

SCHEDULES

SCHEDULE 3

CONSEQUENTIAL AMENDMENTS

PART I

The Mental Health Act 1959

- 1 In sections 27(1), 29(1) and (2), 30(1)(b) and .32(1) for the word " observation " there shah* be substituted the word
“assessment”.
- 2 In section 33—
- (a) after subsection (2) there shall be inserted—
- “(2A) A guardianship application 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).
- (2B) A guardianship application 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 have attained the age of sixteen years.”; (b) for subsection (5) there shall be substituted—
- “(5) Subsection (4) of section 26 and sections 27 and 28 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 subsection (4) of section 26 the reference to subsection (2) of that section shall be construed as a reference to subsection (2) of this section;
- (b) in section 27 the words in subsection (1) " shall be addressed to the managers of the hospital to which the admission is sought, and" and subsection (1A) shall be omitted ;
- (c) in section 28 subsections (3), (3A) and (5) shall be omitted and for paragraph (e) of subsection (4) there shall be

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substituted— ' (e) the person named as guardian in the application'.”

3 In section 41(2)(a) for the word " observation " there shall be substituted the word
“assessment”.

4 In section 42(3) for the words " the interests of the patient" there shall be substituted
the words

“the interests of the welfare of the patient”.

5 In sections 47(3) and 52(4) for the word " observation" there shall be substituted
the word

“assessment”.

6 In section 59—

(a) in subsection (1), in paragraph (a) of the definition of " the responsible
medical officer", for the word "observation" there shall be substituted the
word

“assessment”;

(b) in subsection (3) for the word " subnormal" and for the word " subnormality
", in both places, there shall be substituted respectively the words

“mentally impaired”and

“mental impairment" and after the words " section thirty-eight" there
shall be inserted the words "or 43(5A)”.

7 In section 60(2) for the words " severe subnormality" there shall be substituted the
words

“severe mental impairment”.

8 In section 65—

(a) in subsections (2) and (3) for the words " an order restricting discharge "
there shall be substituted the words

“a restriction order”;

(b) at the end of subsection (3)(a) there shall be inserted the words

“or Schedule 1 to the Mental Health (Amendment) Act 1982”;

(c) in subsection (4) for the words " an order restricting the discharge of the
patient" there shall be substituted the words

“a restriction order in respect of the patient”;

(d) in subsection (5) for the words " an order restricting the discharge of a
patient", " an order restricting his discharge " and " the order restricting his
discharge " there shall be substituted respectively the words

“a restriction order in respect of a patient”, " a restriction order " and "
the restriction order ".

9 In section 66—

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- (a) in subsection (1) for the words "an order restricting the discharge of a patient" and " the order restricting the discharge of the patient" there shall be substituted respectively the words
"in the case of any patient a restriction order" and " the restriction order " ;
- (b) in subsection (2) for the words " an order restricting the discharge of a patient is in force " and " the order restricting his discharge " there shall be substituted respectively the words
"a restriction order is in force in respect of a patient" and " the restriction order " ;
- (c) in subsection (3) for the words " an order restricting the discharge of a patient" and " the order restricting his discharge " , in both places, there shall be substituted respectively the words
"a restriction order in respect of a patient" and " the restriction order " ;
- (d) in subsection (4) for the words " an order restricting the discharge of a patient" there shall be substituted the words
"a restriction order in respect of a patient";
- (e) in subsection (5) for the words " an order restricting discharge " there shall be substituted the words
"a restriction order".
- 10 In section 67—
- (a) in subsections (1)(b), (3)(a) and (4) for the words " an order restricting his discharge" there shall be substituted the words
"a restriction order";
- (b) after subsection (3) there shall be inserted—
“(3A) The Crown Court shall have the like power to make orders under sections 29, 30 and 31 of the Mental Health (Amendment) Act 1982 in the case of a person committed to the court under this section as the Crown Court has under those sections in the case of an accused person within the meaning of section 29 or 30 or of a person convicted before that court as mentioned in section 31.”;
- (c) in subsection (5) for the words " an order restricting discharge " there shall be substituted the words
"a restriction order".
- 11 In section 68(2) for the words "an order restricting his discharge " there shall be substituted the words
"a restriction order".
- 12 In section 71(4) for the words " an order restricting his discharge " there shall be substituted the words
"a restriction order".
- 13 In section 72(1)(a) for the words " subnormality or severe sub-normality " there shall be substituted the words

“mental impairment or severe mental impairment”.

- 14 In section 73(1) for the words " severe subnormality " there shall be substituted the words

“severe mental impairment”.

- 15 In section 74—

- (a) in subsection (1) for the words " paragraphs (a) to (d)" there shall be substituted the words

“paragraph (a) or (d)”;

- (b) in subsection (2) for the words " a direction restricting discharge " and " an order restricting the discharge of the patient" there shall be substituted respectively the words

“a restriction direction”and " a restriction order ".

- 16 In section 75—

- (a) in subsection (1) for the words " direction restricting discharge ", in both places, there shall be substituted the words

“restriction direction”;

- (b) in subsection (2) for the words "direction restricting the discharge " there shall be substituted the words

“restriction direction in the case”.

- 17 In section 76—

- (a) in subsection (1) for the words "paragraphs (a) to (c)" there shall be substituted the words

“paragraph (a)”

“or the Mental Health (Amendment) Act 1982”;

- (b) in subsection (2)(b) for the words " an order restricting discharge " there shall be substituted the words

“a restriction order”;

- (c) in subsection (3) for the words " severe subnormality " there shall be substituted the words

“severe mental impairment”.

- 18 In section 80(4) for the words " an order restricting the discharge of a patient subject to a hospital order" there shall be substituted the words

“a restriction order”.

- 19 In section 81—

- (a) in subsection (2)(a) for the words " an order or direction under any enactment in this Act restricting his discharge " there shall be substituted the words

“a restriction order or restriction direction under any enactment in this Act”;

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- (b) in subsection (3) for the word " observation " there shall be substituted the word
"assessment";
- (c) in subsection (5) for the words from "an order or direction restricting discharge " onwards there shall be substituted the words
"a restriction order or restriction direction of limited duration, the order or direction restricting his discharge to which he is subject by virtue of subsection (2)(a) of this section shall expire on the date on which the restriction order or restriction direction would have expired if he had not been so removed."
- 3 (a) in subsection (2)(d) for the words " an order or direction under any enactment in this Act restricting his discharge " there shall be substituted the words
"a restriction order or restriction direction under any enactment in this Act";
- (b) in subsection (3) for the word " observation " there shall be substituted the word
"assessment";
- (c) in subsection (6) for the words from " an order or direction restricting discharge" onwards there shall be substituted the words
"a restriction order or restriction direction of limited duration, the order or direction restricting his discharge to which he is subject by virtue of subsection (2)(c) of this section shall expire on the date on which the — restriction order or restriction direction would have expired if he had not been so removed."
- 21 In section 87—
- (a) in subsection (2)(a) for the words " an order or direction under the corresponding enactment in force in England and Wales " there shall be substituted the words
"a restriction order or restriction direction";
- (b) in subsection (3)(a) for the word " observation " there shall be substituted the word
"assessment";
- (c) in subsection (5) for the words from " that order or direction " onwards, there shall be substituted the words
"the restriction order or restriction direction to which he is subject by virtue of subsection (2)(a) of this section shall expire on the date on which the first-mentioned order or direction would have expired if he had not been so removed."
- 22 In subsection (2)(a) of section 123 for the words " sub-normality or severe subnormality" there shall be substituted the words
"mental impairment or severe mental impairment"and for subsection (4) of that section there shall be substituted—

“(4) This section applies in relation to references to a Mental Health Review Tribunal as it applies in relation to applications made to such a tribunal by or in respect of a patient.”

23 In section 140(2) for the words "an order under Part V of this Act restricting his discharge " there shall be substituted the words

“a restriction order under Part V of this Act”.

24 In section 147(1) after the definition of "patient" there shall be inserted—

“‘restriction direction’ has the meaning assigned to it by section 74 of this Act;

‘restriction order’ has the meaning assigned to it by section 65 of this Act;”.

25 In Schedule 3—

(a) for the entry in the third column relating to section 37 there shall be substituted an entry in the same terms as that in the second column ;

(b) for the entry in the second and third columns relating to section 40 there shall be substituted respectively

“Subsection (3A) shall be omitted” and “Subsections (2), (3) and (3A), and in subsection (1) the words ‘subject to the provisions of this section’, shall be omitted” ;

(c) at the end of the entry in the second column relating to section 43 there shall be added the words

“and in subsection (5A) for the words”

“the relevant order or direction under Part V of this Act, that order or direction”;

(d) for the entry in the second column relating to section 45 there shall be substituted

“None”;

(e) for the entry in the second column relating to section 47 there shall be substituted

“In paragraph (a) of subsection (2) the reference to an application for admission for assessment, and in that paragraph and paragraph (c) of that subsection the references to the nearest relative, shall be omitted”

“In paragraph (a) of subsection (2) the reference to an application for admission for assessment and the reference to the nearest relative shall be omitted and paragraph (c) of that subsection shall be omitted.”

26 In Schedule 6—

(a) in paragraph 12(3) for the words from the beginning to “that sub-paragraph” there shall be substituted the words “Any such patient as is mentioned in paragraph 9(3)(b) of this Schedule

(b) in paragraph 15(3) and (6) for the words “a direction restricting his discharge” there shall be substituted the words

“a restriction direction”;

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- (c) in paragraph 17 for the words "a direction restricting the discharge of "
there shall be substituted the words

“a restriction direction in respect of”

“mental impairment”.