



Mental Health (Amendment) Act 1982

1982 CHAPTER 51

An Act to amend the Mental Health Act 1959 and for connected purposes. [28th October 1982]

Annotations:

Commencement Information

II Act partly in force on 30.9.1983 see [s. 69](#)

PARTS I AND II

1—18. ^{F1}

Annotations:

Amendments (Textual)

F1 [Ss. 1–33](#) and [35–51](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

PART III

PATIENTS CONCERNED IN CRIMINAL PROCEEDINGS ETC.

19— ^{F2}
33.

Annotations:

Amendments (Textual)

F2 [Ss. 1–33](#) and [35–51](#) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Mental Health (Amendment) Act 1982. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Mental condition of persons accused of murder

34 Amendments of Bail Act 1976 etc.

(1) The ^{M1}Bail Act 1976 shall be amended in accordance with subsections (2) to (4) below.

(2) After subsection (6) of section 3 (conditions of bail) there shall be inserted—

“(6A) In the case of a person accused of murder the court granting bail shall, unless it considers that satisfactory reports on his mental condition have already been obtained, impose conditions of bail—

(a) a requirement that the accused shall undergo examination by two medical practitioners for the purpose of enabling such reports to be prepared ; and

(b) a requirement that he shall for that purpose attend such an institution or place as the court directs and comply with any other directions which may be given to him for that purpose by either of those practitioners.

(6B) Of the medical practitioners referred to in subsection (6A) above at least one shall be a practitioner approved for the purpose of section 28 of the Mental Health Act 1959.”

(3) In subsection (7) of that section (obligations of parent or guardian in respect of conditions of bail) for the words “subsection (6) above” there shall be substituted the words “ subsection (6) or (6A) above ”.

(4) In paragraph 8(3) of Schedule 1 (exceptions from restriction of conditions of bail) after the words “shall not” there shall be inserted the words “ apply to the conditions required to be imposed under section 3(6A) of this Act or ”.

(5) Without prejudice to its powers under section 3 of the ^{M2}Costs in Criminal Cases Act 1973, the Crown Court may order the payment out of central funds of such sums as appear to it reasonably sufficient to compensate any medical practitioner for the expenses, trouble or loss of time properly incurred by him in preparing and making a report to the court on the mental condition of a person accused of murder.

Annotations:

Modifications etc. (not altering text)

C1 The text of ss. 34(1)–(4), 64(4) and 65 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.

Marginal Citations

M1 1976 c. 63.

M2 1973 c. 14.

PARTS IV–VI

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Mental Health (Amendment) Act 1982. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Annotations:

Amendments (Textual)

F3 Ss. 1–33 and 35–51 repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

PART VII

MISCELLANEOUS AND SUPPLEMENTARY

51 ^{F4}

Annotations:

Amendments (Textual)

F4 Ss. 1–33 and 35–51 repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

52 Correspondence of patients.

- (1) A postal packet addressed to any person by a patient detained in a hospital under the principal Act or this Act and delivered by the patient for despatch may be withheld from the Post Office—
 - (a) if that person has requested that communications addressed to him by the patient should be withheld; or
 - (b) subject to subsection (3) below, if the hospital is a special hospital and the managers of the hospital consider that the postal packet is likely—
 - (i) to cause distress to the person to whom it is addressed or to any other person (not being a person on the staff of the hospital); or
 - (ii) to cause danger to any person;and any request for the purposes of paragraph (a) above shall be made by a notice in writing given to the managers of the hospital, the medical practitioner in charge of the treatment of the patient or the Secretary of State.
- (2) Subject to subsection (3) below, a postal packet addressed to a patient detained in a special hospital under the principal Act or this Act may be withheld from the patient if, in the opinion of the managers of the hospital, it is necessary to do so in the interests of the safety of the patient or for the protection of other persons.
- (3) Subsections (1)(b) and (2) above do not apply to any postal packet addressed by a patient to, or sent to a patient by or on behalf of—
 - (a) any Minister of the Crown or Member of either house of Parliament
 - (b) the Master or Deputy Master or any other officer of the Court of Protection or any of the Lord Chancellor’s Visitors;
 - (c) the Parliamentary Commissioner for Administration, the Health Service Commissioner for England, the Health Service Commissioner for Wales or a Local Commissioner within the meaning of Part III of the ^{M3}Local Government Act 1974;
 - (d) a Mental Health Review Tribunal;

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- (e) a health authority within the meaning of the ^{M4}National Health Service Act 1977, a local social services authority, a Community Health Council or a probation and after-care committee appointed under paragraph 2 of Schedule 3 to the ^{M5}Powers of Criminal Courts Act 1973;
 - (f) the managers of the hospital in which the patient is detained;
 - (g) any legally qualified person instructed by the patient to act as his legal adviser; or
 - (h) the European Commission of Human Rights or the European Court of Human Rights.
- (4) The managers of a hospital may inspect and open any postal packet for the purposes of determining whether it is one to which subsection (1) or (2) above applies and, if so, for determining whether or not it should be withheld under that sub-section; and the power to withhold a postal packet under either of those subsections includes power to withhold anything contained in it.
- (5) Where a postal packet or anything contained in it is withheld under subsection (1) or (2) above the managers of the hospital shall record that fact in writing.
- (6) Where a postal packet or anything contained in it is withheld under subsection (1)(b) or (2) above the managers of the hospital shall within seven days give notice of that fact to the patient and, in a case under subsection (2) above, to the person (if known) by whom the postal packet was sent; and any such notice shall be in writing and shall contain a statement of the effect of section 56(7) and (8) below.
- (7) The functions of the managers of a hospital under this section shall be discharged on their behalf by a person on the staff of the hospital appointed by them for that purpose, and different persons may be appointed to discharge different functions.
- (8) The Secretary of State may make regulations with respect to the exercise of the powers conferred by this section.
- (9) In this section “postal packet” has the same meaning as in the ^{M6}Post Office Act 1953 and the provisions of this section shall have effect notwithstanding anything in section 56 of that Act.
- (10) References in this section to a hospital shall be construed as references to a hospital within the meaning of Part IV of the principal Act.
- (11) Section 36 of the principal Act (which is superseded by this section) and section 134 of that Act (restriction on correspondence of patients not subject to detention) shall cease to have effect.

Annotations:

Marginal Citations

- M3** 1974 c. 7.
M4 1977 c. 49.
M5 1973 c. 62.
M6 1953 c. 36.

53 Code of practice.

- (1) The Secretary of State shall prepare, and from time to time revise, a code of practice—

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- (a) for the guidance of medical practitioners, managers and staff of hospitals and mental nursing homes and mental welfare officers in relation to the admission of patients to hospitals and mental nursing homes under the principal Act or this Act; and
 - (b) for the guidance of medical practitioners and members of other professions in relation to the medical treatment of patients suffering from mental disorder.
- (2) The code shall, in particular, specify forms of medical treatment, in addition to any specified by regulations made for the purposes of section 43 above, which in the opinion of the Secretary of State give rise to special concern and should accordingly not be given by a medical practitioner unless the patient has consented to the treatment (or to a plan of treatment including that treatment) and a certificate in writing as to the matters mentioned in subsection (2)(a) and (b) of that section has been given by another medical practitioner, being a practitioner appointed for the purposes of this section by the Secretary of State.
- (3) Before preparing the code or making any alteration in it the Secretary of State shall consult such bodies as appear to him to be concerned.
- (4) The Secretary of State shall lay copies of the code and of any alteration in the code before Parliament; and if either House of Parliament passes a resolution requiring the code or any alteration in it to be withdrawn the Secretary of State shall withdraw the code or alteration and, where he withdraws the code, shall prepare a code in substitution for the one which is withdrawn.
- (5) No resolution shall be passed by either House of Parliament under subsection (4) above in respect of a code or alteration after the expiration of the period of forty days beginning with the day on which a copy of the code or alteration was laid before that House; but for the purposes of this subsection no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (6) The Secretary of State shall publish the code as for the time being in force.

54 Practitioners approved for purposes of Part VI and s. 53.

- (1) The Secretary of State may make such provision as he may with the approval of the Treasury determine for the payment of remuneration, allowances, pensions or gratuities to or in respect of medical practitioners appointed by him for the purposes of Part VI of this Act and section 53 above and to or in respect of other persons appointed for the purposes of section 43(2)(a) above.
- (2) A medical practitioner or other person appointed by the Secretary of State for the purposes of the provisions mentioned in subsection (1) above may, for the purpose of exercising his functions under those provisions, at any reasonable time—
 - (a) visit and interview and, in the case of a medical practitioner, examine in private any patient detained in a mental nursing home; and
 - (b) require the production of and inspect any records relating to the treatment of the patient in that home.

55 General protection of detained patients.

- (1) The Secretary of State shall keep under review the exercise of the powers and the discharge of the duties conferred or imposed by the principal Act and this Act so far

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as relating to the detention of patients or to patients liable to be detained under those Acts and shall make arrangements for persons authorised by him in that behalf—

- (a) to visit and interview in private patients detained under those Acts in hospitals and mental nursing homes; and
 - (b) to investigate—
 - (i) any complaint made by a person in respect of a matter that occurred while he was detained under those Acts in a hospital or mental nursing home and which he considers has not been satisfactorily dealt with by the managers of that hospital or mental nursing home; and
 - (ii) any other complaint as to the exercise of the powers or the discharge of the duties conferred or imposed by those Acts in respect of a person who is or has been so detained.
- (2) The arrangements made under this section in respect of the investigation of complaints may exclude matters from investigation in specified circumstances and shall not require any person exercising functions under the arrangements to undertake or continue with any investigation where he does not consider it appropriate to do so.
 - (3) Where any such complaint as is mentioned in subsection (1)(b)(ii) above is made by a Member of Parliament and investigated under the arrangements made under this section the results of the investigation shall be reported to him.
 - (4) For the purpose of any such review as is mentioned in subsection (1) above or of carrying out his functions under arrangements made under this section any person authorised in that behalf by the Secretary of State may at any reasonable time—
 - (a) visit and interview and, if he is a medical practitioner, examine in private any patient in a mental nursing home; and
 - (b) require the production of and inspect any records relating to the detention or treatment of any person who is or has been detained in a mental nursing home.
 - (5) The matters in respect of which regulations may be made under section 6 of the ^{M7}Nursing Homes Act 1975 shall include the keeping of records relating to the detention and treatment of persons detained under the principal Act or this Act in a mental nursing home.
 - (6) The Secretary of State may make such provision as he may with the approval of the Treasury determine for the payment of remuneration, allowances, pensions or gratuities to or in respect of persons exercising functions in relation to any such review as is mentioned in subsection (1) above or functions under arrangements made under this section.
 - (7) The powers and duties referred to in subsection (1) above do not include any power or duty conferred or imposed by Part VIII of the principal Act.

Annotations:

Marginal Citations

M7 1975 c. 37.

56 Mental Health Act Commission.

- (1) The Secretary of State shall under section 11 of the ^{M8}National Health Service Act 1977 establish a special health authority to be known as the Mental Health Act Commission.

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- (2) Without prejudice to the generality of his powers under section 13 of that Act, the Secretary of State shall direct the Commission to perform on his behalf—
 - (a) the function of appointing medical practitioners for the purposes of Part VI of this Act and section 53 above and of appointing other persons for the purposes of section 43(2)(a) above; and
 - (b) the functions of the Secretary of State under sections 47 and 55(1) and (4) above.
- (3) The medical practitioners and other persons appointed for the purposes mentioned in subsection (2)(a) above may include members of the Commission.
- (4) The Secretary of State may, at the request of or after consultation with the Commission and after consulting such other bodies as appear to him to be concerned, direct the Commission to keep under review the care and treatment, or any aspect of the care and treatment, in hospitals and mental nursing homes of patients who are not liable to be detained under the principal Act or this Act.
- (5) For the purpose of any such review as is mentioned in subsection (4) above any person authorised in that behalf by the Commission may at any reasonable time—
 - (a) visit and interview and, if he is a medical practitioner, examine in private any patient in a mental nursing home; and
 - (b) require the production of and inspect any records relating to the treatment of any person who is or has been a patient in a mental nursing home.
- (6) The Secretary of State may make such provision as he may with the approval of the Treasury determine for the payment of remuneration, allowances, pensions or gratuities to or in respect of persons exercising functions in relation to any such review as is mentioned in subsection (4) above.
- (7) The Commission shall review any decision to withhold a postal packet (or anything contained in it) under subsection (1)(b) or (2) of section 52 above if an application in that behalf is made—
 - (a) in a case under subsection (1)(b), by the patient; or
 - (b) in a case under subsection (2), either by the patient or by the person by whom the postal packet was sent;and any such application shall be made within six months of the receipt by the applicant of the notice referred to in subsection (6) of that section.
- (8) On an application under subsection (7) above the Commission may direct that the postal packet which is the subject of the application (or anything contained in it) shall not be withheld and the managers in question shall comply with any such direction.
- (9) The Secretary of State may by regulations make provision with respect to the making and determination of applications under subsection (7) above, including provision for the production to the Commission of any postal packet which is the subject of such an application.
- (10) The Commission shall in the second year after its establishment and subsequently in every second year publish a report on its activities; and copies of every such report shall be sent by the Commission to the Secretary of State who shall lay a copy before each House of Parliament.
- (11) Paragraph 9 of Schedule 5 to the said Act of 1977 (pay and allowances for chairman and members of health authorities) shall have effect in relation to the authority

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established pursuant to this section as if references in sub-paragraphs (1) and (2) to the chairman included references to any member and as if sub-paragraphs (4) and (5) were omitted.

Annotations:

Marginal Citations

M8 1977 c. 49.

57 Duty of managers of hospitals to give information to detained patients.

- (1) The managers of a hospital or mental nursing home in which a patient is detained under the principal Act or this Act shall take such steps as are practicable to ensure that the patient understands—
 - (a) under which of the provisions of those Acts he is for the time being detained and the effect of that provision; and
 - (b) what rights of applying to a Mental Health Review Tribunal are available to him in respect of his detention under that provision;
 and those steps shall be taken as soon as practicable after the commencement of the patient's detention under the provision in question.
- (2) The managers of a hospital or mental nursing home in which a patient is detained as aforesaid shall also take such steps as are practicable to ensure that the patient understands the effect, so far as relevant in his case, of—
 - (a) sections 47 and 48 of the principal Act (discharge by responsible medical officer, managers, nearest relative etc.); and
 - (b) Part VI of this Act and sections 52, 53 and 55 above;
 and those steps shall be taken as soon as practicable after the commencement of the patient's detention in the hospital or nursing home.
- (3) The steps to be taken under subsections (1) and (2) above shall include giving the requisite information both orally and in writing.
- (4) The managers of a hospital or mental nursing home in which a patient is detained as aforesaid shall, except where the patient otherwise requests, take such steps as are practicable to furnish the person (if any) appearing to them to be his nearest relative with a copy of any information given to him in writing under subsections (1) and (2) above; and those steps shall be taken when the information is given to the patient or within a reasonable time thereafter.
- (5) Section 52(5) of the principal Act (effect of order substituting acting nearest relative) shall have effect as if subsection (4) above were contained in Part IV of that Act.

58 Duty of managers of hospitals to inform nearest relative of discharge of detained patient.

- (1) Where a patient liable to be detained under the principal Act or this Act in a hospital or mental nursing home is to be discharged otherwise than by virtue of an order for discharge made by his nearest relative, the managers of the hospital or mental nursing home shall, subject to subsection (2) below, take such steps as are practicable to inform the person (if any) appearing to them to be the nearest relative of the patient; and

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that information shall, if practicable, be given at least seven days before the date of discharge.

- (2) Subsection (1) above shall not apply if the patient or his nearest relative has requested that information about the patient's discharge should not be given under this section.
- (3) Section 52(5) of the principal Act (effect of order substituting acting nearest relative) shall have effect as if this section were contained in Part IV of that Act.

59, 60. F5

Annotations:

Amendments (Textual)

F5 Ss. 59, 60, 63(1), 64(1)–(3)(6), 66 repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

61 Replacement of mental welfare officers by approved social workers.

- (1) After the expiration of the period of two years beginning with the day on which this Act is passed the functions conferred by the principal Act and this Act on mental welfare officers shall be discharged by officers of local social services authorities to be known as approved social workers.
- (2) A local social services authority shall appoint a sufficient number of approved social workers for the purpose of discharging the functions referred to in subsection (1) above; and no person shall be appointed as an approved social worker unless he is approved by the authority as having appropriate competence in dealing with persons who are suffering from mental disorder.
- (3) In approving a person for appointment as an approved social worker a local social services authority shall have regard to such matters as the Secretary of State may direct.
- (4) Any appointment of a person as a mental welfare officer for the purposes of the principal Act and this Act shall terminate at the expiration of the period mentioned in subsection (1) above but without prejudice to anything previously done by that person or to the continuation by an approved social worker of anything which is then in process of being done by that person.

62 F6

Annotations:

Amendments (Textual)

F6 Ss. 62, 69(5) repealed by [Representation of the People Act 1983 \(c. 2, SIF 42\)](#), [Sch. 9 Pt. II](#)

63 (1) F7

(2) F8

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Annotations:**Amendments (Textual)**

- F7** Ss. 59, 60, 63(1), 64(1)–(3)(6), 66 repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)
- F8** S. 63(2) repealed by [Registered Homes Act 1984 \(c. 23, SIF 113:3\)](#), s. 57, [Sch. 3](#)

64 Minor amendments.

- (1) **F9**
- (4) In section 105(1) of the ^{M9}National Health Service Act 1977 (payments by local authorities for medical examinations with a view to admission to hospital under Part IV of the principal Act) for the words “the council which is the local authority for the purposes of the Local Authority Social Services Act 1970 for the area where the person examined resides” there shall be substituted the words “ the Secretary of State ”.
- (5) **F10**
- (6)

Annotations:**Amendments (Textual)**

- F9** Ss. 59, 60, 63(1), 64(1)–(3)(6), 66 repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)
- F10** S. 64(5) repealed by [Mental Health \(Amendment\) Act 1982 \(c. 51, SIF 85\)](#), [Sch. 4 Pt. II](#) and expressed to be repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

Modifications etc. (not altering text)

- C2** The text of ss. 34(1)–(4), 64(4) and 65 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.

Marginal Citations

- M9** [1977 c. 49](#).

65 Consequential amendments and repeals.

- (1) The enactments mentioned in Schedule 3 to this Act shall have effect with the amendments there specified, being amendments consequential on the provisions of this Act.
- (2) The enactments mentioned in Schedule 4 to this Act (which include spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.

Annotations:**Modifications etc. (not altering text)**

- C3** The text of ss. 34(1)–(4), 64(4) and 65 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.

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66 **F11**

Annotations:

Amendments (Textual)

F11 Ss. 59, 60, 63(1), 64(1)–(3)(6), 66 repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

67 Expenses.

There shall be paid out of moneys provided by Parliament—

- (a) any expenses incurred by the Secretary of State under this Act; and
- (b) any increase attributable to this Act in the sums so payable under any other Act.

68 Interpretation and supplementary provisions.

(1) In this Act “the principal Act” means the ^{M10}Mental Health Act 1959.

(2) **F12**

Annotations:

Amendments (Textual)

F12 Ss. 68(2)(3), 69(2)–(4) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

Marginal Citations

M10 1959 c. 72.

69 Commencement and transitional provisions.

(1) Subject to the provisions of this section, this Act shall come into force on 30th September 1983.

(2) **F13**

(5) **F14**

(6) Schedule 5 to this Act, which contains transitional provisions and savings, shall have effect with respect to the matters there mentioned.

Annotations:

Amendments (Textual)

F13 Ss. 68(2)(3), 69(2)–(4) repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

F14 Ss. 62, 69(5) repealed by [Representation of the People Act 1983 \(c. 2, SIF 42\)](#), [Sch. 9 Pt. II](#)

70 Short title and extent.

(1) This Act may be cited as the Mental Health (Amendment) Act 1982.

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- (2)^{F15} any amendment or repeal by this Act of an enactment which extends to Scotland or Northern Ireland has the same extent as that enactment but, save as aforesaid, this Act extends to England and Wales only.
- (3) [^{F16}Section 149(4) of the Mental Health Act 1983] (power to extend Act to Isles of Scilly) shall have effect as if the provisions of this Act were contained in that Act.

Annotations:

Amendments (Textual)

F15 Words repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s. 1(1), [Sch. 1 Pt. XIII](#)

F16 Words substituted by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 4 para. 61\(b\)](#)

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SCHEDULES

SCHEDULE 1

. . . F17

Annotations:

Amendments (Textual)

F17 Sch. 1 repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

SCHEDULE 2

. . . F18

Annotations:

Amendments (Textual)

F18 Sch. 2 repealed by [Representation of the People Act 1983 \(c. 2, SIF 42\)](#), [Sch. 9 Pt. II](#)

SCHEDULE 3

Section 65(1).

CONSEQUENTIAL AMENDMENTS

Annotations:

Modifications etc. (not altering text)

C4 The text of Sch. 3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

PART I

1—26. F19

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Mental Health (Amendment) Act 1982. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Annotations:

Amendments (Textual)

F19 Sch. 3 Pt. I paras. 1–26, 35(a), 40, 42, 45, 46, 50(a), 51(a), 52–55, 57, 58 and Pt. II repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

^{M11}The Army Act 1955

Annotations:

Marginal Citations

M11 1955 c. 18.

- 27 In section 116(7)—
- (a) for the words “detention in a hospital under observation (with or without other medical treatment)” there shall be substituted the words “detention in a hospital for assessment (or for assessment followed by medical treatment)”;
 - (b) for the words “admission for observation” there shall be substituted the words “admission for assessment”.

^{M12}The Air Force Act 1955

Annotations:

Marginal Citations

M12 1955 c. 19.

- 28 In section 116(7)—
- (a) for the words “detention in a hospital under observation (with or without other medical treatment)” there shall be substituted the words “detention in a hospital for assessment (or for assessment followed by medical treatment)”;
 - (b) for the words “admission for observation” there shall be substituted the words “admission for assessment”.

^{M13}The Sexual Offences Act 1956

Annotations:

Marginal Citations

M13 1956 c. 69.

- 29 In section 45 for the words from “severe subnormality” onwards there shall be substituted the words “a state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning.”

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M14 The Naval Discipline Act 1957

Annotations:

Marginal Citations

M14 1957 c. 53.

- 30 In section 71(6)—
- (a) for the words “detention in a hospital under observation (with or without other medical treatment)” there shall be substituted the words “detention in a hospital for assessment (or for assessment followed by medical treatment)”;
 - (b) for the words “admission for observation” there shall be substituted the words “admission for assessment”.

31 **F20**

Annotations:

Amendments (Textual)

F20 Sch. 3 Pt. I para. 31 repealed by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), s. 127(2), [Sch. 5](#)

M15 The Administration of Justice Act 1960

Annotations:

Marginal Citations

M15 1960 c. 65.

- 32 In section 5—
- (a) after subsection (4) there shall be inserted—
 - “(4A) Where an order is made under the said subsection (1) in the case of a defendant who, but for the decision of the court below, would be liable to be detained in pursuance of an interim hospital order under section 31 of the Mental Health (Amendment) Act 1982, the order may, if the court thinks fit, be one authorising his continued detention in a hospital or mental nursing home and in that event—
 - (a) subsection (3) of this section shall not apply to the order ;
 - (b) Part V of the said Act of 1959 shall apply as if he had been ordered under this section to be detained in custody so long as any appeal under section 1 of this Act is pending and were detained in pursuance of a transfer direction together with a restriction direction ; and
 - (c) if the defendant is detained by virtue of this subsection and the appeal to the prosecutor succeeds, subsection (2) of the said section 31 (power of court to make hospital order in the absence of an offender who is subject to an interim hospital order) shall apply as if the defendant were still subject to an interim hospital order.” ;

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- (b) in subsection (5) for the words “subsection (3) or subsection (4)” there shall be substituted the words “ subsection (3), (4) or (4A) ”.

M16 *The Criminal Procedure (Insanity) Act 1964*

Annotations:

Marginal Citations

M16 1964 c. 84.

- 33 In paragraph 2(1) of Schedule 1 for the words “an order restricting discharge” there shall be substituted the words “ a restriction order ”

M17 *The Sexual Offences Act 1967*

Annotations:

Marginal Citations

M17 1967 c. 60.

- 34 In section 1—
- (a) in subsection (3) for the words “severe subnormality”, in both places, there shall be substituted the words “ severe mental handicap ” and the words “within the meaning of the Mental Health Act 1959” shall be omitted ;
- (b) after subsection (3) there shall be inserted—

“(3A) In subsection (3) of this section “severe mental handicap” means a state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning.”

M18 *The Criminal Justice Act 1967*

Annotations:

Marginal Citations

M18 1967 c. 80.

- 35 In section 72—
- (a) **F21**
- (b) in subsection (4) at the end of the definition of “convicted mental patient” there shall be inserted the words “ or a person liable to be detained under section 31 of the Mental Health (Amendment) Act 1982 ”.

Annotations:

Amendments (Textual)

F21 Sch. 3 Pt. I paras. 1–26, 35(a), 40, 42, 45, 46, 50(a), 51(a), 52–55, 57, 58 and Pt. II repealed by Mental Health Act 1983 (c. 20, SIF 85), Sch. 6

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M19 The Criminal Appeal Act 1968

Annotations:

Marginal Citations

M19 1968 c. 19.

- 36 In section 8 after subsection (3) there shall be inserted—
- “(3A) If the person ordered to be retired was, immediately before the determination of his appeal, liable to be detained in pursuance of a remand under section 30 of the Mental Health (Amendment) Act 1982 or an interim hospital order under section 31 of that Act, the Court of Appeal may, if they think fit, order that he shall continue to be detained in a hospital or mental nursing home, and in that event Part V of the Mental Health Act 1959 shall apply as if he had been ordered under this section to be kept in custody pending his retrial and were detained in pursuance of a transfer direction together with a restriction direction.”
- 37 In section 11 after subsection (4) there shall be inserted—
- “(5) The fact that an appeal is pending against an interim hospital order under the Mental Health (Amendment) Act 1982 shall not affect the power of the court below to renew or terminate the order or to deal with the appellant on its termination ; and where the Court of Appeal quash such an order but do not pass any sentence or make any other order in its place the Court may direct the appellant to be kept in custody or released on bail pending his being dealt with by the court below.
- (6) Where the Court of Appeal make an interim hospital order by virtue of subsection (3) of this section—
- (a) the power of renewing or terminating it and of dealing with the appellant on its termination shall be exercisable by the court below and not be the Court of Appeal ; and
- (b) the court below shall be treated for the purposes of section 31(8) of the said Act of 1982 (absconding offender) as the court that made the order.”
- 38 In section 14(2)—
- (a) for the words “detention in a hospital under observation (with or without other medical treatment)” there shall be substituted the words “ detention in a hospital for assessment (or for assessment followed by medical treatment) ” ;
- (b) for the words “admitted for observation” there shall be substituted the words “ admitted for assessment ”.
- 39 In section 37—
- (a) after subsection (4) there shall be inserted—
- “(4A) Where an order is made under this section in the case of a defendant who, but for the decision of the Court of Appeal, would be liable to be detained in pursuance of a remand under section 30 of the Mental Health (Amendment) Act 1983 or an interim hospital order under section 31 of that Act, the order may, if the Court of Appeal

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thinks fit, be one authorising his continued detention in a hospital or mental nursing home and in that event—

- (a) subsection (3) of this section shall not apply to the order ;
 - (b) Part V of the said Act of 1959 shall apply to him as if he had been ordered under this section to be detained in custody so long as an appeal to the House of Lords is pending and were detained in pursuance of a transfer direction together with a restriction direction ; and
 - (c) if the defendant, having been subject to an interim hospital order, is detained by virtue of this subsection and the appeal by the prosecutor succeeds, subsection (2) of the said section 31 (power of court to make hospital order in the absence of an offender who is subject to an interim hospital order) shall apply as if the defendant were still subject to an interim hospital order.” ;
- (b) in subsection (5) for the words “subsection (3) or (4)” there shall be substituted the words “subsection (3), (4) or (4A)”.

40 F22

Annotations:

Amendments (Textual)

F22 Sch. 3 Pt. I paras. 1–26, 35(a), 40, 42, 45, 46, 50(a), 51(a), 52–55, 57, 58 and Pt. II repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

41 In Schedule 1—

- (a) in paragraph 2 for the words “an order restricting discharge” there shall be substituted the words “ a restriction order ” ;
- (b) in paragraph 3 for the word “observation” there shall be substituted the word “ assessment ”.

42 F23

Annotations:

Amendments (Textual)

F23 Sch. 3 Pt. I paras. 1–26, 35(a), 40, 42, 45, 46, 50(a), 51(a), 52–55, 57, 58 and Pt. II repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

^{M20}*The Courts-Martial (Appeals) Act 1968*

Annotations:

Marginal Citations

M20 1968 c. 20.

43 In section 23—

- (a) in subsection (2)(a) for the words “detention in a hospital under observation (with or without other medical treatment)” there shall be substituted the

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words “detention in a hospital for assessment (or for assessment followed by medical treatment)”;

- (b) in subsection (3) for the words “admission for observation” there shall be substituted the words “admission for assessment”.

M21 *The Children and Young Persons Act 1969*

Annotations:

Marginal Citations

M21 1969 c. 54.

- 44 In section 2(10) for the words “the court may make an interim order in respect of him” there shall be substituted the words “the court may make—
- (a) an interim order ; or
- (b) an interim hospital order within the meaning of section 31 of the Mental Health (Amendment) Act 1982,

in respect of him ; but an order shall not be made in respect of the relevant infant in pursuance of paragraph (b) of this subsection unless the conditions which, under the said section 31, are required to be satisfied for the making of an interim hospital order in respect of a person convicted as mentioned in that section are satisfied on his case so far as they are applicable”.

- 45 **F24**

Annotations:

Amendments (Textual)

F24 Sch. 3 Pt. I paras. 1–26, 35(a), 40, 42, 45, 46, 50(a), 51(a), 52–55, 57, 58 and Pt. II repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

M22 *The Costs in Criminal Cases Act 1973*

Annotations:

Marginal Citations

M22 1973 c. 14.

- 46 **F25**

Annotations:

Amendments (Textual)

F25 Sch. 3 Pt. I paras. 1–26, 35(a), 40, 42, 45, 46, 50(a), 51(a), 52–55, 57, 58 and Pt. II repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

- 47 In section 18(1)(c) for the words “an order restricting his discharge” there shall be substituted the words “a restriction order”.

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^{M23}*The Juries Act 1974*

Annotations:

Marginal Citations

M23 1974 c. 23.

48 In Schedule 1, for Group D there shall be substituted—

“GROUP D

Mentally disordered persons

A person who suffers or has suffered from mental illness, psychopathic disorder, mental handicap or severe mental handicap and on account of that condition either—

- (a) is resident in a hospital or other similar institution ; or
- (b) regularly attends for treatment by a medical treatment practitioner.

A person for the time being in guardianship under section 33 of the Mental Health Act 1959.

A person who, under Part VIII of that Act, has been determined by a judge to be incapable, by reason of mental disorder, of managing and administering his property and affairs.

(In this Group—

- (a) “mental handicap” means a state of arrested or incomplete development of mind (not amounting to severe mental handicap) which includes significant impairment of intelligence and social functioning ;
- (b) “severe mental handicap” means a state of arrested or incomplete development of mind which includes severe impairment of intelligence and social functioning ;
- (c) other expressions are to be construed in accordance with the said Act of 1959.)”.

^{M24}*The Rehabilitation of Offenders Act 1974*

Annotations:

Marginal Citations

M24 1974 c. 53.

49 In section 5(7) for the words “an order restricting discharge” there shall be substituted the words “ a restriction order ”.

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^{M25}*The Criminal Procedure (Scotland) Act 1975*

Annotations:

Marginal Citations

M25 1975 c. 21.

50 In section 13—

- (a) ^{F26}
- (b) in subsection (4) at the end of the definition of “convicted mental patient” there shall be inserted the words “ or a person liable to be detained under section 31 of the Mental Health (Amendment) Act 1982 ”.

Annotations:

Amendments (Textual)

F26 Sch. 3 Pt. I paras. 1–26, 35(a), 40, 42, 45, 46, 50(a), 51(a), 52–55, 57, 58 and Pt. II repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

51 In section 322—

- (a) ^{F27}
- (b) in subsection (4) at the end of the definition of “convicted mental patient” there shall be inserted the words “ , or a person liable to be detained under section 31 of the Mental Health (Amendment) Act 1982 ”.

Annotations:

Amendments (Textual)

F27 Sch. 3 Pt. I paras. 1–26, 35(a), 40, 42, 45, 46, 50(a), 51(a), 52–55, 57, 58 and Pt. II repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

52—54. ^{F28}

Annotations:

Amendments (Textual)

F28 Sch. 3 Pt. I paras. 1–26, 35(a), 40, 42, 45, 46, 50(a), 51(a), 52–55, 57, 58 and Pt. II repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

^{M26}*The National Health Service Act 1977*

Annotations:

Marginal Citations

M26 1977 c. 49.

55 ^{F29}

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Mental Health (Amendment) Act 1982. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Annotations:**Amendments (Textual)**

F29 Sch. 3 Pt. I paras. 1–26, 35(a), 40, 42, 45, 46, 50(a), 51(a), 52–55, 57, 58 and Pt. II repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

56 In section 105(1) for the word “observation” there shall be substituted the word “assessment”.

57, 58. **F30**

Annotations:**Amendments (Textual)**

F30 Sch. 3 Pt. I paras. 1–26, 35(a), 40, 42, 45, 46, 50(a), 51(a), 52–55, 57, 58 and Pt. II repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

*^{M27}The Contempt of Court Act 1981***Annotations:****Marginal Citations**

M27 1981 c. 49.

59 In section 14(4)—
(a) after “1959” there shall be inserted the words “ or an interim hospital order under section 31 of the Mental Health (Amendment) Act 1982 ” ;

(b) for the words “severe subnormality” there shall be substituted the words “ severe mental impairment ” .

60 After section 14(4) there shall be inserted—

“(4A) Each of the superior courts shall have the like power to make an order under section 29 of the said Act of 1982 (remand for report on accused’s mental condition) where there is reason to suspect that a person who could be committed to prison for contempt of court is suffering from mental illness or severe mental impairment as the Crown Court has under that section in the case of an accused person within the meaning of that section.”

*^{M28}The Supreme Court Act 1981***Annotations:****Marginal Citations**

M28 1981 c. 54.

61 In section 48—
(a) in subsection (6)(a) for the words “an order restricting discharge” there shall be substituted the words “ a restriction order, and an interim hospital order under the Mental Health (Amendment) Act 1982 ” ;

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(b) after subsection (6) there shall be inserted—

“(7) The fact that an appeal is pending against an interim hospital order under the said Act of 1982 shall not affect the power of the magistrates’ court that made it to renew or terminate the order or to deal with the appellant on its termination ; and where the Crown Court quashes such an order but does not pass any sentence or make any other order in its place the Court may direct the appellant to be kept in custody or released on bail pending his being dealt with by that magistrates’ court.

(8) Where the Crown Court makes an interim hospital order by virtue of subsection (2)—

- (a) the power of renewing or terminating the order and of dealing with the appellant on its termination shall be exercisable by the magistrates’ court whose decision is appealed against and not by the Crown Court ; and
- (b) that magistrates’ court shall be treated for the purposes of section 31(8) of the said Act of 1982 (absconding offenders) as the court that made the order.”

M29 The Armed Forces Act 1981

Annotations:

Marginal Citations

M29 1981 c. 55.

62 In section 1391), (2)(a) and (6)(c) for the word “observation” there shall be substituted the word “ assessment ”.

PART II

F31

Annotations:

Amendments (Textual)

F31 Sch. 3 Pt. I paras. 1–26, 35(a), 40, 42, 45, 46, 50(a), 51(a), 52–55, 57, 58 and Pt. II repealed by Mental Health Act 1983 (c. 20, SIF 85), Sch. 6

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SCHEDULE 4

Section 65(2).

REPEALS

Annotations:**Modifications etc. (not altering text)**

- C5** The text of Sch. 4 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.

PART I

Chapter	Short title	Extent of repeal
7 & 8 Eliz. 2. c. 72.	The Mental Health Act 1959.	Section 26(5). In section 31(4) the words “or with the day on which he attains the age of sixteen years, whichever is the later”. In section 34(5) the words “or on the day on which he attains the age of sixteen years, whichever is the later”. Section 36. In section 38(2) the words “who has attained the age of sixteen years”. In section 41(5) the words “having attained the age of sixteen years”. In section 43(6) the words “who has attained the age of sixteen years”. Section 44. In section 45, in subsection (2) the words “or subsection (2) of section forty-four” and in subsection (3) the words “or section forty-four”. Section 48(1). Section 62(2) to (4). In section 63, in subsection (3), paragraph (b) together with the word “and” preceding it and in

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subsection (4) the words “admitted to hospital in pursuance of a hospital order, or” and “or with the day on which he attains the age of sixteen years, whichever is the later”.

Section 66(6) to (8).

In section 75(1)(b) the words “or authorise” and “to exercise”.

Sections 77 and 78.

In section 103, in subsection (1)(d) and (dd) the words from “so however” onwards and in subsection (3) the words from the beginning to “and” where it first occurs.

Section 103A(5).

Section 131(2).

Section 134.

Section 137(6).

Section 144(2).

Section 146.

In section 147, in subsection (1), the definitions of “direction restricting discharge” and “order restricting discharge”, and subsection (5).

In section 152 the words “section one hundred and forty-six”.

In Schedule 3, the entries relating to section 36.

In Schedule 7, in Part II, the entry relating to the Representation of the People Act 1949.

8 & 9 Eliz. 2. c. 61.

The Mental Health (Scotland) Act 1960.

In Schedule 4, the entry relating to the Representation of the People Act 1949.

1961 c. 15 (N.I.).

The Mental Health Act (Northern Ireland) 1961.

In Schedule 5, paragraph 5.

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1967 c. 60.	The Sexual Offences Act 1967.	In section 1(3) the words “within the meaning of the Mental Health Act 1959”.
1968 c. 19.	The Criminal Appeal Act 1968.	In Schedule 3, paragraph 1.
1969 c. 48.	The Post Office Act 1969.	In Schedule 4, paragraph 66.
1969 c. 54.	The Children and Young Persons Act 1969.	In Schedule 5, paragraph 41.
1971 c. 23.	The Courts Act 1971.	In Schedule 8, in paragraph 38, the figures “73(2)(c)”, “77(1)” and “73(2)(b)”.
1975 c. 29.	The Mental Health (Amendment) Act 1975.	The whole Act.
1977 c. 49.	The National Health Service Act 1977.	In Schedule 14, in paragraph 13(1)(b) the figure “95”. In Schedule 15, paragraph 33(a).
1980 c. 43.	The Magistrates’ Courts Act 1980.	In Schedule 7, paragraphs 33 and 34.
1980 c. 53.	The Health Services Act 1980.	In Schedule 1, paragraph 13(8).
1981 c. 54.	The Supreme Court Act 1981.	In Schedule 5, paragraph 1 of the entry relating to the Mental Health Act 1959 and the entry relating to the Courts Act 1971.

PART II

Chapter	Short title	Extent of repeal
7 & 8 Eliz. 2. c. 72.	The Mental Health Act 1959.	In section 147(1) the definition of “mental welfare officer”.
1982 c. 51.	The Mental Health (Amendment) Act 1982.	Section 64(5).

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SCHEDULE 5

Section 69(6).

TRANSITIONAL PROVISIONS AND SAVINGS

Definition of mental disorder

1 Sections 1 and 2 of this Act, and the amendments in Schedule 3 which are consequential on those sections, do not affect the authority for the detention or guardianship of a person who is liable to be detained or subject to guardianship under the principal Act immediately before the date on which those sections come into force but apply to any renewal of that authority on or after that date.

2—15. F32

Annotations:

Amendments (Textual)

F32 Sch. 5 paras 2–15 repealed by [Mental Health Act 1983 \(c. 20, SIF 85\)](#), [Sch. 6](#)

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Mental Health (Amendment) Act 1982. Any changes that have already been made by the team appear in the content and are referenced with annotations.

Changes and effects yet to be applied to :

- s. 34(5) words repealed by 2004 c. 14 Sch. 1 Pt. 17 Group 8
- Sch. 3 para. 29 repealed by 2003 c. 42 Sch. 7
- Sch. 3 para. 34 repealed by 2003 c. 42 Sch. 7
- Sch. 3 para. 48 repealed by 2003 c. 44 Sch. 37 Pt. 10
- Sch. 3 para. 33 repealed by 2004 c. 14 Sch. 1 Pt. 17 Group 8
- Sch. 3 para. 44 repealed by 2004 c. 14 Sch. 1 Pt. 17 Group 8
- Sch. 3 para. 47 repealed by 2004 c. 14 Sch. 1 Pt. 17 Group 8
- Sch. 3 para. 50 repealed by 2004 c. 14 Sch. 1 Pt. 17 Group 8
- Sch. 3 para. 51 repealed by 2004 c. 14 Sch. 1 Pt. 17 Group 8
- Sch. 3 para. 56 repealed by 2006 c. 43 Sch. 4

Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:

- Blanket Amendment words substituted by 2005 c. 4 Sch. 11 para. 1(2)

Commencement Orders yet to be applied to the Mental Health (Amendment) Act 1982:

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2004/829 art. 2-4 commences (2003 c. 44)
- S.I. 2004/874 art. 2 commences (2003 c. 42)
- S.I. 2009/1604 art. 2 commences (2005 c. 4)