Rules under this section may be so framed as to apply to all applications or references or to applications or references of any specified class and may make different provision in relation to different cases.
- (5) A Mental Health Review Tribunal may, and if so required by the High Court shall, state in the form of a special case for determination by the High Court any question of law which may arise before them.
- (6) The Arbitration Act, 1950, shall not apply to any proceedings before a Mental Health Review Tribunal except so far as any provisions of that Act may be applied, with or without modifications, by rules made under this section.

Offences

125 Forgery, false statements, etc.

- (1) Any person who, with intent to deceive, forges any of the following documents, that is to say,—
 - (a) any application under Part IV of this Act;
 - (b) any medical recommendation or report under this Act; or
 - (c) any other document required or authorised to be made for any of the purposes of this Act,
 or who uses, allows another person to use or makes or has in his possession any such document which he knows to have been forged or any document so closely resembling any such document as to be calculated to deceive, shall be guilty of an offence.
- (2) Any person who wilfully makes a false entry or statement in any application, recommendation, report, record or other document required or authorised to be made for any of the purposes of this Act or, with intent to deceive, makes use of any such entry or statement which he knows to be false, shall be guilty of an offence.
- (3) Any person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both", or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (4) In this section " forge " has the same meaning as in the Forgery Act, 1913.

126 Ill-treatment of patients

- (1) It shall be an offence for any person being an officer on the staff of or otherwise employed in, or being one of the managers of, a hospital or mental nursing home—
 - (a) to ill-treat or wilfully neglect a patient for the time being receiving treatment for mental disorder as an in-patient in that hospital or home ; or

- (b) to ill-treat or wilfully neglect, on the premises of which the hospital or home forms part, a patient for the time being receiving such treatment there as an out-patient.
- (2) It shall be an offence for any individual to ill-treat or wilfully neglect a mentally disordered patient who is for the time being subject to his guardianship under this Act or otherwise in his custody or care (whether by virtue of any legal or moral obligation or otherwise).
- (3) Any person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both ;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (4) No proceedings shall be instituted for an offence under this section except by or with the consent of the Director of Public Prosecutions.

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:—

“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) An order under section thirty-eight of the said Act made on conviction of an offence against a girl under the age of twenty-one who is a defective within the meaning of that Act may, so far as it has effect for any of the purposes of this Act, be rescinded under that section either before or after the girl has attained that age.

128 Sexual intercourse with patients

- (1) Without prejudice to section seven of the 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

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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 this Act or is otherwise in his custody or care under this Act or in pursuance of arrangements under the National Health Service Act, 1946, or Part III of the National Assistance Act, 1948, or as a resident in a residential home for mentally disordered persons within the meaning of Part III of this Act.
- (2) It shall not be an offence under this section for a man to have sexual intercourse with a woman if he does not know and has no reason to suspect her to be a 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.
 - (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 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.

129 Assisting patients to absent themselves without leave, etc.

- (1) Any person who induces or knowingly assists any other person—
 - (a) being liable to be detained in a hospital within the meaning of Part IV of this Act, or being subject to guardianship under this Act, to absent himself without leave; or
 - (b) being in legal custody by virtue of section one hundred and thirty-nine of this Act, to escape from such custody;
 shall be guilty of an offence.
- (2) Any person who knowingly harbours a patient who is absent without leave or is otherwise at large and liable to be retaken under this Act, or gives him any assistance with intent to prevent, hinder or interfere with his being taken into custody or returned to the hospital or other place where he ought to be, shall be guilty of an offence.
- (3) Any person guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both ;
 - (b) on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or to both.

130 Obstruction

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

- (2) Without prejudice to the generality of the foregoing subsection, any person who insists on being present when requested to withdraw by a person authorised as aforesaid to interview or examine a person in private, shall be guilty of an offence.
- (3) Any person guilty of an offence under this section shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds, or to both.

131 Prosecutions by local authorities

- (1) A local health 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) In relation to an offence under section one hundred and thirty of this Act in connection with the inspection of any premises, or the visiting, interviewing or examination of any patient, by a person authorised in that behalf by a registration authority within the meaning of Part III of this Act, subsection (1) of this section shall have effect as if the reference to a local health authority included a reference to that authority.

Miscellaneous provisions

132 Notification of hospitals having arrangements for reception of urgent cases

It shall be the duty of every Regional Hospital Board to give notice to every local health authority for an area wholly or partly comprised within the area of the Board specifying the hospital or hospitals administered by the Board in which arrangements are from time to time in force for the reception, in case of special urgency, of patients requiring treatment for mental disorder.

133 Provision of pocket money for in-patients in hospital

- (1) The Minister may pay to persons who are receiving treatment as in-patients (whether liable to be detained or not) in special hospitals or other hospitals, being hospitals wholly or mainly used for the treatment of persons suffering from mental disorder, such amounts as he thinks fit in respect of their occasional personal expenses where it appears to him that they would otherwise be without resources to meet those expenses.
- (2) For the purposes of the National Health Service Act, 1946, the making of payments under this section to persons for whom hospital and specialist services are provided under Part II of that Act shall be treated as included among those services.
- (3) In the application of this section to Scotland—
 - (a) for any reference to the Minister there shall be substituted a reference to the Secretary of State;
 - (b) for the words from " special hospitals " to " mental disorder " there shall be substituted the words " institutions to which section ninety-one of this Act applies ";
 - (c) for the reference to the National Health Service Act, 1946, there shall be substituted a reference to the National Health Service (Scotland) Act, 1947.

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

134 Correspondence of patients not subject to detention

- (1) Section thirty-six of this Act shall apply in relation to any patient who is receiving treatment for mental disorder in a hospital or mental nursing home, having been admitted for that purpose but not being liable to be detained therein, as it applies in relation to a patient detained in a hospital under Part IV of this Act.
- (2) In relation to any patient to whom it applies by virtue of this section, the said section thirty-six shall have effect as if for any reference to the responsible medical officer there were substituted a reference to the medical practitioner in charge of the treatment of the patient.

135 Warrant to search for and remove patients

- (1) If it appears to a justice of the peace, on information on oath laid by a mental welfare officer, that there is reasonable cause to suspect that a person believed to be suffering from mental disorder—
 - (a) has been, or is being, ill-treated, neglected or kept otherwise than under proper control, in any place within the jurisdiction of the justice, or
 - (b) being unable to care for himself, is living alone in any such place,the justice may issue a warrant authorising any constable named therein to enter, if need be by force, any premises specified in the warrant in which that person is believed to be, and, if thought fit, to remove him to a place of safety with a view to the making of an application in respect of him under Part IV of this Act, or of other arrangements for his treatment or care.
- (2) If it appears to a justice of the peace, on information on oath laid by any constable or other person who is authorised by or under this Act to take a patient to any place, or to take into custody or retake a patient who is liable under this Act to be so taken or retaken,—
 - (a) that there is reasonable cause to believe that the patient is to be found on premises within the jurisdiction of the justice; and
 - (b) that admission to the premises has been refused or that a refusal of such admission is apprehended,the justice may issue a warrant authorising any constable named therein to enter the premises, if need be by force, and remove the patient.
- (3) A patient who is removed to a place of safety in the execution of a warrant issued under this section may be detained there for a period not exceeding seventy-two hours.
- (4) In the execution" of a warrant issued under subsection (1) of this section, the constable to whom it is addressed shall be accompanied by a mental welfare officer and by a medical practitioner, and in the execution of a warrant issued under subsection (2) of this section the constable to whom it is addressed may be accompanied—
 - (a) by a medical practitioner;
 - (b) by any person authorised by or under this Act to take or retake the patient.
- (5) It shall not be necessary in any information or warrant under subsection (1) of this section to name the patient concerned.
- (6) In this section " place of safety" means residential accommodation provided by a local authority under Part III of the National Health Service Act, 1946, or under Part III of the National Assistance Act, 1948, a hospital as defined by this Act, a police station, a

mental nursing home or residential home for mentally disordered persons or any other suitable place the occupier of which is willing temporarily to receive the patient.

136 Mentally disordered persons found in public places

- (1) If a constable finds in a place to which the public have access a person who appears to him to be suffering from mental disorder and to be in immediate need of care or control, the constable may, if he thinks it necessary to do so in the interests of that person or for the protection of other persons, remove that person to a place of safety within the meaning of the last foregoing section.
- (2) A person removed to a place of safety under this section may be detained there for a period not exceeding seventy-two hours for the purpose of enabling him to be examined by a medical practitioner and to be interviewed by a mental welfare officer and of making any necessary arrangements for his treatment or care.

137 Amendment of provisions as to members of Parliament

- (1) The following provisions shall have effect in substitution for the provisions of the Lunacy (Vacating of Seats) Act, 1886.
- (2) Where a member of the House of Commons is authorised to be detained on the ground (however formulated) that he is suffering from mental illness, it shall be the duty of the court, authority or person on whose order or application, and of any medical practitioner upon whose recommendation or certificate, the detention was authorised, and of the person in charge of the hospital or other place in which the member is authorised to be detained, to notify the Speaker of the House of Commons that the detention has been authorised.
- (3) Where the Speaker receives a notification under the foregoing subsection, or is notified by two members of the House of Commons that they are credibly informed that such an authorisation has been given, the Speaker shall cause the member to whom the notification relates to be visited and examined by two medical practitioners appointed as follows, that is to say—
 - (a) where the member is to be visited in England and Wales or in Northern Ireland, by the President of the Royal College of Physicians of London ;
 - (b) where the member is to be visited in Scotland, by the President of the Royal College of Physicians of Edinburgh and the President of the Royal Faculty of Physicians and Surgeons of Glasgow, acting jointly,being in either case practitioners appearing to the President or Presidents to have special experience in the diagnosis or treatment of mental disorders; and the medical practitioners so appointed shall report to the Speaker whether the member is suffering from mental illness and is authorised to be detained as such.
- (4) If the report is to the effect that the member is suffering from mental illness and authorised to be detained as aforesaid, the Speaker shall at the expiration of six months from the date of the report, if the House is then sitting, and otherwise as soon as may be after the House next sits, again cause the member to be visited and examined by two such medical practitioners as aforesaid, and the medical practitioners shall report as aforesaid.
- (5) If the second report is that the member is suffering from mental illness and authorised to be detained as aforesaid, the Speaker shall forthwith lay both reports before the House of Commons, and thereupon the seat of the member shall become vacant.

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

- (6) This section shall apply in relation to the House of Commons of Northern Ireland as it applies in relation to the House of Commons and references therein to the Speaker shall be construed accordingly.

138 Pay, pensions, etc., of mentally disordered persons

- (1) Where a periodic payment falls to be made to any person by way of pay or pension or otherwise in connection with the service or employment of that or any other person, and the payment falls to be made directly out of moneys provided by Parliament or the Consolidated Fund, or other moneys administered by or under the control or supervision of a Government department, the authority by whom the sum in question is payable, if satisfied after considering medical evidence that the person to whom it is payable (hereinafter referred to as "the patient") is incapable by reason of mental disorder of managing and administering his property and affairs, may, instead of paying the-sum to the patient, apply it in accordance with the next following subsection.
- (2) The authority may pay the sum or such part thereof as they think fit to the institution or person having the care of the patient, to be applied for his benefit, and may pay the remainder (if any) or such part thereof as they think fit—
- (a) to or for the benefit of persons who appear to the authority to be members of the patient's family or other persons for whom the patient might be expected to provide if he were not mentally disordered, or
 - (b) in reimbursement, with or without interest, of money applied by any person either in payment of the patient's debts (whether legally enforceable or not) or for the maintenance or other benefit of the patient or such persons as are mentioned in the foregoing paragraph.
- (3) In this section "Government department" does not include a department of the Government of Northern Ireland.

Supplemental

139 Provisions as to custody, conveyance and detention

- (1) Any person required or authorised by or by virtue of this Act to be conveyed to any place or to be kept in custody or detained in a place of safety or at any place to which he is taken under subsection (5) of section sixty-six of this Act shall, while being so conveyed, detained or kept, as the case may be, be deemed to be in legal custody.
- (2) A constable or any other person required or authorised by or by virtue of this Act to take any person into custody, or to convey or detain any person shall, for the purposes of taking him into custody or conveying or detaining him, have all the powers, authorities, protection and privileges which a constable has within the area for which he acts as constable.
- (3) In this section "convey" includes any other expression denoting removal from one place to another.

140 Retaking of patients escaping from custody

- (1) If any person being in legal custody by virtue of section one hundred and thirty-nine of this Act escapes, he may, subject to the provisions of this section, be retaken—
 - (a) in any case, by the person who had his custody immediately before the escape, or by any constable or menial welfare officer;
 - (b) if at the time of the escape he was liable to be detained in a hospital within the meaning of Part IV of this Act, or subject to guardianship under this Act, by any other person who could take him into custody under section forty of this Act if he had absented himself without leave.
- (2) A person who escapes as aforesaid when liable to be detained or subject to guardianship as mentioned in paragraph (b) of the foregoing subsection (not being a person subject to an order under Part V of this Act restricting his discharge or an order or direction having the like effect as such an order) shall not be retaken under this section after the expiration of the period within which he could be retaken under section forty of this Act if he had absented himself without leave on the day of the escape; and subsection (3) of the said section forty shall apply with the necessary modifications accordingly.
- (3) A person who escapes while being taken to or detained in a place of safety under section one hundred and thirty-five or section one hundred and thirty-six of this Act shall not be retaken under this section after the expiration of the period of seventy-two hours beginning with the time when he escapes or the period during which he is liable to be so detained, whichever expires first.
- (4) This section, so far as it relates to the escape of a person liable to be detained in a hospital within the meaning of Part IV of this Act, shall apply in relation to a person who escapes—
 - (a) while being taken to or from such a hospital in pursuance of regulations under section forty-one of this Act, or of any order, direction or authorisation under Parts V to VII of this Act; or
 - (b) while being taken to or detained in a place of safety in pursuance of an order under Part V of this Act pending his admission to such a hospital,as if he were liable to be detained in that hospital and, if he had not previously been received therein, as if he had been so received.
- (5) In computing for the purposes of sections sixty-three and sixty-four of this Act the period of twenty-eight days therein, mentioned, no account shall be taken of any time during which the patient is at large and liable to be retaken by virtue of this section.
- (6) Section forty-five of this Act shall, with any necessary modifications, apply in relation to a patient who is at large and liable to be retaken by virtue of this section as it applies in relation to a patient who is absent without leave within the meaning of section forty of this Act, and references therein to the said section forty shall be construed accordingly.

141 Protection for acts done in pursuance of this Act

- (1) No person shall be liable, whether on the ground of want of jurisdiction or on any other ground, to any civil or criminal proceedings to which he would have been liable apart from this section in respect of any act purporting to be done in pursuance of this Act or any regulations or rules thereunder, or in, or in pursuance of anything done in, the discharge of functions conferred by any other enactment on the authority having

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jurisdiction under Part VIII of this Act, unless the act was done in bad faith or without reasonable care.

- (2) No civil or criminal proceedings shall be brought against any person in any court in respect of any such act without the leave of the High Court, and the High Court shall not give leave under this section unless satisfied that there is substantial ground for the contention that the person to be proceeded against has acted in bad faith or without reasonable care.
- (3) This section does not apply to proceedings for an offence under this Act, being proceedings which, under any provision of this Act, can be instituted only by or with the consent of the Director of Public Prosecutions.
- (4) In this section, references to the High Court shall be construed, in relation to Northern Ireland, as references to a judge of the High Court of Northern Ireland,

142 Default powers of Minister

- (1) Where the Minister is of opinion, on complaint or otherwise, that a local health authority have failed to carry out functions conferred or imposed on the 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 section fifty-seven of the National Health Service Act, 1946 (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.

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 subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933, 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.

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) any sums required for the payment of fees and expenses to medical practitioners acting in relation to a member of the House of Commons under section one hundred and thirty-seven of this Act;
 - (c) any increase attributable to this Act in the sums payable out of moneys provided by Parliament under any other enactment.
- (2) Any sums required for the payment of fees and expenses to medical practitioners acting in relation to a member of the House of Commons of Northern Ireland under section one hundred and thirty-seven of this Act shall be defrayed in such manner as may be provided by the Parliament of Northern Ireland.

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) Any Order in Council under this Act and any statutory instrument containing regulations or rules made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

146 Warrants of Secretary of State

Any warrant of a Secretary of State under this Act shall be given under the hand of the Secretary of State or of an Under Secretary of State.

147 Interpretation

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

" absent without leave " has the meaning assigned to it by section forty of this Act;

" direction restricting discharge " has the meaning assigned to it by section seventy-four of this Act;

" hospital " means—

- (a) any hospital vested in the Minister under the National Health Service Act, 1946;
- (b) any accommodation provided by a local authority and used for hospital and specialist services under Part II of that Act; and
- (c) any special hospital;

and " hospital within the meaning of Part IV of this Act " has the meaning assigned to it by subsection (2) of section fifty-nine of this Act;

" hospital order " and " guardianship order " have the meanings respectively assigned to them by section sixty of this Act;

" local health authority " has the same meaning as in the National Health Service Act, 1946, and includes a joint board constituted under section nineteen of that Act;

" the managers " has the meaning assigned to it by Part IV of this Act;

" medical practitioner " means a registered medical practitioner within the meaning of the Medical Act, 1956;

" medical treatment " includes nursing, and also includes care and training under medical supervision ;

" mental nursing home " has the meaning assigned to it in Part III of this Act;

" mental welfare officer " means an officer of a local health authority appointed to act as mental welfare officer for the purposes of this Act;

" Minister " means the Minister of Health;

" nearest relative ", in relation to a patient, has the meaning assigned to it in Part IV of this Act; ;

" order restricting discharge " has the meaning assigned to it by section sixty-five of this Act;

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" patient " (except in Part VIII of this Act) means a person suffering or appearing to be suffering from mental disorder;

" special hospital " has the meaning assigned to it in Part VII of this Act;

" transfer direction " has the meaning assigned to it by section seventy-two of this Act.

- (2) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Act.
- (3) Without prejudice to the last foregoing subsection, any reference in this Act to an enactment of the Parliament of Northern Ireland, or to an enactment which that Parliament has power to amend, shall be construed, in relation to Northern Ireland, as a reference to that enactment as amended by any Act of that Parliament, whether passed before or after this Act.
- (4) In relation to a person who is liable to be detained or subject to guardianship by virtue of an order or direction under Part V of this Act, any reference in this Act to any enactment contained in Part IV of this Act shall be construed as a reference to that enactment as it applies to that person by virtue of the said Part V.
- (5) For the purposes of this Act a person shall be deemed not to have attained the age of sixteen, twenty-one or twenty-five years, as the case may be, until the commencement of the sixteenth, twenty-first or twenty-fifth anniversary of the date of his birth.

148 Transitional provisions

- (1) The transitional provisions set out in the Sixth Schedule to this Act shall have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of this Act.
- (2) For the purposes of Part III of the said Sixth Schedule, an order sending a person to an institution or placing a person under guardianship, made before the ninth day of March, nineteen hundred and fifty-six, on a petition presented under the Mental Deficiency Act, 1913, shall be deemed to be valid notwithstanding that that person may not have been found neglected within the meaning of section two of that Act when that order was made if—
 - (a) that order has been continued, at any time after that date, by order made by the Board of Control under section eleven of that Act after consideration of the reports and certificate required by that section; or
 - (b) the period for which that order was in force on the said date has not expired before the commencement of this Act, but the Board, after considering a report by a medical practitioner qualified to make a special report under the said section eleven, have determined that the patient is not a proper person to be discharged.

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) The enactments described in the Eighth Schedule to this Act (which include certain obsolete enactments relating to persons of unsound mind) are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Her Majesty may by Order in Council repeal or amend any local enactment so far as appears to Her Majesty to be necessary in consequence of any provision of this Act.
- (4) The repeal by this Act of the Mental Treatment Act, 1930, shall not affect any amendment effected by section twenty of that Act in any enactment not repealed by this Act.
- (5) The repeal by this Act of the provisions of the Lunacy Act, 1890, and of the Mental Deficiency Act, 1913, relating to the superannuation of officers or employees shall not affect any arrangements for the payment of allowances or other benefits made in accordance with those provisions and in force at the commencement of this Act.

150 Application to Scotland

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

- subsection (5) of section three;
- section ten;
- subsection (5) of section sixty-six;
- sections eighty-one to eighty-four;
- section ninety-one;
- section ninety-three and, so far as applied by that section, sections forty, forty-six and one hundred and forty;
- subsection (4) of section one hundred and ten;
- section one hundred and seventeen and so much of part VIII as is applied in relation to Scotland by that section;
- section one hundred and twenty-nine except so far as it relates to patients subject to guardianship;
- section one hundred and thirty-three;
- sections one hundred and thirty-seven to one hundred and thirty-nine;
- subsection (1) of section one hundred and forty-one;
- section one hundred and forty-five so far as applicable to any Order in Council extending to Scotland;
- section one hundred and forty-six;
- section one hundred and forty-nine except so far as it relates to the amendments and repeals contained in Part I of the Seventh and Eighth Schedules;
- 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.

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

Notwithstanding any limitation imposed on the powers of the Parliament of Northern Ireland by the Government of Ireland Act, 1920, that Parliament may by any Act re-enacting (with or without modifications) or amending the law in force in Northern

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Ireland with respect to persons suffering from mental disorder make such amendments of the provisions of this Act which extend to Northern Ireland (except section ninety and any provision of Part VIII) as may be necessary for the purpose of bringing the said provisions into conformity with the provisions of that Act.

152 Application to Northern Ireland

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

- subsection (5) of section three ;
- sections eighty-five to eighty-eight;
- section ninety;
- section ninety-two;
- section ninety-three and, so far as applied by that section, sections forty, forty-six and one hundred and forty;
- subsection (4) of section one hundred and ten;
- section one hundred and seventeen and so much of Part VIII as is applied in relation to Northern Ireland by that section;
- section one hundred and twenty;
- section one hundred and twenty-nine, except so far as it relates to patients subject to guardianship;
- sections one hundred and thirty-seven to one hundred and thirty-nine;
- section one hundred and forty-one;
- subsection (2) of section one hundred and forty-four ;
- section one hundred and forty-five so far as applicable to any Order in Council extending to Northern Ireland;
- section one hundred and forty-six;
- section one hundred and forty-nine except so far as it relates to the amendments and repeals contained in Part I of the Seventh and Eighth Schedules ;
- section one hundred and fifty-one ;
- the Fourth Schedule;
- 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 Northern Ireland.

153 Commencement

- (1) This Act (except this section) shall come into operation on such date as the Minister may by order appoint.
- (2) Different dates may be appointed by order under this section for different purposes of this Act; and any reference in any provision of this Act to the commencement of this Act shall, unless otherwise provided by any such order, be construed as a reference to the date on which that provision comes into operation.
- (3) Without prejudice to section thirty-seven of the Interpretation Act, 1889 (which authorises the exercise of statutory powers between the passing and the commencement of an Act conferring them), the following powers, that is to say—

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- (a) the power of the Minister to give directions under subsection (1) of section twenty-eight of the National Health Service Act, 1946, for defining the duties of local health authorities under that section as amended by this Act; and
- (b) the powers of the Minister and of local health authorities with respect to the submission, approval or making of proposals under section twenty of that Act for modifying in the light of such directions the proposals in force at the passing of this Act for the carrying out of the duties of those authorities under the said section twenty-eight,

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

154 Short title and application to Stilly Isles

- (1) This Act may be cited as the Mental Health Act, 1959.
- (2) Subsection (3) of section eighty of the National Health Service Act, 1946 (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.