



Mental Health Act 1959

1959 CHAPTER 72 7 and 8 Eliz 2

PART IX

MISCELLANEOUS AND GENERAL

Modifications etc. (not altering text)

C1 Pt. IX amended by [Local Authority Social Services Act 1970 \(c. 42\)](#), s. 2(1), [Sch. 1](#)

122— F1
124.

Textual Amendments

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to: [Polish Resettlement Act 1947 \(c. 19\)](#), [U.S.A. Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

Offences

125, F2
126.

Textual Amendments

F2 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), [Sch. 7 Part II](#) entries

Status: Point in time view as at 01/02/1991.

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

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to: [Polish Resettlement Act 1947 \(c. 19\)](#), [U.S.A. Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

127 Amendment of Sexual Offences Act, 1956.

(1) The Sexual Offences Act, 1956, shall be amended as follows:—

(a) For section seven there shall be substituted the following section:—

“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) ^{F3}

Textual Amendments

F3 [S. 127\(2\)](#) repealed by [Guardianship Act 1973 \(c. 29\)](#), [Sch. 3](#)

Modifications etc. (not altering text)

C2 The text of s. 127(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

128 Sexual intercourse with patients.

(1) Without prejudice to section seven of the ^{M1}Sexual Offences Act 1956, it shall be an offence, subject to the exception mentioned in this section,—

(a) for a man who is an officer on the staff of or is otherwise employed in, or is one of the managers of, a hospital or mental nursing home to have unlawful sexual intercourse with a woman who is for the time being receiving treatment for mental disorder in that hospital or home, or to have such intercourse on the premises of which the hospital or home forms part with a woman who is for the time being receiving such treatment there as an out-patient;

(b) for a man to have unlawful sexual intercourse with a woman who is a mentally disordered patient and who is subject to his guardianship under [^{F4}the Mental Health Act 1983] or is otherwise in his custody or care under [^{F4}the Mental Health Act 1983] or in pursuance of arrangements under . . . ^{F5}, or Part III of the ^{M2}National Assistance Act 1948, [^{F6}or the ^{M3}National Health Service Act

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1977] or as a resident in a residential [^{F7}care home within the meaning of Part I of the Registered Homes Act 1984]

- (2) It shall not be an offence under this section for a man to have sexual intercourse with a woman if he does not know and has no reason to suspect her to be a mentally disordered patient.
- (3) Any person guilty of an offence under this section shall be liable on conviction on indictment to imprisonment for a term not exceeding two years.
- (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 ^{M4}Sexual Offences Act 1956; and section forty-seven of that Act (which relates to the proof of exceptions) shall apply to the exception mentioned in this section.

Textual Amendments

- F4** Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 4 para. 15](#)
- F5** Words repealed by [National Health Service Act 1977 \(c. 49\)](#), s. 129, [Sch. 16](#)
- F6** Words inserted by [National Health Service Act 1977 \(c. 49\)](#), s. 129, [Sch. 15 para. 29](#)
- F7** Words substituted by [Registered Homes Act 1984 \(c. 23, SIF 113:3\)](#), s. 57, [Sch. 1 para. 2](#)

Marginal Citations

- M1** 1956 c. 69.
- M2** 1948 c. 29.
- M3** 1977 c. 49.
- M4** 1956 c. 69.

129, ^{F8}
130.

Textual Amendments

- F8** Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), [Sch. 7 Part II](#) entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), [U.S.A. Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

131 Prosecutions by local authorities.

- (1) A [^{F9}local social services authority] may institute proceedings for any offence under this Part of this Act, but without prejudice to any provision of this Part of this Act requiring the consent of the Director of Public Prosecutions for the institution of such proceedings.
- (2) ^{F10}

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Textual Amendments

- F9** Words substituted by [Local Government Act 1972 \(c. 70\)](#), **Sch. 23 para. 9(2)**
- F10** [Ss. 44, 77, 78, 131\(2\), 134, 144\(2\), 146, Sch. 7 Part II](#) entry relating to: [Representation of the People Act 1949 \(c. 68\)](#) repealed by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), **Sch. 4 Pt. I**

Miscellaneous provisions

132, **F11**
133.

Textual Amendments

- F11** [Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144\(1\)\(b\), 145\(2\), 147, 148, 149\(3\)–\(5\), 153, Schs. 1, 3, 5, Sch. 7 Pt. I](#) entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), [U.S.A. Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**

134 **F12**

Textual Amendments

- F12** [Ss. 44, 77, 78, 131\(2\), 134, 144\(2\), 146, Sch. 7 Part II](#) entry relating to: [Representation of the People Act 1949 \(c. 68\)](#) repealed by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), **Sch. 4 Pt. I**

135— **F13**
138.

Textual Amendments

- F13** [Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144\(1\)\(b\), 145\(2\), 147, 148, 149\(3\)–\(5\), 153, Schs. 1, 3, 5, Sch. 7 Pt. I](#) entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), [U.S.A. Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**

139— Supplemental

141. **F14**

Textual Amendments

- F14** [Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144\(1\)\(b\), 145\(2\), 147, 148, 149\(3\)–\(5\), 153, Schs. 1, 3, 5, Sch. 7 Pt. I](#) entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries

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

142 Default powers of Minister.

- (1) Where the Minister is of opinion, on complaint or otherwise, that a [^{F15}local social services 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 [^{F16}section 85 of the ^{M5}National Health Service Act 1977] (which relates to orders declaring, among others, a local authority to be in default under that Act) shall apply in relation to an order under this section as they apply in relation to an order under that section.

Textual Amendments

F15 Words substituted by [Local Government Act 1972 \(c. 70\)](#), [Sch. 23 para. 9\(2\)](#)

F16 Words substituted by [National Health Service Act 1977 \(c. 49\)](#), s. 129, [Sch. 15 para. 32](#)

Marginal Citations

M5 [1977 c. 49](#).

143 Inquiries.

The Minister may cause an inquiry to be held in any case where he thinks it advisable to do so in connection with any matter arising under this Act, and [^{F17}subsections (2) to (5) of section 250 of the ^{M6}Local Government Act 1972] shall apply to any inquiry held under this Act, except that no local authority shall be ordered to pay costs under subsection (4) of that section in the case of any inquiry unless the authority is a party thereto.

Textual Amendments

F17 Words substituted by virtue of [Local Government Act 1972 \(c. 70\)](#), [s. 272\(2\)](#)

Modifications etc. (not altering text)

C3 [S. 143](#) extended by [Nursing Homes Act 1975 \(c. 37\)](#), [s. 21](#)

Marginal Citations

M6 [1972 c. 70](#).

144 Expenses.

- (1) There shall be defrayed out of moneys provided by Parliament—
 - (a) any expenses incurred by the Minister or a Secretary of State under this Act;
 - (b)^{F18}
 - (c) any increase attributable to this Act in the sums payable out of moneys provided by Parliament under any other enactment.

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(2) F19

Textual Amendments

- F18** Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the [Fines and Recoveries Act 1983 \(c. 74, SIF 98:3\)](#), **Sch. 7 Part II** entries relating to: [Polish Resettlement Act 1947 \(c. 19\)](#), U.S.A. [Veterans' Pensions \(Administration\) Act 1949 \(c. 45\)](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), **Sch. 6**
- F19** Ss. 44, 77, 78, 131(2), 134, 144(2), 146, Sch. 7 Part II entry relating to: [Representation of the People Act 1949 \(c. 68\)](#) repealed by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), **Sch. 4 Pt. I**

145 General provisions as to regulations, orders and rules.

- (1) Any power of the Minister or the Lord Chancellor to make regulations, orders or rules under this Act shall be exercisable by statutory instrument.
- (2) F20

Textual Amendments

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

146 F21

Textual Amendments

- F21** Ss. 44, 77, 78, 131(2), 134, 144(2), 146, Sch. 7 Part II entry relating to: [Representation of the People Act 1949 \(c. 68\)](#) repealed by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), **Sch. 4 Pt. I**

147, F22
148.

Textual Amendments

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

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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) F23

(3) F24

Textual Amendments

F23 S. 149(2) repealed by Statute Law (Repeals) Act 1974 (c. 22), **Sch. 1 Pt. XI**

F24 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the Fines and Recoveries Act 1983 (c. 74, SIF 98:3), **Sch. 7 Part II** entries relating to: Polish Resettlement Act 1947 (c. 19), U.S.A. Veterans' Pensions (Administration) Act 1949 (c. 45) repealed by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 6**

Modifications etc. (not altering text)

C4 The text of s. 149(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

150 Application to Scotland.

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

..... F25
..... F26

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

..... F26
Part II of the Seventh Schedule;
Part II of the Eighth Schedule;

but except as aforesaid, and except so far as it relates to the interpretation or commencement of the said provisions, this Act shall not extend to Scotland.

Textual Amendments

F25 Words repealed by House of Commons Disqualification Act 1975 (c. 24), **Sch. 3**

F26 Words repealed by Mental Health Act 1983 (c. 20, SIF 85), **Sch. 6**

151 F27

Textual Amendments

F27 S. 151 repealed by Northern Ireland Constitution Act 1973 (c. 36), **Sch. 6 Pt. I**

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

152 Application to Northern Ireland.

.....^{F28}, this Act shall not extend to Northern Ireland.

Textual Amendments

F28 Words repealed by S.I. 1986/595 (N.I. 4), art. 138, **Sch. 7**

153

^{F29}

Textual Amendments

F29 Ss. 1–5, 10, 22, 25–35, 37–43, 45–60, 62–68, 70–76, 80, 81, 89, 90, 92–96, 99–119, 121–126, 129, 130, 132, 133, 135–141, 144(1)(b), 145(2), 147, 148, 149(3)–(5), 153, Schs. 1, 3, 5, Sch. 7 Pt. I entry relating to: ss. 48 and 49 of the **Fines and Recoveries Act 1983** (c. 74, SIF 98:3), **Sch. 7 Part II** entries relating to: **Polish Resettlement Act 1947** (c. 19), **U.S.A. Veterans' Pensions (Administration) Act 1949** (c. 45) repealed by **Mental Health Act 1983** (c. 20, SIF 85), **Sch. 6**

154 Short title and application to Scilly Isles.

- (1) This Act may be cited as the Mental Health Act 1959.
- (2) [^{F30}Section 130(4) of the ^{M7}National Health Service Act 1977] (which provides for the extension of that Act to the Isles of Scilly) shall have effect as if the references to that Act included references to this Act.

Textual Amendments

F30 Words substituted by **National Health Service Act 1977** (c. 49), **s. 129**. Sch. 15 para. 34

Modifications etc. (not altering text)

C5 S. 154(2) extended by **Mental Health (Amendment) Act 1975** (c. 29), **s. 2(4)**

Marginal Citations

M7 1977 c. 49.

Status:

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Changes to legislation:

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