

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

same 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 detained in a prison or remand centre, not being persons serving a sentence of imprisonment or persons falling within the following paragraphs of this subsection;
 - (b) persons remanded in custody by a magistrates’ court;
 - (c) 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), who are not persons falling to be dealt with under section 47 above;
 - (d) persons detained under the ^{M15}Immigration Act 1971.
- (3) Subsections (2) to (4) of section 47 above 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 under that section.

Marginal Citations

M15 1971 c. 77.

49 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 41 above; and where the Secretary of State gives a transfer direction in respect of any such person as is described in paragraph (a) or (b) of section 48(2) above, he shall also give a direction under this section applying those restrictions to him.
- (2) A direction under this section shall have the same effect as a restriction order made under section 41 above and shall be known as “a restriction direction”.
- (3) While a person is subject to a restriction direction the responsible medical officer shall at such intervals (not exceeding one year) as the Secretary of State may direct examine and report to the Secretary of State on that person; and every report shall contain such particulars as the Secretary of State may require.

50 Further provisions as to prisoners under sentence.

- (1) Where a transfer direction and a restriction direction have been given in respect of a person serving a sentence of imprisonment and before the expiration of that person’s sentence the Secretary of State is notified by the responsible medical officer, any other registered medical practitioner or a Mental Health Review Tribunal that that person no longer requires treatment in hospital for mental disorder or that no effective treatment for his disorder can be given in the hospital to which he has been removed, 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

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) 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 restriction direction shall cease to have effect.
- (2) A restriction direction in the case of a person serving a sentence of imprisonment shall cease to have effect on the expiration of the sentence.
- (3) Subject to subsection (4) below, 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 ^{F27}
- (4) For the purposes of section 49(2) of the ^{M16}Prison Act 1952 (which provides for discounting from the sentences 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 section, 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.

Textual Amendments

F27 Words in s. 50(3) repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), Sch.13; S.I. 1992/333, art. 2(2), Sch.2.

Marginal Citations

M16 1952 c. 52.

51 Further provisions as to detained persons.

- (1) This section has effect where a transfer direction has been given in respect of any such person as is described in paragraph (a) of section 48(2) above and that person is in this section referred to as “the detainee”.
- (2) The transfer direction shall cease to have effect when the detainee's case is disposed of by the court having jurisdiction to try or otherwise deal with him, 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.
- (3) If the Secretary of State is notified by the responsible medical officer, any other registered medical practitioner or a Mental Health Review Tribunal at any time before the detainee's case is disposed of by that court—
 - (a) that the detainee no longer requires treatment in hospital for mental disorder;
 or
 - (b) that no effective treatment for his disorder can be given at the hospital to which he has been removed,

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.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) If (no direction having been given under subsection (3) above) the court having jurisdiction to try or otherwise deal with the detainee is satisfied on the written or oral evidence of the responsible medical officer—
- (a) that the detainee no longer requires treatment in hospital for mental disorder; or
 - (b) that no effective treatment for his disorder can be given at the hospital to which he has been removed,
- the court may order him to be remitted to any such place as is mentioned in subsection (3) above or released on bail and on his arrival at that place or, as the case may be, his release on bail the transfer direction shall cease to have effect.
- (5) If (no direction or order having been given or made under subsection (3) or (4) above) it appears to the court having jurisdiction to try or otherwise deal with the detainee—
- (a) that it is impracticable or inappropriate to bring the detainee before the court; and
 - (b) that the conditions set out in subsection (6) below are satisfied,
- the court may make a hospital order (with or without a restriction order) in his case in his absence and, in the case of a person awaiting trial, without convicting him.
- (6) A hospital order may be made in respect of a person under subsection (5) above if the court—
- (a) is satisfied, on the written or oral evidence of at least two registered medical practitioners, that the detainee is suffering from mental illness or severe mental impairment of a nature or degree which makes it appropriate for the patient to be detained in a hospital for medical treatment; and
 - (b) is of the 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.
- (7) Where a person committed to the Crown Court to be dealt with under section 43 above is admitted to a hospital in pursuance of an order under section 44 above, subsections (5) and (6) above shall apply as if he were a person subject to a transfer direction.

52 Further provisions as to persons remanded by magistrates' courts.

- (1) This section has effect where a transfer direction has been given in respect of any such person as is described in paragraph (b) of section 48(2) above; and that person is in this section referred to as “the accused”.
- (2) Subject to subsection (5) below, the transfer direction shall cease to have effect on the expiration of the period of remand unless the accused is committed in custody to the Crown Court for trial or to be otherwise dealt with.
- (3) Subject to subsection (4) below, the power of further remanding the accused under section 128 of the ^{M17}Magistrates' Courts Act 1980 may be exercised by the court without his being brought before the court; and if the court further remands the accused 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) The court shall not under subsection (3) above further remand the accused in his absence unless he has appeared before the court within the previous six months.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: *Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (5) If the magistrates' court is satisfied, on the written or oral evidence of the responsible medical officer—
- (a) that the accused no longer requires treatment in hospital for mental disorder; or
 - (b) that no effective treatment for his disorder can be given in the hospital to which he has been removed,
- the court may direct that the transfer direction shall cease to have effect notwithstanding that the period of remand has not expired or that the accused is committed to the Crown Court as mentioned in subsection (2) above.
- (6) If the accused is committed to the Crown Court as mentioned in subsection (2) above and the transfer direction has not ceased to have effect under subsection (5) above, section 51 above shall apply as if the transfer direction given in his case were a direction given in respect of a person falling within that section.
- (7) The magistrates' court may, in the absence of the accused, inquire as examining justices into an offence alleged to have been committed by him and commit him for trial in accordance with section 6 of the ^{M18}Magistrates' Courts Act 1980 if—
- (a) the court is satisfied, on the written or oral evidence of the responsible medical officer, that the accused is unfit to take part in the proceedings; and
 - (b) where the court proceeds under subsection (1) of that section, the accused is represented by counsel or a solicitor.

Marginal Citations

M17 1980 c. 43 .

M18 1980 c. 43.

53 Further provisions as to civil prisoners and persons detained under the Immigration Act 1971.

- (1) Subject to subsection (2) below, a transfer direction given in respect of any such person as is described in paragraph (c) or (d) of section 48(2) above 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 the place from which he was removed.
- (2) Where a transfer direction and a restriction direction have been given in respect of any such person as is mentioned in subsection (1) above, then, if the Secretary of State is notified by the responsible medical officer, any other registered medical practitioner or a Mental Health Review Tribunal at any time before the expiration of the period there mentioned—
- (a) that that person no longer requires treatment in hospital for mental disorder; or
 - (b) that no effective treatment for his disorder can be given in the hospital to which he has been removed,
- 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, and on his arrival at the place to which he is so remitted the transfer direction and the restriction direction shall cease to have effect.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Supplemental

54 Requirements as to medical evidence.

- (1) The registered medical practitioner whose evidence is taken into account under section 35(3)(a) above and at least one of the registered medical practitioners whose evidence is taken into account under sections 36(1), 37(2)(a), 38(1) and 51(6)(a) above and whose reports are taken into account under sections 47(1) and 48(1) above shall be a practitioner approved for the purposes of section 12 above by the Secretary of State as having special experience in the diagnosis or treatment of mental disorder.
- (2) For the purposes of any provision of this Part of this Act under which a court may act on the written evidence of—
 - (a) a registered medical practitioner or a registered medical practitioner of any description; or
 - (b) a person representing the managers of a hospital,
a report in writing purporting to be signed by a registered medical practitioner or a registered medical practitioner of such a description or by a person representing the managers of a hospital may, subject to the provisions of this section, be received in evidence without proof of the signature of the practitioner or that person and without proof that he has the requisite qualifications or authority or is of the requisite description; but the court may require the signatory of any such report to be called to give oral evidence.
- (3) Where, in pursuance of a direction of the court, any such report is tendered in evidence otherwise than by or on behalf of the person who is the subject of the report, then—
 - (a) if that person is represented by counsel or a solicitor, a copy of the report shall be given to his counsel or solicitor;
 - (b) if that person is not so represented, the substance of the report shall be disclosed to him or, where he is a child or young person, to his parent or guardian if present in court; and
 - (c) except where the report relates only to arrangements for his admission to a hospital, that person may require the signatory of the report to be called to give oral evidence, and evidence to rebut the evidence contained in the report may be called by or on behalf of that person.

Modifications etc. (not altering text)

- C44** S. 54(2)(3) extended (E.W.) (1.1.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), [s. 1\(2\)](#) (with saving in s. 8); S.I. 1991/2488, [art. 2](#)
- S. 54(2)(3) extended (E.W.) (1.1.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), [s. 5\(3\)](#), [Sch. 2 para. 2\(3\)](#) (with saving in s. 8); S.I. 1991/2488, [art. 2](#)
- S. 54(2)(3) extended (1.10.1992) by [Powers of Criminal Courts Act 1973 \(c. 62, SIF 39:1\)](#), [s. 3\(3\)](#), [Sch. 1A para. 5\(9\)](#) (as inserted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), [ss. 8\(3\)](#), [9\(2\)](#), [101\(1\)](#), [Sch. 1 Pt. II](#), [Sch. 12 para. 1](#); S.I. 1992/333, [art. 2\(2\)](#), [Sch.2](#).

[54A] ^{F28}Reduction of period for making hospital orders.

- (1) The Secretary of State may by order reduce the length of the periods mentioned in sections 37(4) and (5) and 38(4) above.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) An order under subsection (1) above may make such consequential amendments of sections 40(1) and 44(3) above as appear to the Secretary of State to be necessary or expedient.]

Textual Amendments

F28 S. 54A inserted (E.W.) (1.10.1992) by **Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 27(2)** (with saving in s. 28); S.I. 1992/333, art. 2(2), **Sch.2**.

55 Interpretation of Part III.

- (1) In this Part of this Act—

“child” and “young person” have the same meaning as in the ^{M19}Children and Young Persons Act 1933;

“civil prisoner” has the meaning given to it by section 48(2)(c) above;

“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 who is not 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 has the same meaning as in 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 II of this Act, means the registered 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 relating to 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 II of this Act, 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 section 42(1) above, such form of mental disorder as may be specified in the direction under that section.
- (4) Any reference to a hospital order, a guardianship order or a restriction order in section 40(2), (4) or (5), section 41(3) to (5), or section 42 above or section 69(1) below shall be construed as including a reference to any order or direction under this Part of this Act having the same effect as the first-mentioned order; and the exceptions and modifications set out in Schedule 1 to this Act in respect of the provisions of this Act described in that Schedule accordingly include those which are consequential on the provisions of this subsection.
- (5) Section 34(2) above shall apply for the purposes of this Part of this Act as it applies for the purposes of Part II of this Act.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) References in this Part of this Act to persons serving a sentence of imprisonment shall be construed in accordance with section 47(5) above.
- (7) Section 99 of the ^{M20}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.

Marginal Citations

M19 1933 c. 12.

M20 1933 c. 12.

PART IV

CONSENT TO TREATMENT

56 Patients to whom Part IV applies.

- (1) This Part of this Act applies to any patient liable to be detained under this Act except—
- a patient who is liable to be detained by virtue of an emergency application and in respect of whom the second medical recommendation referred to in section 4(4)(a) above has not been given and received;
 - a patient who is liable to be detained by virtue of section 5(2) or (4) or 35 above or section 135 or 136 below or by virtue of a direction under section 37(4) above; and
 - a patient who has been conditionally discharged under section 42(2) above or section 73 or 74 below and has not been recalled to hospital.
- (2) Section 57 and, so far as relevant to that section, sections 59, 60 and 62 below, apply also to any patient who is not liable to be detained under this Act.

57 Treatment requiring consent and a second opinion.

- (1) This section applies to the following forms of medical treatment for mental disorder—
- any surgical operation for destroying brain tissue or for destroying the functioning of brain tissue; and
 - such other forms of treatment as may be specified for the purposes of this section by regulations made by the Secretary of State.
- (2) Subject to section 62 below, a patient shall not be given any form of treatment to which this section applies unless he has consented to it and—
- a registered medical practitioner appointed for the purposes of this Part of this Act by the Secretary of State (not being the responsible medical officer) and two other persons appointed for the purposes of this paragraph by the Secretary of State (not being registered medical practitioners) have certified in writing that the patient is capable of understanding the nature, purpose and likely effects of the treatment in question and has consented to it; and
 - the registered medical practitioner referred to in paragraph (a) above has certified in writing that, having regard to the likelihood of the treatment

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

alleviating or preventing a deterioration of the patient's condition, the treatment should be given.

- (3) Before giving a certificate under subsection (2)(b) above the registered medical practitioner concerned shall consult two other persons who have been professionally concerned with the patient's medical treatment, and of those persons one shall be a nurse and the other shall be neither a nurse nor a registered medical practitioner.
- (4) Before making any regulations for the purpose of this section the Secretary of State shall consult such bodies as appear to him to be concerned.

58 Treatment requiring consent or a second opinion.

- (1) This section applies to the following forms of medical treatment for mental disorder—
 - (a) such forms of treatment as may be specified for the purposes of this section by regulations made by the Secretary of State;
 - (b) the administration of medicine to a patient by any means (not being a form of treatment specified under paragraph (a) above or section 57 above) at any time during a period for which he is liable to be detained as a patient to whom this Part of this Act applies if three months or more have elapsed since the first occasion in that period when medicine was administered to him by any means for his mental disorder.
- (2) The Secretary of State may by order vary the length of the period mentioned in subsection (1)(b) above.
- (3) Subject to section 62 below, a patient shall not be given any form of treatment to which this section applies unless—
 - (a) he has consented to that treatment and either the responsible medical officer or a registered medical practitioner appointed for the purposes of this Part of this Act by the Secretary of State has certified in writing that the patient is capable of understanding its nature, purpose and likely effects and has consented to it; or
 - (b) a registered medical practitioner appointed as aforesaid (not being the responsible medical officer) has certified in writing that the patient is not capable of understanding the nature, purpose and likely effects of that treatment or has not consented to it but that, having regard to the likelihood of its alleviating or preventing a deterioration of his condition, the treatment should be given.
- (4) Before giving a certificate under subsection (3)(b) above the registered medical practitioner concerned shall consult two other persons who have been professionally concerned with the patient's medical treatment, and of those persons one shall be a nurse and the other shall be neither a nurse nor a registered medical practitioner.
- (5) Before making any regulations for the purposes of this section the Secretary of State shall consult such bodies as appear to him to be concerned.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 03/11/2008

[^{F29}58A Electro-convulsive therapy, etc.

- (1) This section applies to the following forms of medical treatment for mental disorder—
 - (a) electro-convulsive therapy; and
 - (b) such other forms of treatment as may be specified for the purposes of this section by regulations made by the appropriate national authority.
- (2) Subject to section 62 below, a patient shall not be given any form of treatment to which this section applies unless he falls within subsection (3), (4) or (5) below.
- (3) A patient falls within this subsection if—
 - (a) he has attained the age of 18 years;
 - (b) he has consented to the treatment in question; and
 - (c) either the approved clinician in charge of it or a registered medical practitioner appointed as mentioned in section 58(3) above has certified in writing that the patient is capable of understanding the nature, purpose and likely effects of the treatment and has consented to it.
- (4) A patient falls within this subsection if—
 - (a) he has not attained the age of 18 years; but
 - (b) he has consented to the treatment in question; and
 - (c) a registered medical practitioner appointed as aforesaid (not being the approved clinician in charge of the treatment) has certified in writing—
 - (i) that the patient is capable of understanding the nature, purpose and likely effects of the treatment and has consented to it; and
 - (ii) that it is appropriate for the treatment to be given.
- (5) A patient falls within this subsection if a registered medical practitioner appointed as aforesaid (not being the responsible clinician (if there is one) or the approved clinician in charge of the treatment in question) has certified in writing—
 - (a) that the patient is not capable of understanding the nature, purpose and likely effects of the treatment; but
 - (b) that it is appropriate for the treatment to be given; and
 - (c) that giving him the treatment would not conflict with—
 - (i) an advance decision which the registered medical practitioner concerned is satisfied is valid and applicable; or
 - (ii) a decision made by a donee or deputy or by the Court of Protection.
- (6) Before giving a certificate under subsection (5) above the registered medical practitioner concerned shall consult two other persons who have been professionally concerned with the patient's medical treatment but, of those persons—
 - (a) one shall be a nurse and the other shall be neither a nurse nor a registered medical practitioner; and
 - (b) neither shall be the responsible clinician (if there is one) or the approved clinician in charge of the treatment in question.
- (7) This section shall not by itself confer sufficient authority for a patient who falls within section 56(5) above to be given a form of treatment to which this section applies if he

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

is not capable of understanding the nature, purpose and likely effects of the treatment (and cannot therefore consent to it).

- (8) Before making any regulations for the purposes of this section, the appropriate national authority shall consult such bodies as appear to it to be concerned.
- (9) In this section—
- (a) a reference to an advance decision is to an advance decision (within the meaning of the Mental Capacity Act 2005) made by the patient;
 - (b) “valid and applicable”, in relation to such a decision, means valid and applicable to the treatment in question in accordance with section 25 of that Act;
 - (c) a reference to a donee is to a donee of a lasting power of attorney (within the meaning of section 9 of that Act) created by the patient, where the donee is acting within the scope of his authority and in accordance with that Act; and
 - (d) a reference to a deputy is to a deputy appointed for the patient by the Court of Protection under section 16 of that Act, where the deputy is acting within the scope of his authority and in accordance with that Act.
- (10) In this section, “the appropriate national authority” means—
- (a) in a case where the treatment in question would, if given, be given in England, the Secretary of State;
 - (b) in a case where the treatment in question would, if given, be given in Wales, the Welsh Ministers.]

Textual Amendments

F29 S. 58A inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 27, 56** (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(g)** (with [art. 3, Sch.](#))

Modifications etc. (not altering text)

C45 S. 58A excluded (W.) (3.11.2008) by [The Mental Health \(Hospital, Guardianship, Community Treatment and Consent to Treatment\) \(Wales\) Regulations 2008 \(S.I. 2008/2439\)](#), **regs. 1, 38(3)**

59 Plans of treatment.

Any consent or certificate under section 57 or 58 above may relate to a plan of treatment under which the patient is to be given (whether within a specified period or otherwise) one or more of the forms of treatment to which that section applies.

60 Withdrawal of consent.

- (1) Where the consent of a patient to any treatment has been given for the purposes of section 57 or 58 above, the patient may, subject to section 62 below, at any time before the completion of the treatment withdraw his consent, and those sections shall then apply as if the remainder of the treatment were a separate form of treatment.
- (2) Without prejudice to the application of subsection (1) above to any treatment given under the plan of treatment to which a patient has consented, a patient who has consented to such a plan may, subject to section 62 below, at any time withdraw his consent to further treatment, or to further treatment of any description, under the plan.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

61 Review of treatment.

- (1) Where a patient is given treatment in accordance with section 57(2) or 58(3)(b) above a report on the treatment and the patient's condition shall be given by the responsible medical officer to the Secretary of State—
 - (a) on the next occasion on which the responsible medical officer furnishes a report in respect of the patient under section 20(3) above; and
 - (b) at any other time if so required by the Secretary of State.
- (2) In relation to a patient who is subject to a restriction order or restriction direction subsection (1) above shall have effect as if paragraph (a) required the report to be made—
 - (a) in the case of treatment in the period of six months beginning with the date of the order or direction, at the end of that period;
 - (b) in the case of treatment at any subsequent time, on the next occasion on which the responsible medical officer makes a report in respect of the patient under section 41(6) or 49(3) above.
- (3) The Secretary of State may at any time give notice to the responsible medical officer directing that, subject to section 62 below, a certificate given in respect of a patient under subsection 57(2) or 58(3)(b) above shall not apply to treatment given to him after a date specified in the notice and sections 57 and 58 above shall then apply to any such treatment as if that certificate has not been given.

62 Urgent treatment.

- (1) Sections 57 and 58 above shall not apply to any treatment—
 - (a) which is immediately necessary to save the patient's life;
 - (b) which (not being irreversible) is immediately necessary to prevent a serious deterioration of his condition; or
 - (c) which (not being irreversible or hazardous) is immediately necessary to alleviate serious suffering by the patient; or
 - (d) which (not being irreversible or hazardous) is immediately necessary and represents the minimum interference necessary to prevent the patient from behaving violently or being a danger to himself or to others.
- (2) Sections 60 and 61(3) above shall not preclude the continuation of any treatment or of treatment under any plan pending compliance with section 57 or 58 above if the responsible medical officer considers that the discontinuance of the treatment or of treatment under the plan would cause serious suffering to the patient.
- (3) For the purposes of this section treatment is irreversible if it has unfavourable irreversible physical or psychological consequences and hazardous if it entails significant physical hazard.

VALID FROM 03/11/2008

[^{F30}62A Treatment on recall of community patient or revocation of order

- (1) This section applies where—
 - (a) a community patient is recalled to hospital under section 17E above; or

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) a patient is liable to be detained under this Act following the revocation of a community treatment order under section 17F above in respect of him.
- (2) For the purposes of section 58(1)(b) above, the patient is to be treated as if he had remained liable to be detained since the making of the community treatment order.
- (3) But section 58 above does not apply to treatment given to the patient if—
- (a) the certificate requirement is met for the purposes of section 64C or 64E below; or
 - (b) as a result of section 64B(4) or 64E(4) below, the certificate requirement would not apply (were the patient a community patient not recalled to hospital under section 17E above).
- (4) Section 58A above does not apply to treatment given to the patient if there is authority to give the treatment, and the certificate requirement is met, for the purposes of section 64C or 64E below.
- (5) In a case where this section applies, the certificate requirement is met only in so far as—
- (a) the Part 4A certificate expressly provides that it is appropriate for one or more specified forms of treatment to be given to the patient in that case (subject to such conditions as may be specified); or
 - (b) a notice having been given under subsection (5) of section 64H below, treatment is authorised by virtue of subsection (8) of that section.
- (6) Subsection (5)(a) above shall not preclude the continuation of any treatment, or of treatment under any plan, pending compliance with section 58 or 58A above if the approved clinician in charge of the treatment considers that the discontinuance of the treatment, or of the treatment under the plan, would cause serious suffering to the patient.
- (7) In a case where subsection (1)(b) above applies, subsection (3) above only applies pending compliance with section 58 above.
- (8) In subsection (5) above—
“Part 4A certificate” has the meaning given in section 64H below; and
“specified”, in relation to a Part 4A certificate, means specified in the certificate.]

Textual Amendments

F30 S. 62A inserted (3.11.3008) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 34\(4\)](#), [56](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(j\)](#) (with [art. 3](#), [Sch.](#))

63 Treatment not requiring consent.

The consent of a patient shall not be required for any medical treatment given to him for the mental disorder from which he is suffering, not being treatment falling within section 57 or 58 above, if the treatment is given by or under the direction of the responsible medical officer.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

64 Supplementary provisions for Part IV.

- (1) In this Part of this Act “the responsible medical officer” means the registered medical practitioner in charge of the treatment of the patient in question and “hospital” includes a mental nursing home.
- (2) Any certificate for the purposes of this Part of this Act shall be in such form as may be prescribed by regulations made by the Secretary of State.

VALID FROM 01/04/2008

[^{F31} PART 4A

TREATMENT OF COMMUNITY PATIENTS NOT RECALLED TO HOSPITAL

Textual Amendments

F31 Pt. 4A (ss. 64A-64K) inserted (1.4.2008 for s. 64H for certain purposes, otherwise 3.11.2008 for ss. 64A-64K) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 35(1)**, 56 (with [Sch. 10](#)); [S.I. 2008/745](#), arts. 2(d), 3(e); [S.I. 2008/1900](#), **art. 2(k)** (with art. 3, Sch.)

VALID FROM 03/11/2008

[^{F32} 64A

Meaning of “relevant treatment”

In this Part of this Act “relevant treatment”, in relation to a patient, means medical treatment which—

- (a) is for the mental disorder from which the patient is suffering; and
- (b) is not a form of treatment to which section 57 above applies.]

Textual Amendments

F32 Pt. 4A (ss. 64A-64K) inserted (1.4.2008 for s. 64H for certain purposes, otherwise 3.11.2008 for ss. 64A-64K) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 35(1)**, 56 (with [Sch. 10](#)); [S.I. 2008/745](#), {arts. 2(d), 3(e)}; [S.I. 2008/1900](#), **art. 2(k)** (with art. 3, Sch.)

VALID FROM 03/11/2008

[^{F33} 64B

Adult community patients

- (1) This section applies to the giving of relevant treatment to a community patient who—
 - (a) is not recalled to hospital under section 17E above; and
 - (b) has attained the age of 16 years.
- (2) The treatment may not be given to the patient unless—

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) there is authority to give it to him; and
 - (b) if it is section 58 type treatment or section 58A type treatment, the certificate requirement is met.
- (3) But the certificate requirement does not apply if—
- (a) giving the treatment to the patient is authorised in accordance with section 64G below; or
 - (b) the treatment is immediately necessary and—
 - (i) the patient has capacity to consent to it and does consent to it; or
 - (ii) a donee or deputy or the Court of Protection consents to the treatment on the patient's behalf.
- (4) Nor does the certificate requirement apply in so far as the administration of medicine to the patient at any time during the period of one month beginning with the day on which the community treatment order is made is section 58 type treatment.
- (5) The reference in subsection (4) above to the administration of medicine does not include any form of treatment specified under section 58(1)(a) above.]

Textual Amendments

F33 Pt. 4A (ss. 64A-64K) inserted (1.4.2008 for s. 64H for certain purposes, otherwise 3.11.2008 for ss. 64A-64K) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 35(1), 56** (with [Sch. 10](#)); [S.I. 2008/745](#), {arts. 2(d), 3(e)}; [S.I. 2008/1900](#), **art. 2(k)** (with [art. 3](#), [Sch.](#))

VALID FROM 03/11/2008

Section 64B: supplemental

- ^{F34} **64C**
- (1) This section has effect for the purposes of section 64B above.
- (2) There is authority to give treatment to a patient if—
- (a) he has capacity to consent to it and does consent to it;
 - (b) a donee or deputy or the Court of Protection consents to it on his behalf; or
 - (c) giving it to him is authorised in accordance with section 64D or 64G below.
- (3) Relevant treatment is section 58 type treatment or section 58A type treatment if, at the time when it is given to the patient, section 58 or 58A above (respectively) would have applied to it, had the patient remained liable to be detained at that time (rather than being a community patient).
- (4) The certificate requirement is met in respect of treatment to be given to a patient if—
- (a) a registered medical practitioner appointed for the purposes of Part 4 of this Act (not being the responsible clinician or the person in charge of the treatment) has certified in writing that it is appropriate for the treatment to be given or for the treatment to be given subject to such conditions as may be specified in the certificate; and
 - (b) if conditions are so specified, the conditions are satisfied.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) In a case where the treatment is section 58 type treatment, treatment is immediately necessary if—
 - (a) it is immediately necessary to save the patient's life; or
 - (b) it is immediately necessary to prevent a serious deterioration of the patient's condition and is not irreversible; or
 - (c) it is immediately necessary to alleviate serious suffering by the patient and is not irreversible or hazardous; or
 - (d) it is immediately necessary, represents the minimum interference necessary to prevent the patient from behaving violently or being a danger to himself or others and is not irreversible or hazardous.
- (6) In a case where the treatment is section 58A type treatment by virtue of subsection (1)(a) of that section, treatment is immediately necessary if it falls within paragraph (a) or (b) of subsection (5) above.
- (7) In a case where the treatment is section 58A type treatment by virtue of subsection (1)(b) of that section, treatment is immediately necessary if it falls within such of paragraphs (a) to (d) of subsection (5) above as may be specified in regulations under that section.
- (8) For the purposes of subsection (7) above, the regulations—
 - (a) may make different provision for different cases (and may, in particular, make different provision for different forms of treatment);
 - (b) may make provision which applies subject to specified exceptions; and
 - (c) may include transitional, consequential, incidental or supplemental provision.
- (9) Subsection (3) of section 62 above applies for the purposes of this section as it applies for the purposes of that section.]

Textual Amendments

F34 Pt. 4A (ss. 64A-64K) inserted (1.4.2008 for s. 64H for certain purposes, otherwise 3.11.2008 for ss. 64A-64K) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 35\(1\), 56](#) (with [Sch. 10](#)); [S.I. 2008/745](#), {arts. 2(d), 3(e)}; [S.I. 2008/1900](#), [art. 2\(k\)](#) (with art. 3, Sch.)

VALID FROM 03/11/2008

[^{F35} **64D** **Adult community patients lacking capacity**

- (1) A person is authorised to give relevant treatment to a patient as mentioned in section 64C(2)(c) above if the conditions in subsections (2) to (6) below are met.
- (2) The first condition is that, before giving the treatment, the person takes reasonable steps to establish whether the patient lacks capacity to consent to the treatment.
- (3) The second condition is that, when giving the treatment, he reasonably believes that the patient lacks capacity to consent to it.
- (4) The third condition is that—

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) he has no reason to believe that the patient objects to being given the treatment; or
 - (b) he does have reason to believe that the patient so objects, but it is not necessary to use force against the patient in order to give the treatment.
- (5) The fourth condition is that—
- (a) he is the person in charge of the treatment and an approved clinician; or
 - (b) the treatment is given under the direction of that clinician.
- (6) The fifth condition is that giving the treatment does not conflict with—
- (a) an advance decision which he is satisfied is valid and applicable; or
 - (b) a decision made by a donee or deputy or the Court of Protection.
- (7) In this section—
- (a) reference to an advance decision is to an advance decision (within the meaning of the Mental Capacity Act 2005) made by the patient; and
 - (b) “valid and applicable”, in relation to such a decision, means valid and applicable to the treatment in question in accordance with section 25 of that Act.]

Textual Amendments

F35 Pt. 4A (ss. 64A-64K) inserted (1.4.2008 for s. 64H for certain purposes, otherwise 3.11.2008 for ss. 64A-64K) by **Mental Health Act 2007 (c. 12)**, ss. **35(1)**, **56** (with **Sch. 10**); **S.I. 2008/745**, {arts. 2(d), 3(e)}; **S.I. 2008/1900**, **art. 2(k)** (with art. 3, Sch.)

VALID FROM 03/11/2008

Child community patients

F36
64E

- (1) This section applies to the giving of relevant treatment to a community patient who—
- (a) is not recalled to hospital under section 17E above; and
 - (b) has not attained the age of 16 years.
- (2) The treatment may not be given to the patient unless—
- (a) there is authority to give it to him; and
 - (b) if it is section 58 type treatment or section 58A type treatment, the certificate requirement is met.
- (3) But the certificate requirement does not apply if—
- (a) giving the treatment to the patient is authorised in accordance with section 64G below; or
 - (b) in a case where the patient is competent to consent to the treatment and does consent to it, the treatment is immediately necessary.
- (4) Nor does the certificate requirement apply in so far as the administration of medicine to the patient at any time during the period of one month beginning with the day on which the community treatment order is made is section 58 type treatment.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) The reference in subsection (4) above to the administration of medicine does not include any form of treatment specified under section 58(1)(a) above.
- (6) For the purposes of subsection (2)(a) above, there is authority to give treatment to a patient if—
 - (a) he is competent to consent to it and he does consent to it; or
 - (b) giving it to him is authorised in accordance with section 64F or 64G below.
- (7) Subsections (3) to (9) of section 64C above have effect for the purposes of this section as they have effect for the purposes of section 64B above.
- (8) Regulations made by virtue of section 32(2)(d) above apply for the purposes of this section as they apply for the purposes of Part 2 of this Act.]

Textual Amendments

F36 Pt. 4A (ss. 64A-64K) inserted (1.4.2008 for s. 64H for certain purposes, otherwise 3.11.2008 for ss. 64A-64K) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 35\(1\), 56](#) (with [Sch. 10](#)); [S.I. 2008/745](#), {arts. 2(d), 3(e)}; [S.I. 2008/1900](#), [art. 2\(k\)](#) (with [art. 3](#), [Sch.](#))

VALID FROM 03/11/2008

[^{F37}64F] Child community patients lacking competence

- (1) A person is authorised to give relevant treatment to a patient as mentioned in section 64E(6)(b) above if the conditions in subsections (2) to (5) below are met.
- (2) The first condition is that, before giving the treatment, the person takes reasonable steps to establish whether the patient is competent to consent to the treatment.
- (3) The second condition is that, when giving the treatment, he reasonably believes that the patient is not competent to consent to it.
- (4) The third condition is that—
 - (a) he has no reason to believe that the patient objects to being given the treatment; or
 - (b) he does have reason to believe that the patient so objects, but it is not necessary to use force against the patient in order to give the treatment.
- (5) The fourth condition is that—
 - (a) he is the person in charge of the treatment and an approved clinician; or
 - (b) the treatment is given under the direction of that clinician.]

Textual Amendments

F37 Pt. 4A (ss. 64A-64K) inserted (1.4.2008 for s. 64H for certain purposes, otherwise 3.11.2008 for ss. 64A-64K) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 35\(1\), 56](#) (with [Sch. 10](#)); [S.I. 2008/745](#), {arts. 2(d), 3(e)}; [S.I. 2008/1900](#), [art. 2\(k\)](#) (with [art. 3](#), [Sch.](#))

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 03/11/2008

Emergency treatment for patients lacking capacity or competence

64G

- (1) A person is also authorised to give relevant treatment to a patient as mentioned in section 64C(2)(c) or 64E(6)(b) above if the conditions in subsections (2) to (4) below are met.
- (2) The first condition is that, when giving the treatment, the person reasonably believes that the patient lacks capacity to consent to it or, as the case may be, is not competent to consent to it.
- (3) The second condition is that the treatment is immediately necessary.
- (4) The third condition is that if it is necessary to use force against the patient in order to give the treatment—
 - (a) the treatment needs to be given in order to prevent harm to the patient; and
 - (b) the use of such force is a proportionate response to the likelihood of the patient's suffering harm, and to the seriousness of that harm.
- (5) Subject to subsections (6) to (8) below, treatment is immediately necessary if—
 - (a) it is immediately necessary to save the patient's life; or
 - (b) it is immediately necessary to prevent a serious deterioration of the patient's condition and is not irreversible; or
 - (c) it is immediately necessary to alleviate serious suffering by the patient and is not irreversible or hazardous; or
 - (d) it is immediately necessary, represents the minimum interference necessary to prevent the patient from behaving violently or being a danger to himself or others and is not irreversible or hazardous.
- (6) Where the treatment is section 58A type treatment by virtue of subsection (1)(a) of that section, treatment is immediately necessary if it falls within paragraph (a) or (b) of subsection (5) above.
- (7) Where the treatment is section 58A type treatment by virtue of subsection (1)(b) of that section, treatment is immediately necessary if it falls within such of paragraphs (a) to (d) of subsection (5) above as may be specified in regulations under section 58A above.
- (8) For the purposes of subsection (7) above, the regulations—
 - (a) may make different provision for different cases (and may, in particular, make different provision for different forms of treatment);
 - (b) may make provision which applies subject to specified exceptions; and
 - (c) may include transitional, consequential, incidental or supplemental provision.
- (9) Subsection (3) of section 62 above applies for the purposes of this section as it applies for the purposes of that section.]

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F38 Pt. 4A (ss. 64A-64K) inserted (1.4.2008 for s. 64H for certain purposes, otherwise 3.11.2008 for ss. 64A-64K) by **Mental Health Act 2007 (c. 12)**, **ss. 35(1), 56** (with **Sch. 10**); **S.I. 2008/745**, {arts. 2(d), 3(e)}; **S.I. 2008/1900**, **art. 2(k)** (with **art. 3, Sch.**)

64H Certificates: supplementary provisions

- (1) A certificate under section 64B(2)(b) or 64E(2)(b) above (a “Part 4A certificate”) may relate to a plan of treatment under which the patient is to be given (whether within a specified period or otherwise) one or more forms of section 58 type treatment or section 58A type treatment.
- (2) A Part 4A certificate shall be in such form as may be prescribed by regulations made by the appropriate national authority.
- (3) Before giving a Part 4A certificate, the registered medical practitioner concerned shall consult two other persons who have been professionally concerned with the patient's medical treatment but, of those persons—
 - (a) at least one shall be a person who is not a registered medical practitioner; and
 - (b) neither shall be the patient's responsible clinician or the person in charge of the treatment in question.
- (4) Where a patient is given treatment in accordance with a Part 4A certificate, a report on the treatment and the patient's condition shall be given by the person in charge of the treatment to the appropriate national authority if required by that authority.
- (5) The appropriate national authority may at any time give notice directing that a Part 4A certificate shall not apply to treatment given to a patient after a date specified in the notice, and the relevant section shall then apply to any such treatment as if that certificate had not been given.
- (6) The relevant section is—
 - (a) if the patient is not recalled to hospital in accordance with section 17E above, section 64B or 64E above;
 - (b) if the patient is so recalled or is liable to be detained under this Act following revocation of the community treatment order under section 17F above—
 - (i) section 58 above, in the case of section 58 type treatment;
 - (ii) section 58A above, in the case of section 58A type treatment;
 (subject to section 62A(2) above).
- (7) The notice under subsection (5) above shall be given to the person in charge of the treatment in question.
- (8) Subsection (5) above shall not preclude the continuation of any treatment or of treatment under any plan pending compliance with the relevant section if the person in charge of the treatment considers that the discontinuance of the treatment or of treatment under the plan would cause serious suffering to the patient.
- (9) In this section, “the appropriate national authority” means—
 - (a) in relation to community patients in respect of whom the responsible hospital is in England, the Secretary of State;

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) in relation to community patients in respect of whom the responsible hospital is in Wales, the Welsh Ministers.

VALID FROM 03/11/2008

[^{F39}64I

Liability for negligence

Nothing in section 64D, 64F or 64G above excludes a person's civil liability for loss or damage, or his criminal liability, resulting from his negligence in doing anything authorised to be done by that section.]

Textual Amendments

F39 Pt. 4A (ss. 64A-64K) inserted (1.4.2008 for s. 64H for certain purposes, otherwise 3.11.2008 for ss. 64A-64K) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 35(1), 56** (with [Sch. 10](#)); [S.I. 2008/745](#), {arts. 2(d), 3(e)}; [S.I. 2008/1900](#), **art. 2(k)** (with [art. 3](#), [Sch.](#))

VALID FROM 03/11/2008

[^{F40}64J

Factors to be considered in determining whether patient objects to treatment

- (1) In assessing for the purposes of this Part whether he has reason to believe that a patient objects to treatment, a person shall consider all the circumstances so far as they are reasonably ascertainable, including the patient's behaviour, wishes, feelings, views, beliefs and values.
- (2) But circumstances from the past shall be considered only so far as it is still appropriate to consider them.]

Textual Amendments

F40 Pt. 4A (ss. 64A-64K) inserted (1.4.2008 for s. 64H for certain purposes, otherwise 3.11.2008 for ss. 64A-64K) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 35(1), 56** (with [Sch. 10](#)); [S.I. 2008/745](#), {arts. 2(d), 3(e)}; [S.I. 2008/1900](#), **art. 2(k)** (with [art. 3](#), [Sch.](#))

VALID FROM 03/11/2008

[^{F41}64K

Interpretation of Part 4A

- (1) This Part of this Act is to be construed as follows.
- (2) References to a patient who lacks capacity are to a patient who lacks capacity within the meaning of the Mental Capacity Act 2005.
- (3) References to a patient who has capacity are to be read accordingly.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) References to a donee are to a donee of a lasting power of attorney (within the meaning of section 9 of the Mental Capacity Act 2005) created by the patient, where the donee is acting within the scope of his authority and in accordance with that Act.
- (5) References to a deputy are to a deputy appointed for the patient by the Court of Protection under section 16 of the Mental Capacity Act 2005, where the deputy is acting within the scope of his authority and in accordance with that Act.
- (6) Reference to the responsible clinician shall be construed as a reference to the responsible clinician within the meaning of Part 2 of this Act.
- (7) References to a hospital include a registered establishment.
- (8) Section 64(3) above applies for the purposes of this Part of this Act as it applies for the purposes of Part 4 of this Act.]]

Textual Amendments

- F41** Pt. 4A (ss. 64A-64K) inserted (1.4.2008 for s. 64H for certain purposes, otherwise 3.11.2008 for ss. 64A-64K) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 35\(1\), 56](#) (with [Sch. 10](#)); [S.I. 2008/745](#), {arts. 2(d), 3(e)}; [S.I. 2008/1900](#), [art. 2\(k\)](#) (with art. 3, Sch.)

PART V

MENTAL HEALTH REVIEW TRIBUNALS

Constitution etc.

65 Mental Health Review Tribunals.

- (1) There shall continue to be a tribunal known as a Mental Health Review Tribunal for every region for which a Regional Health Authority is established in pursuance of the ^{M21}National Health Service Act 1977 and for Wales, for the purpose of dealing with applications and references by and in respect of patients under the provisions of this Act.
- (2) The provisions of Schedule 2 to this Act shall have effect with respect to the constitution of Mental Health Review Tribunals.
- (3) Subject to the provisions of Schedule 2 to this Act, 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 Secretary of State 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 consent of the Treasury determine, and may provide for each such tribunal such officers and servants, and such accommodation, as the tribunal may require.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M21 1977 c. 49.

Applications and references concerning Part II patients

66 Applications to tribunals.

(1) Where—

- (a) a patient is admitted to a hospital in pursuance of an application for admission for assessment; or
- (b) a patient is admitted to a hospital in pursuance of an application for admission for treatment; or
- (c) a patient is received into guardianship in pursuance of a guardianship application; or
- (d) a report is furnished under section 16 above in respect of a patient; or
- (e) a patient is transferred from guardianship to a hospital in pursuance of regulations made under section 19 above; or
- (f) a report is furnished under section 20 above in respect of a patient and the patient is not discharged; or
- (g) a report is furnished under section 25 above in respect of a patient who is detained in pursuance of an application for admission for treatment; or
- (h) an order is made under section 29 above in respect of a patient who is or subsequently becomes liable to be detained or subject to guardianship under Part II of this Act,

an application may be made to a Mental Health Review Tribunal within the relevant period—

- (i) by the patient (except in the cases mentioned in paragraphs (g) and (h) above) or, in the case mentioned in paragraph (d) above, by his nearest relative, and
- (ii) in the cases mentioned in paragraphs (g) and (h) above, by his nearest relative.

(2) In subsection (1) above “the relevant period” means—

- (a) in the case mentioned in paragraph (a) of that subsection, 14 days beginning with the day on which the patient is admitted as so mentioned;
- (b) in the case mentioned in paragraph (b) of that subsection, six months beginning with the day on which the patient is admitted as so mentioned;
- (c) in the case mentioned in paragraph (c) of that subsection, six months beginning with the day on which the application is accepted;
- (d) in the cases mentioned in paragraphs (d) and (g) of that subsection, 28 days beginning with the day on which the applicant is informed that the report has been furnished;
- (e) in the case mentioned in paragraph (e) of that subsection, six months beginning with the day on which the patient is transferred;
- (f) in the case mentioned in paragraph (f) of that subsection, the period for which authority for the patient’s detention or guardianship is renewed by virtue of the report;

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(g) in the case mentioned in paragraph (h) of that subsection, 12 months beginning with the date of the order, and in any subsequent period of 12 months during which the order continues in force.

(3) Section 32 above shall apply for the purposes of this section as it applies for the purposes of Part II of this Act.

67 References to tribunals by Secretary of State concerning Part II patients.

(1) The Secretary of State 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 Part II of this Act.

(2) For the purpose of furnishing information for the purposes of a reference under subsection (1) above any registered medical practitioner authorised by or on behalf of the patient may, at any reasonable time, visit the patient and examine him in private and require the production of and inspect any records relating to the detention or treatment of the patient in any hospital.

(3) Section 32 above shall apply for the purposes of this section as it applies for the purposes of Part II of this Act.

68 Duty of managers of hospitals to refer cases to tribunal.

(1) Where a patient who is admitted to a hospital in pursuance of an application for admission for treatment or a patient who is transferred from guardianship to hospital does not exercise his right to apply to a Mental Health Review Tribunal under section 66(1) above by virtue of his case falling within paragraph (b) or, as the case may be, paragraph (e) of that section, the managers of the hospital shall at the expiration of the period for making such an application refer the patient's case to such a tribunal unless an application or reference in respect of the patient has then been made under section 66(1) above by virtue of his case falling within paragraph (d), (g) or (h) of that section or under section 67(1) above.

(2) If the authority for the detention of a patient in a hospital is renewed under section 20 above and a period of three years (or, if the patient has not attained the age of sixteen years, one year) has elapsed since his case was last considered by a Mental Health Review Tribunal, whether on his own application or otherwise, the managers of the hospital shall refer his case to such a tribunal.

(3) For the purpose of furnishing information for the purposes of any reference under this section, any registered medical practitioner authorised by or on behalf of the patient may at any reasonable time visit and examine the patient in private and require the production of and inspect any records relating to the detention or treatment of the patient in any hospital.

(4) The Secretary of State may by order vary the length of the periods mentioned in subsection (2) above.

(5) For the purposes of subsection (1) above a person who applies to a tribunal but subsequently withdraws his application shall be treated as not having exercised his right to apply, and where a person withdraws his application on a date after the expiration of the period mentioned in that subsection, the managers shall refer the patient's case as soon as possible after that date.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 03/11/2008

[^{F42}68A Power to reduce periods under section 68

- (1) The appropriate national authority may from time to time by order amend subsection (2) or (6) of section 68 above so as to substitute for a period mentioned there such shorter period as is specified in the order.
- (2) The order may include such transitional, consequential, incidental or supplemental provision as the appropriate national authority thinks fit.
- (3) The order may, in particular, make provision for a case where—
 - (a) a patient in respect of whom subsection (1) of section 68 above applies is, or is about to be, transferred from England to Wales or from Wales to England; and
 - (b) the period by reference to which subsection (2) or (6) of that section operates for the purposes of the patient's case is not the same in one territory as it is in the other.
- (4) A patient is transferred from one territory to the other if—
 - (a) he is transferred from a hospital, or from guardianship, in one territory to a hospital in the other in pursuance of regulations made under section 19 above;
 - (b) he is removed under subsection (3) of that section from a hospital or accommodation in one territory to a hospital or accommodation in the other;
 - (c) he is a community patient responsibility for whom is assigned from a hospital in one territory to a hospital in the other in pursuance of regulations made under section 19A above;
 - (d) on the revocation of a community treatment order in respect of him under section 17F above he is detained in a hospital in the territory other than the one in which the responsible hospital was situated; or
 - (e) he is transferred or removed under section 123 below from a hospital in one territory to a hospital in the other.
- (5) Provision made by virtue of subsection (3) above may require or authorise the managers of a hospital determined in accordance with the order to refer the patient's case to [^{F43}the appropriate tribunal].
- (6) In so far as making provision by virtue of subsection (3) above, the order—
 - (a) may make different provision for different cases;
 - (b) may make provision which applies subject to specified exceptions.
- (7) Where the appropriate national authority for one territory makes an order under subsection (1) above, the appropriate national authority for the other territory may by order make such provision in consequence of the order as it thinks fit.
- (8) An order made under subsection (7) above may, in particular, make provision for a case within subsection (3) above (and subsections (4) to (6) above shall apply accordingly).
- (9) In this section, “the appropriate national authority” means—
 - (a) in relation to a hospital in England, the Secretary of State;

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) in relation to a hospital in Wales, the Welsh Ministers.]

Textual Amendments

- F42** Ss. 68, 68A substituted (3.11.2008) for s. 68 by [Mental Health Act 2007 \(c. 12\)](#), **ss. 37(3)**, 56 (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(1)** (with [art. 3](#), [Sch.](#))
- F43** Words in s. 68A(5) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), [art. 6](#), [Sch. 3 para. 49](#)

Applications and references concerning Part III patients

69 Applications to tribunals concerning patients subject to hospital and guardianship orders.

- (1) Without prejudice to any provision of section 66(1) above as applied by section 40(4) above, an application to a Mental Health Review Tribunal may also be made—
- (a) in respect of a patient admitted to a hospital in pursuance of a hospital order, by the nearest relative of the patient in the period between the expiration of six months and the expiration of 12 months beginning with the date of the order and in any subsequent period of 12 months; and
 - (b) in respect of a patient placed under guardianship by a guardianship order—
 - (i) by the patient, within the period of six months beginning with the date of the order;
 - (ii) by the nearest relative of the patient, within the period of 12 months beginning with the date of the order and in any subsequent period of 12 months.
- (2) Where a person detained in a hospital—
- (a) is treated as subject to a hospital order or transfer direction by virtue of section 41(5) above, 82(2) or 85(2) below, [^{F44}section 77(2) of the Mental Health (Scotland) Act 1984] or section 5(1) of the ^{M22}Criminal Procedure (Insanity) Act 1964; or
 - (b) is subject to a direction having the same effect as a hospital order by virtue of section 46(3), 47(3) or 48(3) above,

then, without prejudice to any provision of Part II of this Act as applied by section 40 above, that person may make an application to a Mental Health Review Tribunal in the period of six months beginning with the date of the order or direction mentioned in paragraph (a) above or, as the case may be, the date of the direction mentioned in paragraph (b) above.

Textual Amendments

- F44** Words substituted by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), **ss. 17(2)**, 127(1), **Sch. 3 para. 49**

Marginal Citations

- M22** 1964 c. 84.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

70 Applications to tribunals concerning restricted patients.

A patient who is a restricted patient within the meaning of section 79 below and is detained in a hospital may apply to a Mental Health Review Tribunal—

- (a) in the period between the expiration of six months and the expiration of 12 months beginning with the date of the relevant hospital order or transfer direction; and
- (b) in any subsequent period of 12 months.

71 References by Secretary of State concerning restricted patients.

- (1) The Secretary of State may at any time refer the case of a restricted patient to a Mental Health Review Tribunal.
- (2) The Secretary of State shall refer to a Mental Health Review Tribunal the case of any restricted patient detained in a hospital whose case has not been considered by such a tribunal, whether on his own application or otherwise, within the last three years.
- (3) The Secretary of State may by order vary the length of the period mentioned in subsection (2) above.
- (4) Any reference under subsection (1) above in respect of a patient who has been conditionally discharged and not recalled to hospital shall be made to the tribunal for the area in which the patient resides.
- (5) Where a person who is treated as subject to a hospital order and a restriction order by virtue of an order under section 5(1) of the ^{M23}Criminal Procedure (Insanity) Act 1964 does not exercise his right to apply to a Mental Health Review Tribunal in the period of six months beginning with the date of that order, the Secretary of State shall at the expiration of that period refer his case to a tribunal.
- (6) For the purposes of subsection (5) above a person who applies to a tribunal but subsequently withdraws his application shall be treated as not having exercised his right to apply, and where a patient withdraws his application on a date after the expiration of the period there mentioned the Secretary of State shall refer his case as soon as possible after that date.

Marginal Citations

M23 1964 c. 84.

Discharge of patients

72 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—
 - (a) the tribunal shall direct the discharge of a patient liable to be detained under section 2 above if they are satisfied—
 - (i) that he is not then suffering from mental disorder or from mental disorder of a nature or degree which warrants his detention in a

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- hospital for assessment (or for assessment followed by medical treatment) for at least a limited period; or
- (ii) that his detention as aforesaid is not justified in the interests of his own health or safety or with a view to the protection of other persons;
- (b) the tribunal shall direct the discharge of a patient liable to be detained otherwise than under section 2 above if they are satisfied—
- (i) that he is not then suffering from mental illness, psychopathic disorder, severe mental impairment or mental impairment or from any of those forms of disorder of a nature or degree which makes it appropriate for him to be liable to be detained in a hospital for medical treatment; or
- (ii) that it is not necessary for the health or safety of the patient or for the protection of other persons that he should receive such treatment; or
- (iii) in the case of an application by virtue of paragraph (g) of section 66(1) above, that the patient, if released, would not be likely to act in a manner dangerous to other persons or to himself.
- (2) In determining whether to direct the discharge of a patient detained otherwise than under section 2 above in a case not falling within paragraph (b) of subsection (1) above, the tribunal shall have regard—
- (a) to the likelihood of medical treatment alleviating or preventing a deterioration of the patient's condition; and
- (b) in the case of a patient suffering from mental illness or severe mental impairment, to the likelihood of the patient, if discharged, being able to care for himself, to obtain the case he needs or to guard himself against serious exploitation.
- (3) A tribunal may under subsection (1) above direct the discharge of a patient on a future date specified in the direction; and where a tribunal do not direct the discharge of a patient under that subsection the tribunal may—
- (a) with a view to facilitating his discharge on a future date, recommend that he be granted leave of absence or transferred to another hospital or into guardianship; and
- (b) further consider his case in the event of any such recommendation not being complied with.
- (4) 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, severe mental impairment or mental impairment; or
- (b) that it is not necessary in the interests of the welfare of the patient, or for the protection of other persons, that the patient should remain under such guardianship.
- (5) 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 application, order or direction relating to him, direct that that application, order or direction be amended by substituting for the form of mental disorder specified in it such other form of mental disorder as appears to the tribunal to be appropriate.

Status: *Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.*

Changes to legislation: *Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (6) Subsections (1) to (5) above apply in relation to references to a Mental Health Review Tribunal as they apply in relation to applications made to such a tribunal by or in respect of a patient.
- (7) Subsection (1) above shall not apply in the case of a restricted patient except as provided in sections 73 and 74 below.

73 Power to discharge restricted patients.

- (1) Where an application to a Mental Health Review Tribunal is made by a restricted patient who is subject to a restriction order, or where the case of such a patient is referred to such a tribunal, the tribunal shall direct the absolute discharge of the patient if satisfied—
- (a) as to the matters mentioned in paragraph (b)(i) or (ii) or section 72(1) above; and
 - (b) that it is not appropriate for the patient to remain liable to be recalled to hospital for further treatment.
- (2) Where in the case of any such patient as is mentioned in subsection (1) above the tribunal are satisfied as to the matters referred to in paragraph (a) of that subsection but not as to the matter referred to in paragraph (b) of that subsection the tribunal shall direct the conditional discharge of the patient.
- (3) Where a patient is absolutely discharged under this section he shall thereupon cease to be liable to be detained by virtue of the relevant hospital order, and the restriction order shall cease to have effect accordingly.
- (4) Where a patient is conditionally discharged under this section—
- (a) he may be recalled by the Secretary of State under subsection (3) of section 42 above as if he had been conditionally discharged under subsection (2) of that section; and
 - (b) the patient shall comply with such conditions (if any) as may be imposed at the time of discharge by the tribunal or at any subsequent time by the Secretary of State.
- (5) The Secretary of State may from time to time vary any condition imposed (whether by the tribunal or by him) under subsection (4) above.
- (6) Where a restriction order in respect of a patient ceases to have effect after he has been conditionally discharged under this section the patient shall, unless previously recalled, 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.
- (7) A tribunal may defer a direction for the conditional discharge of a patient until such arrangements as appear to the tribunal to be necessary for that purpose have been made to their satisfaction; and where by virtue of any such deferment no direction has been given on an application or reference before the time when the patient's case comes before the tribunal on a subsequent application or reference, the previous application or reference shall be treated as one on which no direction under this section can be given.
- (8) This section is without prejudice to section 42 above.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

74 Restricted patients subject to restriction directions.

- (1) Where an application to a Mental Health Review Tribunal is made by a restricted patient who is subject to a restriction direction, or where the case of such a patient is referred to such a tribunal, the tribunal—
 - (a) shall notify the Secretary of State whether, in their opinion, the patient would, if subject to a restriction order, be entitled to be absolutely or conditionally discharged under section 73 above; and
 - (b) if they notify him that the patient would be entitled to be conditionally discharged, may recommend that in the event of his not being discharged under this section he should continue to be detained in hospital.
- (2) If in the case of a patient not falling within subsection (4) below—
 - (a) the tribunal notify the Secretary of State that the patient would be entitled to be absolutely or conditionally discharged; and
 - (b) within the period of 90 days beginning with the date of that notification the Secretary of State gives notice to the tribunal that the patient may be so discharged,

the tribunal shall direct the absolute or, as the case may be, the conditional discharge of the patient.
- (3) Where a patient continues to be liable to be detained in a hospital at the end of the period referred to in subsection (2)(b) above because the Secretary of State has not given the notice there mentioned, the managers of the hospital shall, unless the tribunal have made a recommendation under subsection (1)(b) above, transfer the patient to a 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.
- (4) If, in the case of a patient who is subject to a transfer direction under section 48 above, the tribunal notify the Secretary of State that the patient would be entitled to be absolutely or conditionally discharged, the Secretary of State shall, unless the tribunal have made a recommendation under subsection (1)(b) above, by warrant direct that the patient be remitted to a 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.
- (5) Where a patient is transferred or remitted under subsection (3) or (4) above the relevant transfer direction and the restriction direction shall cease to have effect on his arrival in the prison or other institution.
- (6) Subsections (3) to (8) of section 73 above shall have effect in relation to this section as they have effect in relation to that section, taking references to the relevant hospital order and the restriction order as references to the transfer direction and the restriction direction.
- (7) This section is without prejudice to sections 50 to 53 above in their application to patients who are not discharged under this section.

75 Applications and references concerning conditionally discharged restricted patients.

- (1) Where a restricted patient has been conditionally discharged under section 42(2), 73 or 74 above and is subsequently recalled to hospital—

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) the Secretary of State shall, within one month of the day on which the patient returns or is returned to hospital, refer his case to a Mental Health Review Tribunal; and
 - (b) section 70 above shall apply to the patient as if the relevant hospital order or transfer direction had been made on that day.
- (2) Where a restricted patient has been conditionally discharged as aforesaid but has not been recalled to hospital he may apply to a Mental Health Review Tribunal—
- (a) in the period between the expiration of 12 months and the expiration of two years beginning with the date on which he was conditionally discharged; and
 - (b) in any subsequent period of two years.
- (3) Sections 73 and 74 above shall not apply to an application under subsection (2) above but on any such application the tribunal may—
- (a) vary any condition to which the patient is subject in connection with his discharge or impose any condition which might have been imposed in connection therewith; or
 - (b) direct that the restriction order or restriction direction to which he is subject shall cease to have effect;
- and if the tribunal give a direction under paragraph (b) above the patient shall cease to be liable to be detained by virtue of the relevant hospital order or transfer direction.

General

76 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 Part II of this Act or of furnishing information as to the condition of a patient for the purposes of such an application, any registered medical practitioner authorised by or on behalf of the patient or other person who is entitled to make or has made the application—
- (a) may at any reasonable time visit the patient and examine him in private, and
 - (b) may require the production of and inspect any records relating to the detention or treatment of the patient in any hospital.
- (2) Section 32 above shall apply for the purposes of this section as it applies for the purposes of Part II of this Act.

77 General provisions concerning tribunal applications.

- (1) No application shall be made to a Mental Health Review Tribunal by or in respect of a patient except in such cases and at such times as are expressly provided by this Act.
- (2) Where under this Act any person is authorised to make an application to a Mental Health Review Tribunal within a specified period, not more than one such application shall be made by that person within that period but for that purpose there shall be disregarded any application which is withdrawn in accordance with rules made under section 78 below.
- (3) Subject to subsection (4) below an application to a Mental Health Review Tribunal authorised to be made by or in respect of a patient under this Act shall be made by

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

notice in writing addressed to the tribunal for the area in which the hospital in which the patient is detained is situated or in which the patient is residing under guardianship as the case may be.

- (4) Any application under section 75(2) above shall be made to the tribunal for the area in which the patient resides.

78 Procedure of tribunals.

- (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 12 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

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- the tribunal considers that furnishing it would be undesirable in the interests of the patient or for other special reasons;
- (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;
 - (k) for enabling any functions of a tribunal which relate to matters preliminary or incidental to an application to be performed by the chairman of the tribunal.
- (3) Subsections (1) and (2) above 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 make provision as to the procedure to be adopted in cases concerning restricted patients and, in particular—
- (a) for restricting the persons qualified to serve as president of a tribunal for the consideration of an application or reference relating to a restricted patient;
 - (b) for the transfer of proceedings from one tribunal to another in any case where, after the making of a reference or application in accordance with section 71(4) or 77(4) above, the patient ceases to reside in the area of the tribunal to which the reference or application was made.
- (5) 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.
- (6) Any functions conferred on the chairman of a Mental Health Review Tribunal by rules under this section may, if for any reason he is unable to act, be exercised by another member of that tribunal appointed by him for the purpose.
- (7) A Mental Health Review Tribunal may pay allowances in respect of travelling expenses, subsistence and loss of earnings to any person attending the tribunal as an applicant or witness, to the patient who is the subject of the proceedings if he attends otherwise than as the applicant or a witness and to any person (other than counsel or a solicitor) who attends as the representative of an applicant.
- (8) 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.
- (9) The ^{M24}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.

Marginal Citations

M24 1950 c. 27.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 03/11/2008

[^{F45}78A Appeal from the Mental Health Review Tribunal for Wales to the Upper Tribunal

- (1) A party to any proceedings before the Mental Health Review Tribunal for Wales may appeal to the Upper Tribunal on any point of law arising from a decision made by the Mental Health Review Tribunal for Wales in those proceedings.
- (2) An appeal may be brought under subsection (1) above only if, on an application made by the party concerned, the Mental Health Review Tribunal for Wales or the Upper Tribunal has given its permission for the appeal to be brought.
- (3) Section 12 of the Tribunals, Courts and Enforcement Act 2007 (proceedings on appeal to the Upper Tribunal) applies in relation to appeals to the Upper Tribunal under this section as it applies in relation to appeals to it under section 11 of that Act, but as if references to the First-tier Tribunal were references to the Mental Health Review Tribunal for Wales.]

Textual Amendments

- F45** S. 78A inserted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), art. 6, [Sch. 3 para. 60](#)

79 Interpretation of Part V.

- (1) In this Part of this Act “restricted patient” means a patient who is subject to a restriction order or restriction direction and this Part of this Act shall, subject to the provisions of this section, have effect in relation to any person who—
 - (a) is subject to a direction which by virtue of section 46(3) above has the same effect as a hospital order and a restriction order; or
 - (b) is treated as subject to a hospital order and a restriction order by virtue of an order under section 5(1) of the ^{M25}Criminal Procedure (Insanity) Act 1964 or section 6 or 14(1) of the ^{M26}Criminal Appeal Act 1968; or
 - (c) is treated as subject to a hospital order and a restriction order or to a transfer direction and a restriction direction by virtue of section 82(2) or 85(2) below or [^{F46}section 77(2) of the Mental Health (Scotland) Act 1984],
as it has effect in relation to a restricted patient.
- (2) Subject to the following provisions of this section, in this Part of this Act “the relevant hospital order” and “the relevant transfer direction”, in relation to a restricted patient, mean the hospital order or transfer direction by virtue of which he is liable to be detained in a hospital.
- (3) In the case of a person within paragraph (a) of subsection (1) above, references in this Part of this Act to the relevant hospital order or restriction order shall be construed as references to the direction referred to in that paragraph.
- (4) In the case of a person within paragraph (b) of subsection (1) above, references in this Part of this Act to the relevant hospital order or restriction order shall be construed as references to the order under the provisions mentioned in that paragraph.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) In the case of a person within paragraph (c) of subsection (1) above, references in this Part of this Act to the relevant hospital order, the relevant transfer direction, the restriction order or the restriction direction or to a transfer direction under section 48 above shall be construed as references to the hospital order, transfer direction, restriction order, restriction direction or transfer direction under that section to which that person is treated as subject by virtue of the provisions mentioned in that paragraph.
- (6) In this Part of this Act, unless the context otherwise requires, “hospital” means a hospital within the meaning of Part II of this Act.

Textual Amendments

F46 Words substituted by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\), ss. 17\(2\), 127, Sch. 3 para. 50](#)

Marginal Citations

M25 1964 c. 84.

M26 1968 c. 19.

PART VI

REMOVAL AND RETURN OF PATIENTS WITHIN UNITED KINGDOM, ETC.

Removal to Scotland

80 Removal of patients to Scotland.

- (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 or subject to guardianship under this Act (otherwise than by virtue of section 35, 36 or 38 above), that it is in the interests of the patient to remove him to Scotland, and that arrangements have been made for admitting him to a hospital or, as the case may be, for receiving him into guardianship there, the Secretary of State may authorise his removal to Scotland and may give any necessary directions for his conveyance to his destination.
- (2) Subject to the provisions of subsection (4) below, where a patient liable to be detained under this Act by virtue of an application, order or direction under any enactment in force in England and Wales is removed under this section and admitted to a hospital in Scotland, he shall be treated as if on the date of his admission he had been so admitted in pursuance of an application forwarded to the Health Board responsible for the administration of the hospital, or an order or direction made or given, on that date under the corresponding enactment in Scotland, and, where he is subject to a restriction order or restriction direction under any enactment in this Act, as if he were subject to [F47 a restriction order or restriction] direction under the corresponding enactment in force in Scotland.
- (3) Where a patient subject to guardianship under this Act by virtue of an application, order or direction under any enactment in force in England and Wales is removed under this section and received into guardianship in Scotland, he shall be treated as if on the date on which he arrives at the place where he is to reside he had been so received in pursuance of an application, order or direction under the corresponding

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- enactment in force in Scotland, and as if the application had been forwarded or, as the case may be, the order or direction had been made or given on that date.
- (4) Where a person removed under this section was immediately before his removal liable to be detained by virtue of an application for admission for assessment under this Act, he shall, on his admission to a hospital in Scotland, be treated as if he had been admitted to the hospital in pursuance of an emergency recommendation under the [F48Mental Health (Scotland) Act 1984] made on the date of his admission.
 - (5) Where a patient removed under this section was immediately before his removal liable to be detained under this Act by virtue of a transfer direction given while he was serving a sentence of imprisonment (within the meaning of section 47(5) above) imposed by a court in England and Wales, he shall be treated as if the sentence had been imposed by a court in Scotland.
 - (6) Where a person removed under this section was immediately before his removal subject to a restriction order or restriction direction of limited duration, [F49the restriction order or restriction direction to which he is subject by virtue of subsection (2) 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.]
 - (7) In this section “hospital” has the same meaning as in the [F50Mental Health (Scotland) Act 1984].

Textual Amendments

- F47** Words substituted by virtue of [Mental Health \(Amendment\) \(Scotland\) Act 1983 \(c. 39\), s. 41\(2\), Sch. 1 para. 2, Sch. 2 para. 1\(a\)](#) and [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\), s. 126\(2\)\(d\)](#)
- F48** Words substituted by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\), ss. 17\(2\), 127, Sch. 3 para. 51](#)
- F49** Words substituted by virtue of [Mental Health \(Amendment\) \(Scotland\) Act 1983 \(c. 39\), s. 41\(2\), Sch. 1 para 2, Sch. 2 para. 1\(b\)](#) and [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\), s. 126\(2\)\(d\)](#)
- F50** Words substituted by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\), ss. 17\(2\), 127, Sch. 3 para. 51](#)

VALID FROM 03/11/2008

[F5180ZA] Transfer of responsibility for community patients to Scotland

- (1) If it appears to the appropriate national authority, in the case of a community patient, that the conditions mentioned in subsection (2) below are met, the authority may authorise the transfer of responsibility for him to Scotland.
- (2) The conditions are—
 - (a) a transfer under this section is in the patient's interests; and
 - (b) arrangements have been made for dealing with him under enactments in force in Scotland corresponding or similar to those relating to community patients in this Act.
- (3) The appropriate national authority may not act under subsection (1) above while the patient is recalled to hospital under section 17E above.
- (4) In this section, “the appropriate national authority” means—

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) in relation to a community patient in respect of whom the responsible hospital is in England, the Secretary of State;
- (b) in relation to a community patient in respect of whom the responsible hospital is in Wales, the Welsh Ministers.]

Textual Amendments

F51 S. 80ZA inserted (E.W.) (3.11.2008) by **Mental Health Act 2007 (c. 12)**, ss. 39, 56, **Sch. 5 para. 3** (with Sch. 10); S.I. 2008/1900, **art. 2(n)** (with art. 3, Sch.)

VALID FROM 01/10/1997

[^{F52}80A Transfer of responsibility for patients to Scotland.

- (1) If it appears to the Secretary of State, in the case of a patient who—
 - (a) is subject to a restriction order under section 41 above; and
 - (b) has been conditionally discharged under section 42 or 73 above,
 that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the Minister exercising corresponding functions in Scotland, transfer responsibility for the patient to that Minister.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
 - (a) as if on the date of the transfer he had been conditionally discharged under the corresponding enactment in force in Scotland; and
 - (b) as if he were subject to a restriction order under the corresponding enactment in force in Scotland.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order of limited duration, the restriction order to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order would have expired if the transfer had not been made.]

Textual Amendments

F52 S. 80A inserted (E.W.S.) (1.10.1997) by **1997 c. 43, s. 48, Sch. 3 para. 1**; S.I. 1997/2200, **art. 2**

VALID FROM 03/11/2008

[^{F53}80B Removal of detained patients from Scotland

- (1) This section applies to a patient if—
 - (a) he is removed to England and Wales under regulations made under section 290(1)(a) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”);

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) immediately before his removal, his detention in hospital was authorised by virtue of that Act or the Criminal Procedure (Scotland) Act 1995; and
- (c) on his removal, he is admitted to a hospital in England or Wales.
- (2) He shall be treated as if, on the date of his admission to the hospital, he had been so admitted in pursuance of an application made, or an order or direction made or given, on that date under the enactment in force in England and Wales which most closely corresponds to the enactment by virtue of which his detention in hospital was authorised immediately before his removal.
- (3) If, immediately before his removal, he was subject to a measure under any enactment in force in Scotland restricting his discharge, he shall be treated as if he were subject to an order or direction under the enactment in force in England and Wales which most closely corresponds to that enactment.
- (4) If, immediately before his removal, the patient was liable to be detained under the 2003 Act by virtue of a transfer for treatment direction, given while he was serving a sentence of imprisonment (within the meaning of section 136(9) of that Act) imposed by a court in Scotland, he shall be treated as if the sentence had been imposed by a court in England and Wales.
- (5) If, immediately before his removal, the patient was subject to a hospital direction or transfer for treatment direction, the restriction direction to which he is subject by virtue of subsection (3) above shall expire on the date on which that hospital direction or transfer for treatment direction (as the case may be) would have expired if he had not been so removed.
- (6) If, immediately before his removal, the patient was liable to be detained under the 2003 Act by virtue of a hospital direction, he shall be treated as if any sentence of imprisonment passed at the time when that hospital direction was made had been imposed by a court in England and Wales.
- (7) Any directions given by the Scottish Ministers under regulations made under section 290 of the 2003 Act as to the removal of a patient to which this section applies shall have effect as if they were given under this Act.
- (8) Subsection (8) of section 80 above applies to a reference in this section as it applies to one in that section.
- (9) In this section—
- “hospital direction” means a direction made under section 59A of the Criminal Procedure (Scotland) Act 1995; and
- “transfer for treatment direction” has the meaning given by section 136 of the 2003 Act.]

Textual Amendments

F53 S. 80B inserted (E.W.) (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 39, 56, [Sch. 5 para. 4](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(n\)](#) (with [art. 3](#), [Sch.](#))

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 03/11/2008

[^{F54}80C Removal of patients subject to compulsion in the community from Scotland

- (1) This section applies to a patient if—
- (a) he is subject to an enactment in force in Scotland by virtue of which regulations under section 289(1) of the Mental Health (Care and Treatment) (Scotland) Act 2003 apply to him; and
 - (b) he is removed to England and Wales under those regulations.
- (2) He shall be treated as if on the date of his arrival at the place where he is to reside in England or Wales—
- (a) he had been admitted to a hospital in England or Wales in pursuance of an application or order made on that date under the corresponding enactment; and
 - (b) a community treatment order had then been made discharging him from the hospital.
- (3) For these purposes—
- (a) if the enactment to which the patient was subject in Scotland was an enactment contained in the Mental Health (Care and Treatment) (Scotland) Act 2003, the corresponding enactment is section 3 of this Act;
 - (b) if the enactment to which he was subject in Scotland was an enactment contained in the Criminal Procedure (Scotland) Act 1995, the corresponding enactment is section 37 of this Act.
- (4) “The responsible hospital, in the case of a patient in respect of whom a community treatment order is in force by virtue of subsection (2) above, means the hospital to which he is treated as having been admitted by virtue of that subsection, subject to section 19A above.
- (5) As soon as practicable after the patient's arrival at the place where he is to reside in England or Wales, the responsible clinician shall specify the conditions to which he is to be subject for the purposes of section 17B(1) above, and the conditions shall be deemed to be specified in the community treatment order.
- (6) But the responsible clinician may only specify conditions under subsection (5) above which an approved mental health professional agrees should be specified.]

Textual Amendments

F54 **S. 80C** inserted (E.W.) (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 39, 56, **Sch. 5 para. 4** (with [Sch. 10](#)); [S.I. 2008/1900](#), **art. 2(n)** (with [art. 3](#), [Sch.](#))

VALID FROM 01/10/2007

[^{F55}80D Transfer of conditionally discharged patients from Scotland

- (1) This section applies to a patient who is subject to—

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) a restriction order under section 59 of the Criminal Procedure (Scotland) Act 1995; and
 - (b) a conditional discharge under section 193(7) of the Mental Health (Care and Treatment) (Scotland) Act 2003 (“the 2003 Act”).
- (2) A transfer of the patient to England and Wales under regulations made under section 290 of the 2003 Act shall have effect only if the Secretary of State has consented to the transfer.
- (3) If a transfer under those regulations has effect, the patient shall be treated as if—
 - (a) on the date of the transfer he had been conditionally discharged under section 42 or 73 above; and
 - (b) he were subject to a hospital order under section 37 above and a restriction order under section 41 above.
- (4) If the restriction order to which the patient was subject immediately before the transfer was of limited duration, the restriction order to which he is subject by virtue of subsection (3) above shall expire on the date on which the first-mentioned order would have expired if the transfer had not been made.]

Textual Amendments

F55 S. 80D inserted (E.W.) (1.10.2007) by [Mental Health Act 2007 \(c. 12\)](#), ss. 39, 56, [Sch. 5 para. 4](#) (with [Sch. 10](#)); [S.I. 2007/2798](#), [art. 2\(e\)\(i\)](#)

Removal to and from Northern Ireland

81 Removal of patients to Northern Ireland.

- (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 or subject to guardianship under this Act (otherwise than by virtue of section 35, 36 or 38 above), that it is in the interests of the patient to remove him to Northern Ireland, and that arrangements have been made for admitting him to a hospital or, as the case may be, for receiving him into guardianship there, the Secretary of State may authorise his removal to Northern Ireland and may give any necessary directions for his conveyance to his destination.
- (2) Subject to the provisions of subsections (4) and (5) below, where a patient liable to be detained under this Act by virtue of an application, order or direction under any enactment in force in England and Wales is removed under this section and admitted to a hospital in Northern Ireland, he shall be treated as if on the date of his admission he had been so admitted in pursuance of an application made, or an order or direction made or given, on that date under the corresponding enactment in force in Northern Ireland, and, where he is subject to a restriction order or restriction direction under any enactment in this Act, as if he were subject to ^{F56} a restriction order or a restriction direction] under the corresponding enactment in force in Northern Ireland.
- (3) Where a patient subject to guardianship under this Act by virtue of an application, order or direction under any enactment in force in England and Wales is removed under this section and received into guardianship in Northern Ireland, he shall be treated as if on the date on which he arrives at the place where he is to reside he had been so received in pursuance of an application, order or direction under the corresponding

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

enactment in force in Northern Ireland, and as if the application had been accepted or, as the case may be, the order or direction had been made or given on that date.

- (4) Where a person removed under this section was immediately before his removal liable to be detained by virtue of an application for admission for assessment under this Act, he shall, on his admission to a hospital in Northern Ireland, be treated as if he had been admitted to the hospital in pursuance of an application [^{F57}for assessment under Article 4 of the Mental Health (Northern Ireland) Order 1986] made on the date of his admission.
- (5) Where a person removed under this section was immediately before his removal liable to be detained by virtue of an application for admission for treatment under this Act, he shall, on his admission to a hospital in Northern Ireland, be treated as if [^{F58}he were detained for treatment under Part II of the Mental Health (Northern Ireland) Order 1986 by virtue of a report under Article 12(1) of that Order made on the date of his admission]
- (6) Where a patient removed under this section was immediately before his removal liable to be detained under this Act by virtue of a transfer direction given while he was serving a sentence of imprisonment (within the meaning of section 47(5) above) imposed by a court in England and Wales, he shall be treated as if the sentence had been imposed by a court in Northern Ireland.
- (7) Where a person removed under this section was immediately before his removal subject to a restriction order or restriction direction of limited duration, [^{F59}the restriction order or restriction direction] to which he is subject by virtue of subsection (2) above shall expire on the date on which [^{F59}the first-mentioned restriction order] or restriction direction would have expired if he had not been so removed.
- (8) In this section “hospital” has the same meaning as in the Mental Health [^{F60}(Northern Ireland) Order 1986].

Textual Amendments

- F56** Words substituted by S.I. 1986/596, art. 2(2)
F57 Words substituted by S.I. 1986/596, art. 2(3)
F58 Paragraphs(a)and (b) substituted by S.I. 1986/596, art. 2(4)
F59 Words substituted by S.I. 1986/596, art. 2(5)
F60 Words substituted by S.I. 1986/596, art. 2(6)

VALID FROM 03/11/2008

^{F61}**81ZARemoval of community patients to Northern Ireland**

- (1) Section 81 above shall apply in the case of a community patient as it applies in the case of a patient who is for the time being liable to be detained under this Act, as if the community patient were so liable.
- (2) Any reference in that section to the application, order or direction by virtue of which a patient is liable to be detained under this Act shall be construed, for these purposes,

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

as a reference to the application, order or direction under this Act in respect of the patient.]

Textual Amendments

F61 S. 81ZA inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 39, 56, Sch. 5 para. 6 (with Sch. 10); S.I. 2008/1900, art. 2(n) (with art. 3, Sch.)

VALID FROM 01/10/1997

^{F62F62}81A Transfer of responsibility for patients to Northern Ireland.

- (1) If it appears to the Secretary of State, in the case of a patient who—
 - (a) is subject to a restriction order or restriction direction under section 41 or 49 above; and
 - (b) has been conditionally discharged under section 42 or 73 above,that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the Minister exercising corresponding functions in Northern Ireland, transfer responsibility for the patient to that Minister.
- (2) Where responsibility for such a patient is transferred under this section, the patient shall be treated—
 - (a) as if on the date of the transfer he had been conditionally discharged under the corresponding enactment in force in Northern Ireland; and
 - (b) as if he were subject to a restriction order or restriction direction under the corresponding enactment in force in Northern Ireland.
- (3) Where a patient responsibility for whom is transferred under this section was immediately before the transfer subject to a restriction order or restriction direction of limited duration, the restriction order or restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order or direction would have expired if the transfer had not been made.]

Textual Amendments

F62 S. 81A inserted (1.10.1997) by 1997 c. 43, s. 48, Sch. 3, para. 2; S.I. 1997/2200, art. 2

82 Removal to England and Wales of patients from Northern Ireland.

- (1) If it appears to the responsible authority, in the case of a patient who is for the time being liable to be detained or subject to guardianship under the Mental Health ^{F63}(Northern Ireland) Order 1986 (otherwise than by virtue of Article 42, 43 or 45 of that Order)], that it is in the interests of the patient to remove him to England and Wales, and that arrangements have been made for admitting him to a hospital or, as the case may be, for receiving him into guardianship there, the responsible authority may authorise his removal to England and Wales and may give any necessary directions for his conveyance to his destination.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Subject to the provisions of [^{F64}subsections (4) and (4A)] below, where a patient who is liable to be detained under the [^{F64}Mental Health (Northern Ireland) Order 1986] by virtue of an application, order or direction under any enactment in force in Northern Ireland is removed under this section and admitted to a hospital in England and Wales, he shall be treated as if on the date of his admission he had been so admitted in pursuance of an application made, or an order or direction made or given, on that date under the corresponding enactment in force in England and Wales and, where he is [^{F64}subject to a restriction order or restriction direction under any enactment in that Order, as if he were subject to a restriction order or restriction direction under the corresponding enactment in force in England and Wales.].
- (3) Where a patient subject to guardianship under the [^{F65}Mental Health (Northern Ireland) Order 1986] by virtue of an application, order or direction under any enactment in force in Northern Ireland is removed under this section and received into guardianship in England and Wales, he shall be treated as if on the date on which he arrives at the place where he is to reside he had been so received in pursuance of an application, order or direction under the corresponding enactment in force in England and Wales and as if the application had been accepted or, as the case may be, the order or direction had been made or given on that date.
- [^{F66}(4) Where a person removed under this section was immediately before his removal liable to be detained for treatment by virtue of a report under Article 12(1) or 13 of the Mental Health (Northern Ireland) Order 1986, he shall be treated, on his admission to a hospital in England and Wales, as if he had been admitted to the hospital in pursuance of an application for admission for treatment made on the date of his admission.
- (4A) Where a person removed under this section was immediately before his removal liable to be detained by virtue of an application for assessment under Article 4 of the Mental Health (Northern Ireland) Order 1986, he shall be treated, on his admission to a hospital in England and Wales, as if he had been admitted to the hospital in pursuance of an application for admission for assessment made on the date of his admission.].
- (5) Where a patient removed under this section was immediately before his removal liable to be detained under the [^{F67}Mental Health (Northern Ireland) Order 1986] by virtue of a transfer direction given while he was serving a sentence of imprisonment (within the meaning of [^{F67}Article 53(5) of that Order]) imposed by a court in Northern Ireland, he shall be treated as if the sentence had been imposed by a court in England and Wales.
- (6) Where a person removed under this section was immediately before his removal subject to [^{F68}a restriction order or restriction direction] of limited duration, the restriction order or restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the [^{F68}first-mentioned restriction order or restriction direction] would have expired if he had not been so removed.
- (7) In this section “the responsible authority” means the Department of Health and Social Services for Northern Ireland or, in relation to a patient who is subject to [^{F69}a restriction order or restriction direction], the Secretary of State.

Textual Amendments

- F63** Words substituted by [S.I. 1986/596, art. 2\(7\)](#)
F64 Words substituted by [S.I. 1986/596, art. 2\(8\)](#)
F65 Words substituted by [S.I. 1986/596, art. 2\(9\)](#)

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

made for admitting him to a hospital or, as the case may be, for receiving him into guardianship there, the Secretary of State may authorise his removal to the island in question and may give any necessary directions for his conveyance to his destination.

VALID FROM 03/11/2008

[^{F71}**83ZA**Removal or transfer of community patients to Channel Islands or Isle of Man

- (1) Section 83 above shall apply in the case of a community patient as it applies in the case of a patient who is for the time being liable to be detained under this Act, as if the community patient were so liable.
- (2) But if there are in force in any of the Channel Islands or the Isle of Man enactments (“relevant enactments”) corresponding or similar to those relating to community patients in this Act—
- (a) subsection (1) above shall not apply as regards that island; and
 - (b) subsections (3) to (6) below shall apply instead.
- (3) If it appears to the appropriate national authority, in the case of a community patient, that the conditions mentioned in subsection (4) below are met, the authority may authorise the transfer of responsibility for him to the island in question.
- (4) The conditions are—
- (a) a transfer under subsection (3) above is in the patient's interests; and
 - (b) arrangements have been made for dealing with him under the relevant enactments.
- (5) But the authority may not act under subsection (3) above while the patient is recalled to hospital under section 17E above.
- (6) In this section, “the appropriate national authority” means—
- (a) in relation to a community patient in respect of whom the responsible hospital is in England, the Secretary of State;
 - (b) in relation to a community patient in respect of whom the responsible hospital is in Wales, the Welsh Ministers.]

Textual Amendments

- F71** **S. 83ZA** inserted (3.11.2008) by **Mental Health Act 2007 (c. 12)**, ss. 39, 56, **Sch. 5 para. 10** (with **Sch. 10**); S.I. 2008/1900, **art. 2(n)** (with art. 3, Sch.)

VALID FROM 01/10/1997

[^{F72F72}**83A**Transfer of responsibility for patients to Channel Islands or Isle of Man.

- If it appears to the Secretary of State, in the case of a patient who—
- (a) is subject to a restriction order or restriction direction under section 41 or 49 above; and
 - (b) has been conditionally discharged under section 42 or 73 above,

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

that a transfer under this section would be in the interests of the patient, the Secretary of State may, with the consent of the authority exercising corresponding functions in any of the Channel Islands or in the Isle of Man, transfer responsibility for the patient to that authority.]

Textual Amendments

F72 S. 83A inserted (1.10.1997) by 1997 c. 43, s. 48, Sch. 3, para. 4; S.I. 1997/2200, art. 2

84 Removal to England and Wales of offenders found insane in Channel Islands and Isle of Man.

- (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 subsection (1) above 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 46 above.
- (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.

85 Patients removed from Channel Islands or Isle of Man.

- (1) This section applies to any patient who is removed to England and Wales from any of the Channel Islands or the Isle of Man under a provision corresponding to section 83 above and who immediately before his removal was liable to be detained or subject to guardianship in the island in question under a provision corresponding to an enactment contained in this Act (other than section 35, 36 or 38 above).
- (2) Where the patient is admitted to a hospital in England and Wales he shall be treated as if on the date of his admission he had been so admitted in pursuance of an application made, or an order or direction made or given, on that date under the corresponding enactment contained in this Act and, where he is subject to an order or direction restricting his discharge, as if he were subject to a restriction order or restriction direction.
- (3) Where the patient is received into guardianship in England and Wales, he shall be treated as if on the date on which he arrives at the place where he is to reside he had been so received in pursuance of an application, order or direction under the corresponding enactment contained in this Act and as if the application had been accepted or, as the case may be, the order or direction had been made or given on that date.
- (4) Where the patient was immediately before his removal liable to be detained by virtue of a transfer direction given while he was serving a sentence of imprisonment imposed by a court in the island in question, he shall be treated as if the sentence had been imposed by a court in England and Wales.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) Where the patient was immediately before his removal subject to an order or direction restricting his discharge, being an order or direction of limited duration, the restriction order or restriction direction to which he is subject by virtue of subsection (2) above shall expire on the date on which the first-mentioned order or direction would have expired if he had not been removed.
- (6) While being conveyed to the hospital referred to in subsection (2) or, as the case may be, the place referred to in subsection (3) above, the patient shall be deemed to be in legal custody, and section 138 below shall apply to him as if he were in legal custody by virtue of section 137 below.
- (7) In the case of a patient removed from the Isle of Man the reference in subsection (4) above to a person serving a sentence of imprisonment includes a reference to a person detained as mentioned in section 60(6)(a) of the Mental Health Act 1974 (an Act of Tynwald).

VALID FROM 03/11/2008

[^{F73}**85ZA** Responsibility for community patients transferred from Channel Islands or Isle of Man

- (1) This section shall have effect if there are in force in any of the Channel Islands or the Isle of Man enactments (“relevant enactments”) corresponding or similar to those relating to community patients in this Act.
- (2) If responsibility for a patient is transferred to England and Wales under a provision corresponding to section 83ZA(3) above, he shall be treated as if on the date of his arrival at the place where he is to reside in England or Wales—
 - (a) he had been admitted to the hospital in pursuance of an application made, or an order or direction made or given, on that date under the enactment in force in England and Wales which most closely corresponds to the relevant enactments; and
 - (b) a community treatment order had then been made discharging him from the hospital.
- (3) “The responsible hospital”, in his case, means the hospital to which he is treated as having been admitted by virtue of subsection (2) above, subject to section 19A above.
- (4) As soon as practicable after the patient's arrival at the place where he is to reside in England or Wales, the responsible clinician shall specify the conditions to which he is to be subject for the purposes of section 17B(1) above, and the conditions shall be deemed to be specified in the community treatment order.
- (5) But the responsible clinician may only specify conditions under subsection (4) above which an approved mental health professional agrees should be specified.]

Textual Amendments

F73 S. 85ZA inserted (3.11.2008) by **Mental Health Act 2007 (c. 12)**, ss. 39, 56, **Sch. 5 para. 12** (with **Sch. 10**); S.I. 2008/1900, **art. 2(n)** (with art. 3, Sch.)

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- or purposes for whom or which he might be expected to provide if he were not mentally disordered;
 - (k) the exercise of any power (including a power to consent) vested in the patient, whether beneficially, or as guardian or trustee, or otherwise.
- (2) If under subsection (1) above 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) any order which could have been made in such a case under Part IV of the^{M32}Trustee Act 1925.
- (3) 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.
- (4) The power of the judge to make or give an order, direction or authority for the execution of a will for a patient—
- (a) shall not be exercisable at any time when the patient is a minor, and
 - (b) shall not be exercised unless the judge has reason to believe that the patient is incapable of making a valid will for himself.
- (5) The powers of a patient as patron of a benefice shall be exercisable by the Lord Chancellor only.

Marginal Citations

M32 1925 c. 19.

97 Supplementary provisions as to wills executed under s. 96.

- (1) Where under section 96(1) above the judge makes or gives an order, direction or authority requiring or authorising a person (in this section referred to as “the authorised person”) to execute a will for a patient, any will executed in pursuance of that order, direction or authority shall be expressed to be signed by the patient acting by the authorised person, and shall be—
- (a) signed by the authorised person with the name of the patient, and with his own name, in the presence of two or more witnesses present at the same time, and
 - (b) attested and subscribed by those witnesses in the presence of the authorised person, and
 - (c) sealed with the official seal of the Court of Protection.
- (2) The^{M33}Wills Act 1837 shall have effect in relation to any such will as if it were signed by the patient by his own hand, except that in relation to any such will—
- (a) section 9 of that Act (which makes provision as to the signing and attestation of wills) shall not apply, and
 - (b) in the subsequent provisions of that Act any reference to execution in the manner required by the previous provisions of that Act shall be construed as a reference to execution in the manner required by subsection (1) above.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Subject to the following provisions of this section, any such will executed in accordance with subsection (1) above shall have the same effect for all purposes as if the patient were capable of making a valid will and the will had been executed by him in the manner required by the ^{M34}Wills Act 1837.
- (4) So much of subsection (3) above as provides for such a will to have effect as if the patient were capable of making a valid will—
 - (a) shall not have effect in relation to such a will in so far as it disposes of any immovable property, other than immovable property in England or Wales, and
 - (b) where at the time when such a will is executed the patient is domiciled in Scotland or Northern Ireland or in a country or territory outside the United Kingdom, shall not have effect in relation to that will in so far as it relates to any other property or matter, except any property or matter in respect of which, under the law of his domicile, any question of his testamentary capacity would fall to be determined in accordance with the law of England and Wales.

Marginal Citations

M33 1837 c. 26.

M34 1837 c. 26.

98 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 the opinion that it is necessary to make immediate provision for any of the matters referred to in section 95 above, then pending the determination of the question whether that person is so incapable 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.

99 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.
- (2) A person appointed as receiver for a patient 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 95 and 96 above, orders or directs him to do and may do any such thing in relation to the property and affairs of the patient as the judge, in the exercise of those powers, authorises him to do.
- (3) 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.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

100 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 from the stock 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 from the stock.

(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.

101 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 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—

- (a) he shall take the same 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
- (b) 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) References in subsections (1) and (2) above to the disposal of property are references to—

- (a) the sale, exchange, charging or other dealing (otherwise than by will) with property other than money,
- (b) the removal of property from one place to another,
- (c) the application of money in acquiring property, or
- (d) 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) above, including the carrying of money to a separate account and the transfer of property other than money.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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 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.

Marginal Citations

M35 1981 c. 54.

105 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 of the Court of Protection or any nominated officer.
- (2) The Court of Appeal shall continue to have the same 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 subsection (1) above, as they had immediately before the coming into operation of Part VIII of the ^{M36}Mental Health Act 1959 as to appeals from orders in lunacy made by the Lord Chancellor or any other person having jurisdiction in lunacy.

Marginal Citations

M36 1959 c. 72.

106 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—
 - (a) the carrying out of preliminary or incidental inquiries;
 - (b) the persons by whom and manner in which proceedings may be instituted and carried on;
 - (c) the persons who are to be entitled to be notified of, to attend, or to take part in proceedings;
 - (d) 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;
 - (e) the administration of oaths and taking of affidavits for the purposes of proceedings; and
 - (f) the enforcement of orders made and directions given in proceedings.
- (3) Without prejudice to the provisions of section 104(1) above, 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.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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—
 - (a) 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;
 - (b) 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
 - (c) provide for the remission of fees and percentages.
- (6) A charge upon the estate of a person created by virtue of subsection (5) above 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.

107 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 other than receivers who are ordered, directed or authorised under this Part of this Act to carry out any transaction.

108 General provisions as to rules under Part VII.

- (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.

109 Effect and proof of orders, etc.

- (1) Section 204 of the ^{M37}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

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

be admissible in all legal proceedings as evidence of the originals without any further proof.

Marginal Citations

M37 1925 c. 20.

110 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 98 above as it applies in relation to his property and affairs in England and Wales [^{F87}unless—]
 - ^{F87}(a) in Scotland, a curator bonis, tutor or judicial factor has been appointed for him; or
 - (b) in Northern Ireland, he is a patient in relation to whom powers have been exercised under Part VIII of the Mental Health (Northern Ireland) Order 1986, or a person as to whom powers are exercisable and have been exercised under Article 97(2) of that Order.]
- (2) Where under the law in force in Scotland . . . ^{F88}with respect to the property and affairs of persons suffering from mental disorder a curator bonis, tutor, [^{F89}or judicial factor] 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 98 above.
- [^{F90}(2A) Part VIII of the Mental Health (Northern Ireland) Order 1986 shall apply in relation to the property and affairs in England and Wales of a patient in relation to whom powers have been exercised under that Part, or a person as to whom powers are exercisable and have been exercised under Article 97(2) of that Order as it applies in relation to his property and affairs in Northern Ireland 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 98 above.]
- (3) Nothing in this section shall affect any power to execute a will under section 96(1)(e) above [^{F91}or Article 99(1)(e) of the Mental Health (Northern Ireland) Order 1986] or the effect of any will executed in the exercise of such a power.
- (4) In this section references to property do not include references to land or interests in land but this subsection shall not prevent the receipt of rent or other income arising from land or interests in land.

Textual Amendments

- F87** S. 110(1)(a)(b) and word substituted by S.I. 1986/596, **art. 2(17)**
F88 Words repealed by S.I. 1986/596, **art. 2(18)**
F89 Words substituted by S.I. 1986/596, **art. 2(18)**
F90 S. 110(2A) inserted by S.I. 1986/596, **art. 2(19)**
F91 Words inserted by S.I. 1986/596, **art. 2(20)**

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

111 Construction of references in other Acts to judge or authority having jurisdiction under Part VII.

- (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) Subject to subsection (3) [^{F92}and (3A)] below, 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 of the Court of Protection or a nominated officer.
 - ^{F93}(2A) The exercise of the functions referred to in subsection (2) above by the Public Trustee shall be subject to any directions of the Master and they shall be exercisable so far only as may be provided by any rules made under this Part of this Act or (subject to any such rules) by directions of the Master.]
 - (3) The exercise of the functions referred to in subsection (2) above by a nominated officer shall be subject to any directions of the Master and they shall be exercisable so far only as may be provided by the instrument by which the officer is nominated.
- ^{F94}(3A) In such cases or circumstances as may be prescribed by any rules under this Part of this Act or (subject to any such rules) by directions of the Master, the functions referred to in subsection (2) above shall be exercised by the Public Trustee (but subject to any directions of the Master as to their exercise).]
- (4) Subject to the foregoing provisions of this section—
 - (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 of the Court of Protection or a nominated officer.

Textual Amendments

- F92** Words inserted (E.W.) by [Public Trustee and Administration of Funds Act 1986 \(c. 57, SIF 57\)](#), [s.2\(3\)\(a\)](#)
- F93** [S. 111\(2A\)](#) inserted (E.W.) by [Public Trustee and Administration of Funds Act 1986 \(c. 57, SIF 57\)](#), [s.2\(3\)\(b\)](#)
- F94** [S. 112\(3A\)](#) inserted (E.W.) by [Public Trustee and Administration of Funds Act 1986 \(c. 57, SIF 57\)](#), [s.2\(3\)\(c\)](#)

112 Interpretation of Part VII.

In this Part of this Act, unless the context otherwise requires—

- “nominated judge” means a judge nominated in pursuance of subsection (1) of section 93 above;
- “nominated officer” means an officer nominated in pursuance of subsection (4) of that section;
- “patient” has the meaning assigned to it by section 94 above;

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“property” includes any thing in action, and any interest in real or personal property;

“the judge” shall be construed in accordance with section 94 above;

“will” includes a codicil.

113 Disapplication of certain enactments in relation to persons within the jurisdiction of the judge.

The provisions of the Acts described in Schedule 3 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 not have effect in relation to patients and to persons as to whom powers are exercisable and have been exercised under section 98 above.

PART VIII

MISCELLANEOUS FUNCTIONS OF LOCAL AUTHORITIES AND THE SECRETARY OF STATE

Approved social workers

114 Appointment of approved social workers.

- (1) A local social services authority shall appoint a sufficient number of approved social workers for the purpose of discharging the functions conferred on them by this Act.
- (2) No person shall be appointed by a local social services authority 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.

VALID FROM 01/10/2007

[^{F95}114A Approval of courses etc for approved mental health professionals

- (1) The relevant Council may, in accordance with rules made by it, approve courses for persons who are or wish to become approved mental health professionals.
- (2) For that purpose—
 - (a) subsections (2) to (4)(a) and (7) of section 63 of the Care Standards Act 2000 apply as they apply to approvals given, rules made and courses approved under that section; and
 - (b) sections 66 and 71 of that Act apply accordingly.
- (3) In subsection (1), “the relevant Council” means—
 - (a) in relation to persons who are or wish to become approved to act as approved mental health professionals by a local social services authority whose area is in England, the General Social Care Council;

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) in relation to persons who are or wish to become approved to act as approved mental health professionals by a local social services authority whose area is in Wales, the Care Council for Wales.
- (4) The functions of an approved mental health professional shall not be considered to be relevant social work for the purposes of Part 4 of the Care Standards Act 2000.
- (5) The General Social Care Council and the Care Council for Wales may also carry out, or assist other persons in carrying out, research into matters relevant to training for approved mental health professionals.]

Textual Amendments

F95 S. 114A inserted (1.10.2007) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 19, 56](#) (with [Sch. 10](#)); [S.I. 2007/2798](#), [art. 2\(a\)](#)

115 Powers of entry and inspection.

An approved social worker of a local social services authority may at all reasonable times after producing, if asked to do so, some duly authenticated document showing that he is such a social worker, 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.

Visiting patients

116 Welfare of certain hospital patients.

- (1) Where a patient to whom this section applies 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) This section applies to-
 - [^{F96}(a) a child or young person—
 - (i) who is in the care of a local authority by virtue of a care order within the meaning of the ^{M38} Children Act 1989, or
 - (ii) in respect of whom the rights and powers of a parent are vested in a local authority by virtue of section 16 of the ^{M39} Social Work (Scotland) Act 1968;]
 - (b) a person who is subject to the guardianship of a local social services authority under the provisions of this Act or the [^{F97}Mental Health (Scotland) Act 1984]; or
 - (c) a person the functions of whose nearest relative under this Act or under the [^{F97}Mental Health (Scotland) Act 1984] are for the time being transferred to a local social services authority.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) for the guidance of registered 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 57 above which in the opinion of the Secretary of State give rise to special concern and which should accordingly not be given by a registered 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 registered 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 40 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.

119 Practitioners approved for Part IV and s. 118.

- (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 registered medical practitioners appointed by him for the purposes of Part IV of this Act and section 118 above and to or in respect of other persons appointed for the purposes of section 57(2)(a) above.
- (2) A registered 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 registered 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.

120 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 this Act so far as relating to the detention of patients or to patients liable to be detained under this Act and shall make arrangements for persons authorised by him in that behalf—

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: *Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) to visit and interview in private patients detained under this Act 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 this Act 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 this Act 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 registered 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) ^{F99}
- (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 VII of this Act.

Textual Amendments
F99 S. 120(5) repealed by [Registered Homes Act 1984 \(c. 23, SIF 113:3\)](#), s. 57, [Sch. 3](#)

VALID FROM 01/04/2009

^{F100} **120A Investigation reports**

(1) The regulatory authority may publish a report of a review or investigation carried out by it under section 120(1).

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The Secretary of State may by regulations make provision as to the procedure to be followed in respect of the making of representations to the Care Quality Commission before the publication of a report by the Commission under subsection (1).
- (3) The Secretary of State must consult the Care Quality Commission before making any such regulations.
- (4) The Welsh Ministers may by regulations make provision as to the procedure to be followed in respect of the making of representations to them before the publication of a report by them under subsection (1).

Textual Amendments

F100 Ss. 120A-120D inserted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 52, 170, [Sch. 3 para. 9](#); [S.I. 2009/462](#), [art. 1\(1\)\(b\)](#), 2, [Sch. 1 para. 33](#)

VALID FROM 01/04/2009

120B Action statements

- (1) The regulatory authority may direct a person mentioned in subsection (2) to publish a statement as to the action the person proposes to take as a result of a review or investigation under section 120(1).
- (2) The persons are—
 - (a) the managers of a hospital within the meaning of Part 2 of this Act;
 - (b) a local social services authority;
 - (c) persons of any other description prescribed in regulations.
- (3) Regulations may make further provision about the content and publication of statements under this section.
- (4) “Regulations” means regulations made—
 - (a) by the Secretary of State, in relation to England;
 - (b) by the Welsh Ministers, in relation to Wales.

Textual Amendments

F100 Ss. 120A-120D inserted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 52, 170, [Sch. 3 para. 9](#); [S.I. 2009/462](#), [art. 1\(1\)\(b\)](#), 2, [Sch. 1 para. 33](#)

VALID FROM 01/04/2009

120C Provision of information

- (1) This section applies to the following persons—
 - (a) the managers of a hospital within the meaning of Part 2 of this Act;

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) a local social services authority;
 - (c) persons of any other description prescribed in regulations.
- (2) A person to whom this section applies must provide the regulatory authority with such information as the authority may reasonably request for or in connection with the exercise of its functions under section 120.
- (3) A person to whom this section applies must provide a person authorised under section 120 with such information as the person so authorised may reasonably request for or in connection with the exercise of functions under arrangements made under that section.
- (4) This section is in addition to the requirements of section 120(7)(c).
- (5) “Information” includes documents and records.
- (6) “Regulations” means regulations made—
- (a) by the Secretary of State, in relation to England;
 - (b) by the Welsh Ministers, in relation to Wales.

Textual Amendments

F100 Ss. 120A-120D inserted (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 52, 170, Sch. 3 para. 9; S.I. 2009/462, art. 1(1)(b), 2, Sch. 1 para. 33

VALID FROM 01/04/2009

120D Annual reports

- (1) The regulatory authority must publish an annual report on its activities in the exercise of its functions under this Act.
- (2) The report must be published as soon as possible after the end of each financial year.
- (3) The Care Quality Commission must send a copy of its annual report to the Secretary of State who must lay the copy before Parliament.
- (4) The Welsh Ministers must lay a copy of their annual report before the National Assembly for Wales.
- (5) In this section “financial year” means—
 - (a) the period beginning with the date on which section 52 of the Health and Social Care Act 2008 comes into force and ending with the next 31 March following that date, and
 - (b) each successive period of 12 months ending with 31 March.]

Textual Amendments

F100 Ss. 120A-120D inserted (1.4.2009) by Health and Social Care Act 2008 (c. 14), ss. 52, 170, Sch. 3 para. 9; S.I. 2009/462, art. 1(1)(b), 2, Sch. 1 para. 33

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

121 Mental Health Act Commission.

- (1) Without prejudice to section 126(3) of the^{M40}National Health Service Act 1977 (power to vary or revoke orders or directions) there shall continue to be a special health authority known as the Mental Health Act Commission established under section 11 of that Act.
- (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 registered medical practitioners for the purposes of Part IV of this Act and section 118 above and of appointing other persons for the purposes of section 57(2)(a) above; and
 - (b) the functions of the Secretary of State under sections 61 and 120(1) and (4) above.
- (3) The registered 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 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 registered 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 134 below 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.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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 chairmen and members of health authorities) shall have effect in relation to the Mental Health Act Commission as if references in sub-paragraphs (1) and (2) to the chairman included references to any member and as if [^{F101}the reference to a member in subparagraph (4) included a reference to the chairman].

Textual Amendments

F101 Words substituted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\), s. 6\(4\)](#)

Marginal Citations

M40 [1977 c. 49.](#)

122 Provision of pocket money for in-patients in hospital.

- (1) The Secretary of State 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 ^{M41}National Health Service Act 1977, the making of payments under this section to persons for whom hospital services are provided under that Act shall be treated as included among those services.

Marginal Citations

M41 [1977 c. 49.](#)

123 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 in a special hospital under this Act (other than under section 35, 36 or 38 above) may, upon the directions of the Secretary of State, at any time be removed into any other special hospital.
- (2) Without prejudice to any such provision, the Secretary of State may give directions for the transfer of any patient who is for the time being liable to be so detained into a hospital which is not a special hospital.
- (3) Subsections (2) and (4) of section 19 above 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.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

^{F102}124

Textual Amendments

F102 S. 124 repealed (1.4.1993) by National Health Service and Community Care Act 1990 (c. 19), s. 66(2), Sch. 10; S.I. 1992/2975, art. 2(2), Sch.

125 Inquiries.

- (1) The Secretary of State 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.
- (2) Subsections (2) to (5) of section 250 of the ^{M42}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 to the inquiry.

Marginal Citations

M42 1972 c. 70.

PART IX

OFFENCES

126 Forgery, false statements, etc.

- (1) Any person who without lawful authority or excuse has in his custody or under his control any document to which this subsection applies, which is, and which he knows or believes to be, false within the meaning of Part I of the ^{M43}Forgery and Counterfeiting Act 1981, shall be guilty of an offence.
- (2) Any person who without lawful authority or excuse makes or has in his custody or under his control, any document so closely resembling a document to which subsection (1) above applies as to be calculated to deceive shall be guilty of an offence.
- (3) The documents to which subsection (1) above applies are any documents purporting to be—
 - (a) an application under Part II of this Act;
 - (b) a medical recommendation or report under this Act; and
 - (c) any other document required or authorised to be made for any of the purposes of this Act.
- (4) Any person who—
 - (a) 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
 - (b) with intent to deceive, makes use of any such entry or statement which he knows to be false,

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

shall be guilty of an offence.

- (5) 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 the statutory maximum, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine of any amount, or to both.

Marginal Citations

M43 1981 c. 45.

127 Ill-treatment of patients.

- (1) It shall be an offence for any person who is an officer on the staff of or otherwise employed in, or who is one of the managers of, a hospital or mental nursing home—
- (a) to ill-treat or wilfully to 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 to 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 to 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 the statutory maximum, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine of any amount, 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.

128 Assisting patients to absent themselves without leave, etc.

- (1) Where any person induces or knowingly assists another person who is liable to be detained in a hospital within the meaning of Part II of this Act or is subject to guardianship under this Act to absent himself without leave he shall be guilty of an offence.
- (2) Where any person induces or knowingly assists another person who is in legal custody by virtue of section 137 below to escape from such custody he shall be guilty of an offence.
- (3) Where any person 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 he shall be guilty of an offence.
- (4) Any person guilty of an offence under this section shall be liable—

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine of any amount, or to both.

129 Obstruction.

- (1) Any person who without reasonable cause—
 - (a) refuses to allow the inspection of any premises; or
 - (b) refuses to allow the visiting, interviewing or examination of any person by a person authorised in that behalf by or under this Act; or
 - (c) refuses to produce for the inspection of any person so authorised any document or record the production of which is duly required by him; or
 - (d) otherwise obstructs any such person in the exercise of his functions,shall be guilty of an offence.
- (2) Without prejudice to the generality of subsection (1) above, any person who insists on being present when required to withdraw by a person authorised by or under this Act 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 level 4 on the standard scale or to both.

130 Prosecutions by local authorities.

A 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.

PART X

MISCELLANEOUS AND SUPPLEMENTARY

Miscellaneous provisions

VALID FROM 01/04/2008

^{F103} 130A Independent mental health advocates

- (1) The appropriate national authority shall make such arrangements as it considers reasonable to enable persons (“independent mental health advocates”) to be available to help qualifying patients.
- (2) The appropriate national authority may by regulations make provision as to the appointment of persons as independent mental health advocates.
- (3) The regulations may, in particular, provide—

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) that a person may act as an independent mental health advocate only in such circumstances, or only subject to such conditions, as may be specified in the regulations;
 - (b) for the appointment of a person as an independent mental health advocate to be subject to approval in accordance with the regulations.
- (4) In making arrangements under this section, the appropriate national authority shall have regard to the principle that any help available to a patient under the arrangements should, so far as practicable, be provided by a person who is independent of any person who is professionally concerned with the patient's medical treatment.
- (5) For the purposes of subsection (4) above, a person is not to be regarded as professionally concerned with a patient's medical treatment merely because he is representing him in accordance with arrangements—
- (a) under section 35 of the Mental Capacity Act 2005; or
 - (b) of a description specified in regulations under this section.
- (6) Arrangements under this section may include provision for payments to be made to, or in relation to, persons carrying out functions in accordance with the arrangements.
- (7) Regulations under this section—
- (a) may make different provision for different cases;
 - (b) may make provision which applies subject to specified exceptions;
 - (c) may include transitional, consequential, incidental or supplemental provision.

Textual Amendments

F103 Ss. 130A-130D inserted (1.4.2008 for ss. 130A, 130C for certain purposes, otherwise 3.11.2008 for W. and 1.4.2009 for E.) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 30\(2\)](#), 56 (with [Sch. 10](#)); [S.I. 2008/745](#), [arts. 2\(b\)\(i\)](#), [3\(d\)](#); [S.I. 2008/2561](#), [art. 2\(c\)](#) (with [art. 3](#), [Sch.](#)); [S.I. 2009/139](#), [art. 2\(a\)](#)

VALID FROM 03/11/2008

130B Arrangements under section 130A

- (1) The help available to a qualifying patient under arrangements under section 130A above shall include help in obtaining information about and understanding—
- (a) the provisions of this Act by virtue of which he is a qualifying patient;
 - (b) any conditions or restrictions to which he is subject by virtue of this Act;
 - (c) what (if any) medical treatment is given to him or is proposed or discussed in his case;
 - (d) why it is given, proposed or discussed;
 - (e) the authority under which it is, or would be, given; and
 - (f) the requirements of this Act which apply, or would apply, in connection with the giving of the treatment to him.
- (2) The help available under the arrangements to a qualifying patient shall also include—

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) help in obtaining information about and understanding any rights which may be exercised under this Act by or in relation to him; and
 - (b) help (by way of representation or otherwise) in exercising those rights.
- (3) For the purpose of providing help to a patient in accordance with the arrangements, an independent mental health advocate may—
- (a) visit and interview the patient in private;
 - (b) visit and interview any person who is professionally concerned with his medical treatment;
 - (c) require the production of and inspect any records relating to his detention or treatment in any hospital or registered establishment or to any after-care services provided for him under section 117 above;
 - (d) require the production of and inspect any records of, or held by, a local social services authority which relate to him.
- (4) But an independent mental health advocate is not entitled to the production of, or to inspect, records in reliance on subsection (3)(c) or (d) above unless—
- (a) in a case where the patient has capacity or is competent to consent, he does consent; or
 - (b) in any other case, the production or inspection would not conflict with a decision made by a donee or deputy or the Court of Protection and the person holding the records, having regard to such matters as may be prescribed in regulations under section 130A above, considers that—
 - (i) the records may be relevant to the help to be provided by the advocate; and
 - (ii) the production or inspection is appropriate.
- (5) For the purpose of providing help to a patient in accordance with the arrangements, an independent mental health advocate shall comply with any reasonable request made to him by any of the following for him to visit and interview the patient—
- (a) the person (if any) appearing to the advocate to be the patient's nearest relative;
 - (b) the responsible clinician for the purposes of this Act;
 - (c) an approved mental health professional.
- (6) But nothing in this Act prevents the patient from declining to be provided with help under the arrangements.
- (7) In subsection (4) above—
- (a) the reference to a patient who has capacity is to be read in accordance with the Mental Capacity Act 2005;
 - (b) the reference to a donee is to a donee of a lasting power of attorney (within the meaning of section 9 of that Act) created by the patient, where the donee is acting within the scope of his authority and in accordance with that Act;
 - (c) the reference to a deputy is to a deputy appointed for the patient by the Court of Protection under section 16 of that Act, where the deputy is acting within the scope of his authority and in accordance with that Act.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F103 Ss. 130A-130D inserted (1.4.2008 for ss. 130A, 130C for certain purposes, otherwise 3.11.2008 for W. and 1.4.2009 for E.) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 30(2), 56** (with Sch. 10); S.I. 2008/745, **arts. 2(b)(i), 3(d)**; S.I. 2008/2561, **art. 2(c)** (with art. 3, Sch.); S.I. 2009/139, **art. 2(a)**

VALID FROM 01/04/2008

130C Section 130A: supplemental

- (1) This section applies for the purposes of section 130A above.
- (2) A patient is a qualifying patient if he is—
 - (a) liable to be detained under this Act (otherwise than by virtue of section 4 or 5(2) or (4) above or section 135 or 136 below);
 - (b) subject to guardianship under this Act; or
 - (c) a community patient.
- (3) A patient is also a qualifying patient if—
 - (a) not being a qualifying patient falling within subsection (2) above, he discusses with a registered medical practitioner or approved clinician the possibility of being given a form of treatment to which section 57 above applies; or
 - (b) not having attained the age of 18 years and not being a qualifying patient falling within subsection (2) above, he discusses with a registered medical practitioner or approved clinician the possibility of being given a form of treatment to which section 58A above applies.
- (4) Where a patient who is a qualifying patient falling within subsection (3) above is informed that the treatment concerned is proposed in his case, he remains a qualifying patient falling within that subsection until—
 - (a) the proposal is withdrawn; or
 - (b) the treatment is completed or discontinued.
- (5) References to the appropriate national authority are—
 - (a) in relation to a qualifying patient in England, to the Secretary of State;
 - (b) in relation to a qualifying patient in Wales, to the Welsh Ministers.
- (6) For the purposes of subsection (5) above—
 - (a) a qualifying patient falling within subsection (2)(a) above is to be regarded as being in the territory in which the hospital or registered establishment in which he is liable to be detained is situated;
 - (b) a qualifying patient falling within subsection (2)(b) above is to be regarded as being in the territory in which the area of the responsible local social services authority within the meaning of section 34(3) above is situated;
 - (c) a qualifying patient falling within subsection (2)(c) above is to be regarded as being in the territory in which the responsible hospital is situated;
 - (d) a qualifying patient falling within subsection (3) above is to be regarded as being in the territory determined in accordance with arrangements made for

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

the purposes of this paragraph, and published, by the Secretary of State and the Welsh Ministers.

Textual Amendments

F103 Ss. 130A-130D inserted (1.4.2008 for ss. 130A, 130C for certain purposes, otherwise 3.11.2008 for W. and 1.4.2009 for E.) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 30(2)**, 56 (with [Sch. 10](#)); [S.I. 2008/745](#), **arts. 2(b)(i)**, **3(d)**; [S.I. 2008/2561](#), **art. 2(c)** (with [art. 3](#), [Sch.](#)); [S.I. 2009/139](#), **art. 2(a)**

VALID FROM 03/11/2008

130D Duty to give information about independent mental health advocates

- (1) The responsible person in relation to a qualifying patient (within the meaning given by section 130C above) shall take such steps as are practicable to ensure that the patient understands—
 - (a) that help is available to him from an independent mental health advocate; and
 - (b) how he can obtain that help.
- (2) In subsection (1) above, “the responsible person” means—
 - (a) in relation to a qualifying patient falling within section 130C(2)(a) above (other than one also falling within paragraph (b) below), the managers of the hospital or registered establishment in which he is liable to be detained;
 - (b) in relation to a qualifying patient falling within section 130C(2)(a) above and conditionally discharged by virtue of section 42(2), 73 or 74 above, the responsible clinician;
 - (c) in relation to a qualifying patient falling within section 130C(2)(b) above, the responsible local social services authority within the meaning of section 34(3) above;
 - (d) in relation to a qualifying patient falling within section 130C(2)(c) above, the managers of the responsible hospital;
 - (e) in relation to a qualifying patient falling within section 130C(3) above, the registered medical practitioner or approved clinician with whom the patient first discusses the possibility of being given the treatment concerned.
- (3) The steps to be taken under subsection (1) above shall be taken—
 - (a) where the responsible person falls within subsection (2)(a) above, as soon as practicable after the patient becomes liable to be detained;
 - (b) where the responsible person falls within subsection (2)(b) above, as soon as practicable after the conditional discharge;
 - (c) where the responsible person falls within subsection (2)(c) above, as soon as practicable after the patient becomes subject to guardianship;
 - (d) where the responsible person falls within subsection (2)(d) above, as soon as practicable after the patient becomes a community patient;
 - (e) where the responsible person falls within subsection (2)(e) above, while the discussion with the patient is taking place or as soon as practicable thereafter.
- (4) The steps to be taken under subsection (1) above shall include giving the requisite information both orally and in writing.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(5) The responsible person in relation to a qualifying patient falling within section 130C(2) above (other than a patient liable to be detained by virtue of Part 3 of this Act) shall, except where the patient otherwise requests, take such steps as are practicable to furnish the person (if any) appearing to the responsible person to be the patient's nearest relative with a copy of any information given to the patient in writing under subsection (1) above.

(6) The steps to be taken under subsection (5) above shall be taken when the information concerned is given to the patient or within a reasonable time thereafter.]

Textual Amendments

F103 Ss. 130A-130D inserted (1.4.2008 for ss. 130A, 130C for certain purposes, otherwise 3.11.2008 for W. and 1.4.2009 for E.) by [Mental Health Act 2007 \(c. 12\)](#), **ss. 30(2)**, 56 (with [Sch. 10](#)); [S.I. 2008/745](#), **arts. 2(b)(i)**, **3(d)**; [S.I. 2008/2561](#), **art. 2(c)** (with [art. 3](#), [Sch.](#)); [S.I. 2009/139](#), **art. 2(a)**

131 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 a minor who has attained the age of 16 years and is capable of expressing his own wishes, any such arrangements as are mentioned in subsection (1) above may be made, carried out and determined [^{F104}even though there are one or more persons who have parental responsibility for him (within the meaning of the Children Act 1989)].

Textual Amendments

F104 Words in [s. 131\(2\)](#) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), [s. 108\(5\)](#), **Sch. 13 para. 48(5)** (with [Sch. 14 para. 1\(1\)](#)); [S.I. 1991/828](#), **art. 3(2)**

VALID FROM 01/04/2010

^{F105}131A Accommodation, etc. for children

(1) This section applies in respect of any patient who has not attained the age of 18 years and who—

- (a) is liable to be detained in a hospital under this Act; or
- (b) is admitted to, or remains in, a hospital in pursuance of such arrangements as are mentioned in section 131(1) above.

(2) The managers of the hospital shall ensure that the patient's environment in the hospital is suitable having regard to his age (subject to his needs).

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(3) For the purpose of deciding how to fulfil the duty under subsection (2) above, the managers shall consult a person who appears to them to have knowledge or experience of cases involving patients who have not attained the age of 18 years which makes him suitable to be consulted.

(4) In this section, “ hospital ” includes a registered establishment.]

Textual Amendments

F105 S. 131A inserted (1.4.2010) by [Mental Health Act 2007 \(c. 12\), ss. 31\(3\), 56\(1\)](#); [S.I. 2010/143, art. 2](#)

132 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 this Act shall take such steps as are practicable to ensure that the patient understands—
- (a) under which of the provisions of this Act 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 sections 23, 25, 56 to 64, 66(1) (g), 118 and 120 above and section 134 below; 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.

VALID FROM 03/11/2008

^{F106}132A Duty of managers of hospitals to give information to community patients

- (1) The managers of the responsible hospital shall take such steps as are practicable to ensure that a community patient understands—
- (a) the effect of the provisions of this Act applying to community patients; and
 - (b) what rights of applying to a ^{F107}tribunal] are available to him in that capacity;
- and those steps shall be taken as soon as practicable after the patient becomes a community patient.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The steps to be taken under subsection (1) above shall include giving the requisite information both orally and in writing.
- (3) The managers of the responsible hospital shall, except where the community 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 subsection (1) above; and those steps shall be taken when the information is given to the patient or within a reasonable time thereafter.]

Textual Amendments

F106 S. 132A inserted (3.11.2008) by [Mental Health Act 2007 \(c. 12\)](#), ss. 32, 56, [Sch. 3 para. 30](#) (with [Sch. 10](#)); [S.I. 2008/1900](#), [art. 2\(i\)](#) (with [art. 3](#), [Sch.](#))

F107 Words in s. 132A(1)(b) substituted (3.11.2008) by [The Transfer of Tribunal Functions Order 2008 \(S.I. 2008/2833\)](#), [art. 6](#), [Sch. 3 para. 64](#)

133 Duty of managers of hospitals to inform nearest relatives of discharge.

- (1) Where a patient liable to be detained under 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 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.

134 Correspondence of patients.

- (1) A postal packet addressed to any person by a patient detained in a hospital under this Act and delivered by the patient for dispatch 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 registered 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 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;

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) the 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 ^{M44}Local Government Act 1974;
 - (d) a Mental Health Review Tribunal;
 - (e) a health authority within the meaning of the ^{M45}National Health Service Act 1977, a local social services authority, a Community Health Council or a [^{F108}probation committee (within the meaning of the Probation Service Act 1993);]
 - (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—
- (a) whether it is one to which subsection (1) or (2) applies, and
 - (b) in the case of a postal packet to which subsection (1) or (2) above applies, whether or not it should be withheld under that subsection;
- 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 the case of a packet withheld under subsection (2) above, to the person (if known) by whom the postal packet was sent; and any such notice shall be given in writing and shall contain a statement of the effect of section 121(7) and (8) above.
- (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 “hospital” has the same meaning as in Part II of this Act, “postal packet” has the same meaning as in the ^{M46}Post Office Act 1953 and the provisions of this section shall have effect notwithstanding anything in section 56 of that Act.

Textual Amendments

F108 Words in s. 134(3)(e) substituted (5.2.1994) by 1993 c. 47, ss. 32(2), 33(2), **Sch. 3 para. 7**.

Marginal Citations

M44 1974 c. 7.

M45 1977 c. 49.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

M46 1953 c. 36.

VALID FROM 01/04/2009

[^{F109}134A] Review of decisions to withhold correspondence

- (1) The regulatory authority must review any decision to withhold a postal packet (or anything contained in it) under subsection (1)(b) or (2) of section 134 if an application for a review of the decision is made—
 - (a) in a case under subsection (1)(b) of that section, by the patient; or
 - (b) in a case under subsection (2) of that section, either by the patient or by the person by whom the postal packet was sent.
- (2) An application under subsection (1) must be made within 6 months of receipt by the applicant of the notice referred to in section 134(6).
- (3) On an application under subsection (1), the regulatory authority may direct that the postal packet (or anything contained in it) is not to be withheld.
- (4) The managers of the hospital concerned must comply with any such direction.
- (5) The Secretary of State may by regulations make provision in connection with the making to and determination by the Care Quality Commission of applications under subsection (1), including provision for the production to the Commission of any postal packet which is the subject of such an application.
- (6) The Welsh Ministers may by regulations make provision in connection with the making to them of applications under subsection (1), including provision for the production to them of any postal packet which is the subject of such an application.]

Textual Amendments

F109 S. 134A inserted (1.4.2009) by [Health and Social Care Act 2008 \(c. 14\)](#), ss. 52, 170, [Sch. 3 para. 12](#); [S.I. 2009/462](#), [arts. 1\(1\)\(b\)](#), 2, [Sch. 1 para. 33](#)

135 Warrant to search for and remove patients.

- (1) If it appears to a justice of the peace, on information on oath laid by an approved social worker, 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 . . . ^{F110} 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 II of this Act, or of other arrangements for his treatment or care.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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 or under section 83 of the [^{F111}Mental Health (Scotland) Act 1984] to take a patient to any place, or to take into custody or retake a patient who is liable under this Act or under the said section 83 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 . . . ^{F110} 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 72 hours.
- (4) In the execution of a warrant issued under subsection (1) above, [^{F112}a constable] shall be accompanied by an approved social worker and by a registered medical practitioner, and in the execution of a warrant issued under subsection (2) above [^{F112}a constable] may be accompanied—
- (a) by a registered medical practitioner;
 - (b) by any person authorised by or under this Act or under section 83 of the [^{F113}Mental Health (Scotland) Act 1984] to take or retake the patient.
- (5) It shall not be necessary in any information or warrant under subsection (1) above to name the patient concerned.
- (6) In this section “place of safety” means residential accommodation provided by a local social services authority under Part III of the ^{M47}National Assistance Act 1948^{F114}. . . , 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.

Textual Amendments

- F110** Words repealed by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119, [Sch. 7 Pt. I](#)
- F111** Words substituted by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), ss. 17(2), 127, [Sch. 3 para. 56\(a\)](#)
- F112** Words substituted by [Police and Criminal Evidence Act 1984 \(c. 60, SIF 95\)](#), s. 119, [Sch. 6 Pt. I para. 26](#)
- F113** Words substituted by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), s. 127, [Sch. 3 para. 56\(b\)](#)
- F114** Words in s. 135(6) repealed (1.4.1993) by [National Health Service and Community Care Act 1990 \(c. 19\)](#), s. 66(2), [Sch. 10](#); S.I. 1992/2975, [art. 2\(2\)](#),Sch.

Marginal Citations

- M47** [1948 c. 29](#).

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

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

person or for the protection of other persons, remove that person to a place of safety within the meaning of section 135 above.

- (2) A person removed to a place of safety under this section may be detained there for a period not exceeding 72 hours for the purpose of enabling him to be examined by a registered medical practitioner and to be interviewed by an approved social worker and of making any necessary arrangements for his treatment or care.

137 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 section 42(6) above 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.

Modifications etc. (not altering text)

C48 S. 137 extended (E.W.) (1.1.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991](#) (c. 25, SIF 39:1), s. 6(2); S.I. 1991/2488, art.2

138 Retaking of patients escaping from custody.

- (1) If any person who is in legal custody by virtue of section 137 above escapes, he may, subject to the provisions of this section, be retaken—
- in any case, by the person who had his custody immediately before the escape, or by any constable or approved social worker;
 - if at the time of the escape he was liable to be detained in a hospital within the meaning of Part II of this Act, or subject to guardianship under this Act, by any other person who could take him into custody under section 18 above if he had absented himself without leave.
- (2) A person to whom paragraph (b) of subsection (1) above applies shall not be retaken under this section after the expiration of the period within which he could be retaken under section 18 above if he had absented himself without leave on the day of his escape unless he is subject to a restriction order under Part III of this Act or an order or direction having the same effect as such an order; and subsection (4) of the said section 18 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 135 or 136 above shall not be retaken under this section after the expiration of the period of 72 hours beginning with the time when he escapes or the period during which he is liable to be so detained, whichever expires first.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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 II 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 19 above, or of any order, direction or authorisation under Part III or VI of this Act (other than under section 35, 36, 38, 53, 83 or 85) or under section 123 above; or
 - (b) while being taken to or detained in a place of safety in pursuance of an order under Part III of this Act (other than under section 35, 36 or 38 above) 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 in that hospital, as if he had been so received.
- (5) In computing for the purposes of the power to give directions under section 37(4) above and for the purposes of sections 37(5) and 40(1) above the period of 28 days mentioned in those sections, 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 21 above 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 and references in that section to section 18 above shall be construed accordingly.

Modifications etc. (not altering text)

C49 S. 138 extended (E.W.) (1.1.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991](#) (c. 25, SIF 39:1), s. 6(2); S.I. 1991/2488, art.2

139 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 made under this Act, or in, or in pursuance of anything done in, the discharge of functions conferred by any other enactment on the authority having jurisdiction under Part VII of this Act, unless the act was done in bad faith or without reasonable care.
- (2) No civil proceedings shall be brought against any person in any court in respect of any such act without the leave of the High Court; and no criminal proceedings shall be brought against any person in any court in respect of any such act except by or with the consent of the Director of Public Prosecutions.
- (3) This section does not apply to proceedings for an offence under this Act, being proceedings which, under any other provision of this Act, can be instituted only by or with the consent of the Director of Public Prosecutions.
- (4) This section does not apply to proceedings against the Secretary of State or against a health authority within the meaning of the ^{M48}National Health Service Act 1977 [^{F115} or against a National Health Service trust established under the National Health Service and Community Care Act 1990].

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (5) In relation to Northern Ireland the reference in this section to the Director of Public Prosecutions shall be construed as a reference to the Director of Public Prosecutions for Northern Ireland.

Extent Information

E3 [S. 139](#): for extent of s. 139 to Northern Ireland and of s. 139(1) to Scotland see [ss. 146, 147](#).

Textual Amendments

F115 Words in [s. 139\(4\)](#) inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 66\(1\)](#), [Sch. 9 para. 24\(7\)](#)

Modifications etc. (not altering text)

C50 [S. 139](#) extended by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), [ss. 17\(2\), 122\(2\)](#)

C51 [S. 139](#) extended (E.W.) (1.1.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), [s. 6\(2\)](#); S.I. 1991/2488, [art. 2](#)

Marginal Citations

M48 [1977 c. 49](#).

140 Notification of hospitals having arrangements for reception of urgent cases.

It shall be the duty of every Regional Health Authority and in Wales every District Health Authority to give notice to every local social services authority for an area wholly or partly comprised within the region or district, as the case may be, of the Authority specifying the hospital or hospitals administered by [^{F116}or otherwise available to] the Authority 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.

Textual Amendments

F116 Words inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), [s. 66\(1\)](#), [Sch. 9 para. 24\(8\)](#)

141 Members of Parliament suffering from mental illness.

- (1) 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 registered 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.
- (2) Where the Speaker receives a notification under subsection (1) above, 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 registered medical practitioners appointed in accordance with subsection (3) below.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) The registered medical practitioners to be appointed for the purposes of subsection (2) above shall be appointed by the President of the Royal College of Psychiatrists and shall be practitioners appearing to the President to have special experience in the diagnosis or treatment of mental disorders.
- (4) The registered medical practitioners appointed in accordance with subsection (3) above shall report to the Speaker whether the member is suffering from mental illness and is authorised to be detained as such.
- (5) 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 registered medical practitioners as aforesaid, and the registered medical practitioners shall report as aforesaid.
- (6) If the second report is that the member is suffering from mental illness and authorised to be detained as mentioned in subsection (4) above, the Speaker shall forthwith lay both reports before the House of Commons, and thereupon the seat of the member shall become vacant.
- (7) Any sums required for the payment of fees and expenses to registered medical practitioners acting in relation to a member of the House of Commons under this section shall be defrayed out of moneys provided by Parliament.

142 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 (referred to in this section 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 subsection (2) below.
- (2) The authority may pay the sum or such part of it 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 of the remainder 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 paragraph (a) above.
- (3) In this section “government department” does not include a Northern Ireland department.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

C52 S. 142 applied (21.1.1994) by [S.I. 1993/3253](#), [reg. R1\(2\)](#).

VALID FROM 01/04/2008

[^{F117}142A] Regulations as to approvals in relation to England and Wales

The Secretary of State jointly with the Welsh Ministers may by regulations make provision as to the circumstances in which—

- (a) a practitioner approved for the purposes of section 12 above, or
- (b) a person approved to act as an approved clinician for the purposes of this Act,

approved in relation to England is to be treated, by virtue of his approval, as approved in relation to Wales too, and vice versa.]

Textual Amendments

F117 S. 142A inserted (1.4.2008 for E.W.) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 17, 56](#) (with [Sch. 10](#)); [S.I. 2008/745](#), [art. 3\(a\)](#)

VALID FROM 24/07/2007

[^{F118}142B] Delegation of powers of managers of NHS foundation trusts

(1) The constitution of an NHS foundation trust may not provide for a function under this Act to be delegated otherwise than in accordance with provision made by or under this Act.

(2) Paragraph 15(3) of Schedule 7 to the National Health Service Act 2006 (which provides that the powers of a public benefit corporation may be delegated to a committee of directors or to an executive director) shall have effect subject to this section.]

Textual Amendments

F118 S. 142B inserted (24.7.2007) by [Mental Health Act 2007 \(c. 12\)](#), [ss. 45\(3\), 56](#) (with [Sch. 10](#)); [S.I. 2007/2156](#), [art. 2](#)

Supplemental

143 General provisions as to regulations, orders and rules.

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

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Any Order in Council under this Act [^{F119}or any order made under section 54A above] 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.
- (3) No order shall be made under section 68(4) or 71(3) above unless a draft of it has been approved by a resolution of each House of Parliament.

Textual Amendments

F119 Words in s. 143(2) inserted (E.W.) (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 27(3) (with s. 28); S.I. 1992/333, art. 2(2), Sch.2.

144 Power to amend local Acts.

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 this Act.

145 Interpretation.

- (1) In this Act, unless the context otherwise requires—
 - “absent without leave” has the meaning given to it by section 18 above and related expressions shall be construed accordingly;
 - “application for admission for assessment” has the meaning given in section 2 above;
 - “application for admission for treatment” has the meaning given in section 3 above;
 - “approved social worker” means an officer of a local social services authority appointed to act as an approved social worker for the purposes of this Act;
 - “hospital” means—
 - (a) any health service hospital within the meaning of the ^{M49}National Health Service Act 1977; and
 - (b) any accommodation provided by a local authority and used as a hospital by or on behalf of the Secretary of State under that Act;
and “hospital within the meaning of Part II of this Act” has the meaning given in section 34 above;
 - “hospital order” and “guardianship order” have the meanings respectively given in section 37 above;
 - “interim hospital order” has the meaning given in section 38 above;
 - “local social services authority” means a council which is a local authority for the purpose of the ^{M50}Local Authority Social Services Act 1970;
 - “the managers” means—
 - (a) in relation to a hospital vested in the Secretary of State for the purposes of his functions under the ^{M51}National Health Service Act 1977, and in relation to any accommodation provided by a local authority and used as a hospital by or on behalf of the Secretary of State under that Act, the District Health Authority or special health authority responsible for the administration of the hospital;
 - (b) in relation to a special hospital, the Secretary of State;

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- [^{F120}(bb) in relation to a hospital vested in a National Health Service trust, ^{F121} . . . the trust]
- (c) in relation to a mental nursing home registered in pursuance of [^{F122}the Registered Homes Act 1984], the person or persons registered in respect of the home;
 - and in this definition “hospital” means a hospital within the meaning of Part II of this Act;
 - “medical treatment” includes nursing, and also includes care, habilitation and rehabilitation under medical supervision;
 - “mental disorder”, “severe mental impairment”, “mental impairment” and “psychopathic disorder” have the meanings given in section 1 above;
 - “mental nursing home” has the same meaning as in the [^{F122}the Registered Homes Act 1984];
 - “nearest relative”, in relation to a patient, has the meaning given in Part II of this Act;
 - “patient” (except in Part VII of this Act) means a person suffering or appearing to be suffering from mental disorder;
 - “restriction direction” has the meaning given to it by section 49 above;
 - “restriction order” has the meaning given to it by section 41 above;
 - “special hospital” has the same meaning as in the ^{M52}National Health Service Act 1977;
 - ^{F123}
 - “transfer direction” has the meaning given to it by section 47 above.

^{F124}(2)

- (3) In relation to a person who is liable to be detained or subject to guardianship by virtue of an order or direction under Part III of this Act (other than under section 35, 36 or 38), any reference in this Act to any enactment contained in Part II of this Act or in section 66 or 67 above shall be construed as a reference to that enactment as it applies to that person by virtue of Part III of this Act.

Textual Amendments

- F120** In the definition of “the managers” paragraph (bb) inserted by [National Health Service and Community Care Act 1990 \(c. 19, SIF 113:2\)](#), s. 66(1), **Sch. 9 para. 24(9)**
- F121** Words in definition of "the managers" in s. 145(1) repealed (E.W.) (14.4.1994) by 1994 c. 6, **ss. 1, 2(2)(3)**
- F122** Words substituted by [Registered Homes Act 1984 \(c. 23, SIF 113:3\)](#), s. 57, **Sch. 1 para. 11**
- F123** Definition of "standard scale" in s. 145(1) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Group. 2.
- F124** [S. 145\(2\)](#) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. XIV** Gp. 2.

Marginal Citations

- M49** 1977 c. 49.
- M50** 1970 c. 42.
- M51** 1977 c. 49.
- M52** 1977 c. 49.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

146 Application to Scotland.

Sections 42(6), 80, 88 (and so far as applied by that section sections 18, 22 and 138), 104(4), 110 (and so much of Part VII of this Act as is applied in relation to Scotland by that section), 116, 122, 128 (except so far as it relates to patients subject to guardianship), 137, 139(1), 141, 142, 143 (so far as applicable to any Order in Council extending to Scotland) and 144 above shall extend to Scotland together with any amendment or repeal by this Act of or any provision of Schedule 5 to this Act relating to any enactment which so extends; 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.

147 Application to Northern Ireland.

Sections 81, 82, 86, 87, 88 (and so far as applied by that section sections 18, 22 and 138), 104(4), 110 (and so much of Part VII as is applied in relation to Northern Ireland by that section), section 128 (except so far as it relates to patients subject to guardianship), 137, 139, 141, 142, 143 (so far as applicable to any Order in Council extending to Northern Ireland) and 144 above shall extend to Northern Ireland together with any amendment or repeal by this Act of or any provision of Schedule 5 to this Act relating to any enactment which so extends; 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.

148 Consequential and transitional provisions and repeals.

- (1) Schedule 4 (consequential amendments) and Schedule 5 (transitional and saving provisions) to this Act shall have effect but without prejudice to the operation of sections 15 to 17 of the ^{M53}Interpretation Act 1978 (which relate to the effect of repeals).
- (2) Where any amendment in Schedule 4 to this Act affects an enactment amended by the ^{M54}Mental Health (Amendment) Act 1982 the amendment in Schedule 4 shall come into force immediately after the provision of the Act of 1982 amending that enactment.
- (3) The enactments specified in Schedule 6 to this Act are hereby repealed to the extent mentioned in the third column of that Schedule.

Marginal Citations

M53 1978 c. 30.

M54 1982 c. 51.

149 Short title, commencement and application to Scilly Isles.

- (1) This Act may be cited as the Mental Health Act 1983.
- (2) Subject to subsection (3) below and Schedule 5 to this Act, this Act shall come into force on 30th September 1983.
- (3) Sections 35, 36, 38 and 40(3) above shall come into force on such day (not being earlier than the said 30th September) as may be appointed by the Secretary of State and

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

a different day may be appointed for each of those sections or for different purposes of any of those sections.

- (4) Section 130(4) of the ^{M55}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.

Modifications etc. (not altering text)

C53 Power of appointment conferred by s. 149(3) fully exercised: 1.10.1984 appointed by [S.I. 1984/1357](#)

Marginal Citations

M55 [1977 c. 49](#).

Document Generated: 2023-12-29

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.
Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1 Sections 40(1), 41(3) and (5), and 55(4).

APPLICATION OF CERTAIN PROVISIONS TO PATIENTS SUBJECT TO HOSPITAL AND GUARDIANSHIP ORDERS

PART I

PATIENTS NOT SUBJECT TO SPECIAL RESTRICTIONS

- 1 Sections 9, 10, 17, 21, 24(3) and (4), 26 to 28, 31, 32, 67 and 76 shall apply in relation to the patient without modification.
- 2 Sections 16, 18, 19, 20, 22, 23 and 66 shall apply in relation to the patient with the modifications specified in paragraphs 3 to 9 below.

VALID FROM 03/11/2008

[^{F125}2A In section 17D(2)(a) for the reference to section 6(2) above there shall be substituted a reference to section 40(1)(b) below.

Textual Amendments

F125 Sch. 1 Pt. 1 paras. 2A, 2B inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, Sch. 3 para. 36(4) (with Sch. 10); S.I. 2008/1900, art. 2(i) (with art. 3, Sch.)

VALID FROM 03/11/2008

- 2B In section 17G—
- (a) in subsection (2) for the reference to section 6(2) above there shall be substituted a reference to section 40(1)(b) below;
 - (b) in subsection (4) for paragraphs (a) and (b) there shall be substituted the words the order or direction under Part 3 of this Act in respect of him were an order or direction for his admission or removal to that other hospital; and
 - (c) in subsection (5) for the words from “the patient” to the end there shall be substituted the words the date of the relevant order or direction under Part 3 of this Act were the date on which the community treatment order is revoked.]

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F125 Sch. 1 Pt. 1 paras. 2A, 2B inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, Sch. 3 para. 36(4) (with Sch. 10); S.I. 2008/1900, art. 2(i) (with art. 3, Sch.)

- 3 In section 16(1) for references to an application for admission or a guardianship application there shall be substituted references to the order or direction under Part III of this Act by virtue of which the patient is liable to be detained or subject to guardianship.
- 4 In section 18 subsection (5) shall be omitted.
- 5 In section 19(2) for the words from “as follows” to the end of the subsection there shall be substituted the words “as if the order or direction under Part III of this Act by virtue of which he was liable to be detained or subject to guardianship before being transferred were an order or direction for his admission or removal to the hospital to which he is transferred, or placing him under the guardianship of the authority or person into whose guardianship he is transferred, as the case may be”.

VALID FROM 03/11/2008

[^{F126}5A In section 19A(2), paragraph (b) shall be omitted.]

Textual Amendments

F126 Sch. 1 Pt. 1 para. 5A inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, Sch. 3 para. 36(5) (with Sch. 10); S.I. 2008/1900, art. 2(i) (with art. 3, Sch.)

- 6 In subsection 20—
- (a) in subsection (1) for the words from “day on which he was” to “as the case may be” there shall be substituted the words “date of the relevant order or direction under Part III of this Act”; and
 - (b) in subsection (9) for the words “the application for admission for treatment or, as the case may be, in the guardianship application, that application” there shall be substituted the words “the relevant order or direction under Part III of this Act, that order or direction”.

VALID FROM 03/11/2008

[^{F127}6A In section 20B(1), for the reference to the application for admission for treatment there shall be substituted a reference to the order or direction under Part 3 of this Act by virtue of which the patient is liable to be detained.]

Document Generated: 2023-12-29

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F127 Sch. 1 Pt. 1 para. 6A inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 32, 56, Sch. 3 para. 36(6) (with Sch. 10); S.I. 2008/1900, art. 2(i) (with art. 3, Sch.)

- 7 In section 22 for references to an application for admission or a guardianship application there shall be substituted references to the order or direction under Part III of this Act by virtue of which the patient is liable to be detained or subject to guardianship.
- 8 In section 23(2)—
- (a) in paragraph (a) the words “for assessment or” shall be omitted; and
 - (b) in paragraphs (a) and (b) the references to the nearest relative shall be omitted.

VALID FROM 01/04/1996

[^{F128}8A In sections 25A(1)(a) and 25B(5)(a) for the words “in pursuance of an application for admission for treatment” there shall be substituted the words “by virtue of an order or direction for his admission or removal to hospital under Part III of this Act”.]

Textual Amendments

F128 S. 8A inserted (1.4.1996) by 1995 c. 52, ss. 1(2), 7(2), Sch. 1, para. 6(c)

- 9 In section 66—
- (a) in subsection (1), paragraphs (a), (b), (c), (g) and (h), the words in parenthesis in paragraph (i) and paragraph (ii) shall be omitted; and
 - (b) in subsection (2), paragraphs (a), (b), (c) and (g) shall be omitted and in paragraph (d) for the words “cases mentioned in paragraphs (d) and (g)” there shall be substituted the words “case mentioned in paragraph (d)”.

VALID FROM 03/11/2008

[^{F129}10 In section 68—

- (a) in subsection (1) paragraph (a) shall be omitted; and
- (b) subsections (2) to (5) shall apply if the patient falls within paragraph (e) of subsection (1), but not otherwise.]

Textual Amendments

F129 Sch. 1 Pt. 1 para. 10 inserted (3.11.2008) by Mental Health Act 2007 (c. 12), ss. 37(6)(b), 56 (with Sch. 10); S.I. 2008/1900, art. 2(l) (with art. 3, Sch.)

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PART II

PATIENTS SUBJECT TO SPECIAL RESTRICTIONS

1 Sections 24(3) and (4), 32 and 76 shall apply in relation to the patient without modification.

2 Sections 17 to 19, 22, 23 and 34 shall apply in relation to the patient with the modifications specified in paragraphs 3 to 8 below.

Extent Information

E4 For extent of Sch. 1 Pt. II para. 2 see [ss. 146, 147](#)

3 In section 17—

- (a) in subsection (1) after the word “may” there shall be inserted the words “with the consent of the Secretary of State”;
- (b) in subsection (4) after the words “the responsible medical officer” and after the words “that officer” there shall be inserted the words “or the Secretary of State”; and
- (c) in subsection (5) after the word “recalled” there shall be inserted the words “by the responsible medical officer”, and for the words from “he has ceased” to the end of the subsection there shall be substituted the words “the expiration of the period of six months beginning with the first day of his absence on leave”.

4 In section 18 there shall be omitted—

- (a) in subsection (1) the words “subject to the provisions of this section”; and
- (b) subsections (3), (4) and (5).

5 In section 19—

- (a) in subsection (1) after the word “may” in paragraph (a) there shall be inserted the words “with the consent of the Secretary of State”, and the words from “or into” to the end of the subsection shall be omitted; and
- (b) in subsection (2) for the words from “as follows” to the end of the subsection there shall be substituted the words “as if the order or direction under Part III of this Act by virtue of which he was liable to be detained before being transferred were an order or direction for his admission or removal to the hospital to which he is transferred”.

6 In section 22 subsection (1) and paragraph (a) of subsection (2) shall not apply.

7 In section 23—

- (a) in subsection (1) references to guardianship shall be omitted and after the word “made” there shall be inserted the words “with the consent of the Secretary of State and” and
- (b) in subsection (2)—

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) in paragraph (a) the words “for assessment or” and “or by the nearest relative of the patient” shall be omitted; and
- (ii) paragraph (b) shall be omitted.
- 8 In section 34, in subsection (1) the definition of “the nominated medical attendant” and subsection (3) shall be omitted.

SCHEDULE 2

Section 65(2).

MENTAL HEALTH REVIEW TRIBUNALS

- 1 Each of the Mental Health Review Tribunals shall consist of—
- (a) a number of persons (referred to in this Schedule as “the legal members”) appointed by the Lord Chancellor and having such legal experience as the Lord Chancellor considers suitable;
 - (b) a number of persons (referred to in this Schedule as “the medical members”) being registered medical practitioners appointed by the Lord Chancellor after consultation with the Secretary of State; and
 - (c) a number of persons appointed by the Lord Chancellor after consultation with the Secretary of State and having such experience in administration, such knowledge of social services or such other qualifications or experience as the Lord Chancellor considers suitable.

Modifications etc. (not altering text)

C54 Sch. 2 para. 1(b)(c): Functions of the Lord Chancellor, so far as they are exercisable by him in relation to Wales, to be exercised only with the agreement of or after the consultation with the Assembly of Wales (1.7.1999) by S.I. 1999/672, art. 5, Sch. 2

VALID FROM 03/04/2006

[^{F130}1A As part of the selection process for an appointment under paragraph 1(b) or (c) the Judicial Appointments Commission shall consult the Secretary of State.]

Textual Amendments

F130 Sch. 2 para. 1A inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 4 para. 158(3); S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(q)

- 2 [^{F131}Subject to paragraph 2A below,]the members of Mental Health Review Tribunals shall hold and vacate office under the terms of the instrument under which they are appointed, but may resign office by notice in writing to the Lord Chancellor; and any such member who ceases to hold office shall be eligible for re-appointment.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F131 Words in [Sch. 2 para. 2](#) inserted (31.3.1995) by 1993 c. 8, s. 26, [Sch. 6 para. 40](#) (with [Sch. 7 paras. 2\(2\), 3\(2\), 4](#)); S.I. 1995/631, [art. 2](#)

[^{F132}2A A member of a Mental Health Review Tribunal shall vacate office on the day on which he attains the age of 70 years; but this paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75 years).]

Textual Amendments

F132 [Sch. 2 para. 2A](#) inserted (31.3.1995) by 1993 c. 8, s. 26, [Sch. 6 para. 40](#) (with [Sch. 7 paras. 2\(2\), 3\(2\), 4](#)); S.I. 1995/631, [art. 2](#)

- 3 One of the legal members of each Mental Health Review Tribunal shall be appointed by the Lord Chancellor as chairman of the Tribunal.
- 4 Subject to rules made by the Lord Chancellor under section 78(2)(c) above, the members who are to constitute a Mental Health Review Tribunal for the purposes of any proceedings or class or group of proceedings under this Act shall be appointed by the chairman of the tribunal or, if for any reason he is unable to act, by another member of the tribunal appointed for the purpose by the chairman; and of the members so appointed—
- (a) one or more shall be appointed from the legal members;
 - (b) one or more shall be appointed from the medical members; and
 - (c) one or more shall be appointed from the members who are neither legal nor medical members.
- 5 A member of a Mental Health Review Tribunal for any area may be appointed under paragraph 4 above as one of the persons to constitute a Mental Health Review Tribunal for any other area for the purposes of any proceedings or class or group of proceedings; and for the purposes of this Act, a person so appointed shall, in relation to the proceedings for which he was appointed, be deemed to be a member of that other tribunal.
- 6 Subject to any rules made by the Lord Chancellor under section 78(4)(a) above, where the chairman of the tribunal is included among the persons appointed under paragraph 4 above, he shall be president of the tribunal; and in any other case the president of the tribunal shall be such one of the members so appointed (being one of the legal members) as the chairman may nominate.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 3

Section 113.

ENACTMENTS DISAPPLIED IN RESPECT OF PERSONS WITHIN JURISDICTION UNDER PART VII

Session and Chapter	Short Title	Enactments
13 Geo. 3. c. 81.	The Inclosure Act 1773.	Sections 22 and 24.
7 Geo. 4. c. 16.	The Chelsea and Kilmainham Hospitals Act 1826.	Sections 44 to 48.
2 & 3 Will. 4. c. 80.	The Ecclesiastical Corporations Act 1832.	Section 3.
1 & 2 Vict. c. 106.	The Pluralities Act 1838.	Section 127.
4 & 5 Vict. c. 38.	The School Sites Act 1841.	Section 5.
5 & 6 Vict. c. 26.	The Ecclesiastical Houses of Residence Act 1842.	Section 12.
5 & 6 Vict. c. 108.	The Ecclesiastical Leasing Act 1842.	Section 24.
8 & 9 Vict. c. 16.	The Companies Clauses Consolidation Act 1845.	Section 79.
8 & 9 Vict. c. 18.	The Lands Clauses Consolidation Act 1845.	Section 9.
8 & 9 Vict. c. 118.	The Inclosure Act 1845.	Sections 20, 133, 134 and 137.
9 & 10 Vict. c. 73.	The Tithe Act 1846.	Sections 5, 9 and 10.
17 & 18 Vict. c. 112.	The Literary and Scientific Institutions Act 1854.	Section 5.
25 & 26 Vict. c. 53.	The Land Registry Act 1862.	Section 116.
Session and Chapter	Short Title	Enactments
27 & 28 Vict. c. 114.	The Improvement of Land Act 1864.	Section 24.
29 & 30 Vict. c. 122.	The Metropolitan Commons Act 1866.	Section 28.
31 & 32 Vict. c. 109.	The Compulsory Church Rate Abolition Act 1868.	Section 7.
36 & 37 Vict. c. 50.	The Places of Worship Sites Act 1873.	Sections 1 and 3.
40 & 41 Vict. c. 59.	The Colonial Stock Act 1877.	Section 6.
57 & 58 Vict. c. 60.	The Merchant Shipping Act 1894.	In section 55, subsection (1).

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 4

Section 148.

CONSEQUENTIAL AMENDMENTS

- 1 In the ^{M56}Fines and Recoveries Act 1833—
- (a) in section 33 for the words “the ^{M57}Mental Health Act 1959” and “Part VIII” there shall be substituted respectively the words “ the Mental Health Act 1983 ”and “ Part VII ”;
 - (b) in sections 48 and 49 for the references to the judge having jurisdiction under Part VIII of the Mental Health Act 1959 there shall be substituted references to the judge having jurisdiction under Part VII of this Act.

Marginal Citations

M56 1833 c. 74.

M57 1959 c. 72.

- 2 In section 68 of the ^{M58}Improvement of Land Act 1864 for the words “Part VIII of the Mental Health Act 1959” there shall be substituted the words “ Part VII of the Mental Health Act 1983 ”.

Marginal Citations

M58 1864 c. 114.

- 3 In section 10(3) of the ^{M59}Colonial Prisoners Removal Act 1884 for the words “section seventy-one of the Mental Health Act 1959”, “section seventy-two” and “section seventy-four” there shall be substituted respectively the words “ section 46 of the Mental Health Act 1983 ”, “ section 47 ”and “ section 49 ”.

Marginal Citations

M59 1884 c. 31.

- 4 In the ^{M60}Trustee Act 1925—
- (a) in section 36(9) for the words “the Mental Health Act 1959” and “Part VIII of the Mental Health Act 1959” there shall be substituted respectively the words “ the Mental Health Act 1983 ”and “ Part VII of the Mental Health Act 1983 ”;
 - (b) in section 41(1) for the words “the Mental Health Act 1959” there shall be substituted the words “ the Mental Health Act 1983 ”;
 - (c) in section 54—
 - (i) in subsection (1) for the words “Part VIII of the Mental Health Act 1959” there shall be substituted the words “ Part VII of the Mental Health Act 1983 ”; and

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (ii) in subsection (3) for the words “section one hundred and one of the Mental Health Act 1959” and “exercisable and have been exercised under section one hundred and four” there shall be substituted respectively the words “section 94 of the Mental Health Act 1983” and “exercisable under section 98 of that Act and have been exercised under that section or section 104 of the Mental Health Act 1959”;
- (d) in section 55 except so far as it applies to existing orders made before the commencement of this Act, for the words “Part VIII of the Mental Health Act 1959” there shall be substituted the words “Part VII of the Mental Health Act 1983”.

Marginal Citations

M60 1925 c. 19.

- 5 In the ^{M61}Law of Property Act 1925—
- (a) in section 22(1) for the words “Part VIII of the Mental Health Act 1959” there shall be substituted the words “Part VII of the Mental Health Act 1983”;
 - (b) in section 205(1)(xiii) for the words “section four of the Mental Health Act 1959” and “Part VIII” there shall be substituted respectively the words “section 1 of the Mental Health Act 1983” and “Part VIII of the Mental Health Act 1959 or Part VII of the said Act of 1983”.

Marginal Citations

M61 1925 c. 20.

- 6 In section 111 of the ^{M62}Land Registration Act 1925—
- (a) in subsection (5) for the words “the Mental Health Act 1959” and “Part VIII of the Mental Health Act 1959” there shall be substituted respectively the words “the Mental Health Act 1983” and “Part VII of the Mental Health Act 1983”; and
 - (b) in subsection (6) for the words “Part VIII of the Mental Health Act 1959” there shall be substituted the words “Part VII of the Mental Health Act 1983”.

Marginal Citations

M62 1925 c. 21.

- 7 In paragraph (ii) of the proviso to section 41(1) of the ^{M63}Administration of Estates Act 1925 for the words “the Mental Health Act 1959” there shall be substituted the words “the Mental Health Act 1983”.

*Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.
Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Marginal Citations
M63 1925 c. 23.

8 In sections 4(1) and 11(3)(b) of the ^{M64}Polish Resettlement Act 1947 for the words “the Mental Health Act 1959” there shall be substituted the words “ the Mental Health Act 1983 ”.

Marginal Citations
M64 1947 c. 19.

9 In section 1(4) of the ^{M65}U.S.A. Veterans’ Pensions (Administration) Act 1949 after the words “curator bonis” there shall be inserted the words “ or for whom a receiver has been appointed under section 105 of the Mental Health Act 1959 or section 99 of the Mental Health Act 1983 ”.

Marginal Citations
M65 1949 c. 45.

10 In section 116(7) of the ^{M66}Army Act 1955 for the words “section 71 of the Mental Health Act 1959” and “within the meaning of the Mental Health Act 1959” there shall be substituted respectively the words “ section 46 of the Mental Health Act 1983 ”and “ within the meaning of the Mental Health Act 1983 ”.

Marginal Citations
M66 1955 c. 18.

11 In section 116(7) of the ^{M67}Air Force Act 1955 for the words “section 71 of the Mental Health Act 1959” and “within the meaning of the Mental Health Act 1959” there shall be substituted respectively the words “ section 46 of the Mental Health Act 1983 ” and “ within the meaning of the Mental Health Act 1983 ”.

Marginal Citations
M67 1955 c. 19.

^{F133}12

Textual Amendments
F133 Sch. 4 para. 12 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), Sch.15 (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, art. 3(2)

13 In section 71(6) of the ^{M68}Naval Discipline Act 1957 for the words “section 71 of the Mental Health Act 1959” and “within the meaning of the Mental Health Act

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1959” there shall be substituted respectively the words “ section 46 of the Mental Health Act 1983 ” and “ within the meaning of the Mental Health Act 1983 ”.

Marginal Citations

M68 1957 c. 53.

- 14 In section 1 of the ^{M69}Variation of Trusts Act 1958—
- (a) in subsection (3) for the words “Part VIII of the Mental Health Act 1959” and “the said Part VIII” there shall be substituted respectively the words “ Part VII of the Mental Health Act 1983 ” and “ the said Part VII ”; and
 - (b) in subsection (6) for the words “Part VIII of the Mental Health Act 1959” there shall be substituted the words “ Part VII of the Mental Health Act 1983 ”.

Marginal Citations

M69 1958 c. 53.

- 15 In section 128(1)(b) of the ^{M70}Mental Health Act 1959 for the words “this Act” in both places where they occur there shall be substituted the words “ the Mental Health Act 1983 ”.

Marginal Citations

M70 1959 c. 72.

- 16 ^{F134}

Textual Amendments

F134 Sch. 4 para. 16 repealed by [Mental Health \(Scotland\) Act 1984 \(c. 36, SIF 85\)](#), s. 127(2), [Sch. 5](#)

- 17 In section 5 of the ^{M71}Administration of Justice Act 1960—
- (a) in subsection (4) for the words “Part V of the Mental Health Act 1959” and the words “the said Part V” there shall be substituted respectively the words “ Part III of the Mental Health Act 1983 (other than under section 35, 36 or 38) ” and “ the said Part III ”; and
 - (b) in subsection (4A) for the words “section 31 of the Mental Health (Amendment) Act 1982”, “Part V of the said Act of 1959” and “the said section 31” there shall be substituted respectively “ section 38 of the Mental Health Act 1983 ”, “ Part III of the said Act of 1983 ” and “ the said section 38 ”.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M71 1960 c. 65.

- 18 In the ^{M72}Criminal Procedure (Insanity) Act 1964—
- (a) in section 8(2) for the words “the Mental Health Act 1959”, “Part V” and “sections 139 to 141” there shall be substituted respectively the words “ the Mental Health Act 1983 ”, “ Part III ” and “ sections 137 to 139 ”;
- ^{F135}(b)

Textual Amendments

F135 Sch. 4 para. 18(b) repealed (1.1.1992) by Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25, SIF 39:1), s. 8(3), Sch.4 (with saving in s. 8); S.I. 1991/2488, art. 2

Marginal Citations

M72 1964 c. 84.

- 19 In section 18 of the ^{M73}Administration of Justice Act 1965 for the words “Part VIII of the Mental Health Act 1959” there shall be substituted the words “ Part VII of the Mental Health Act 1983 ”.

Marginal Citations

M73 1965 c. 2.

- 20 In paragraph 1(2)(b) of Schedule 1 to the ^{M74}Compulsory Purchase Act 1965 at the end there shall be inserted the words “ or section 98 of the Mental Health Act 1983 ”.

Marginal Citations

M74 1965 c. 56.

- 21 In the ^{M75}Criminal Justice Act 1967—
- (a) in section 72(1)(b) for the words “section 40 or 140 of the Mental Health Act 1959 or section 31(8) of the Mental Health (Amendment) Act 1982” there shall be substituted the words “ section 18, 38(7) or 138 of the Mental Health Act 1983 ”;
- (b) in section 72(3) for the words “Section 139 of the Mental Health Act 1959” and “the said Act of 1959” there shall be substituted respectively the words “ Section 137 of the Mental Health Act 1983 ” and “ the said Act of 1983 ”;
- (c) in section 72(4) for the words “Part V of the Mental Health Act 1959”, “section 31 of the Mental Health (Amendment) Act 1982” and “Part V of the said Act of 1959” there shall be substituted respectively the words “ Part III of the Mental Health Act 1983 ”, “ section 38 of the said Act of 1983 ” and “ Part III of the said Act of 1983 ”.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M75 1967 c. 80.

- 22 In section 26(2) of the ^{M76}Leasehold Reform Act 1967 for the words “the Mental Health Act 1959”, “appointed under Part VIII of that Act” and “having jurisdiction under Part VIII of that Act” there shall be substituted respectively the words “Mental Health Act 1983”, “appointed under Part VII of the said Act of 1983 or Part VIII of the Mental Health Act 1959” and “having jurisdiction under Part VII of the said Act of 1983”.

Marginal Citations

M76 1967 c. 88.

- 23 In the ^{M77}Criminal Appeal Act 1968—
- ^{F136}(a)
 - (b) in section 8(3) after the words “Part V of the Mental Health Act 1959” there shall be inserted the words “or under Part III of the Mental Health Act 1983 (other than under section 35, 36 or 38 of that Act)”;
 - (c) in section 8(3A)—
 - (i) for the words “section 30 of the Mental Health (Amendment) Act 1982” there shall be substituted the words “section 36 of the Mental Health Act 1983”;
 - (ii) for the words “section 31 of that Act” there shall be substituted the words “section 38 of that Act”; and
 - (iii) for the words “Part V of the Mental Health Act 1959” there shall be substituted the words “Part III of that Act”;
 - (d) in section 11—
 - (i) in subsection (5) for the words “the Mental Health (Amendment) Act 1982” there shall be substituted the words “the Mental Health Act 1983”; and
 - (ii) in subsection (6)(b) for the words “section 31(8) of the said Act of 1982” there shall be substituted the words “section 38(7) of the said Act of 1983”.
 - ^{F136}(e)
 - ^{F136}(f)
 - (g) in section 37(4) for the words “Part V of the Mental Health Act 1959” and “the Mental Health Act 1959” there shall be substituted respectively the words “Part III of the Mental Health Act 1983 (otherwise than under section 35, 36 or 38 of that Act)” and “the Mental Health Act 1983”;
 - (h) in section 37(4A) for the words “section 30 of the Mental Health (Amendment) Act 1982”, “section 31” and “Part V of the said Act of 1959” wherever they occur there shall be substituted respectively the words “section 36 of the Mental Health Act 1983”, “section 38” and “Part III of the said Act of 1983”;

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) in section 50(1), for the words from “Part V” to “1982” there shall be substituted the words “ Part III of the Mental Health Act 1983, with or without a restriction order, and an interim hospital order under that Part ”;
- (j) in section 51(2) for the words “section 147(1) of the Mental Health Act 1959” there shall be substituted the words “ section 145(1) of the Mental Health Act 1983 ”;
- F136(k)
- F136(l)
- F136(m)
- (n) in Schedule 3—
 - (i) in the heading to the Schedule for the words “PART V OF MENTAL HEALTH ACT 1959” there shall be substituted the words “ PART III OF MENTAL HEALTH ACT 1983 ”; and
 - (ii) for paragraph 2 there shall be substituted—

Order for continued detention under Act of 1983

“2 Where an order is made by the Court of Appeal under section 16(3) of this Act for a person’s continued detention under the Mental Health Act 1983, Part III of that Act (patients concerned in criminal proceedings or under sentence) shall apply to him as if he had been ordered under the said section 16(3) to be kept in custody pending trial and were detained in pursuance of a transfer direction together with a restriction direction.”

Textual Amendments

F136 Sch. 4 para. 23 (a)(e)(f)(k)-(m) repealed (1.1.1992) by [Criminal Procedure \(Insanity and Unfitness to Plead\) Act 1991 \(c. 25, SIF 39:1\)](#), s. 8(3), [Sch.4](#) (with saving in s. 8); S.I. 1991/2488, [art. 2](#)

Marginal Citations

M77 1968 c. 19.

- 24 In the ^{M78}Courts-Martial (Appeals) Act 1968—
- (a) in sections 20(4) and 43(4) for the words “Part V of the Mental Health Act 1959” there shall be substituted the words “ Part III of the Mental Health Act 1983 ”;
 - (b) in section 23, in subsection (1) for the words “section 71 of the Mental Health Act 1959” there shall be substituted the words “ section 46 of the Mental Health Act 1983 ” and in subsection (2) for the words “the Mental Health Act 1959” there shall be substituted the words “ the Mental Health Act 1983 ”;
 - (c) in section 25(4) for the words “the Mental Health Act 1959” there shall be substituted the words “ the Mental Health Act 1983 ”.

Marginal Citations

M78 1968 c. 20.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 25 In section 21(4) of the ^{M79}Family Law Reform Act 1969 for the words “the Mental Health Act 1959” there shall be substituted the words “the Mental Health Act 1983”;

Marginal Citations

M79 1969 c. 46.

- 26 In the ^{M80}Children and Young Persons Act 1969— ^{F137}
- (a)
 - ^{F137}(b)
 - ^{F137}(c)
 - (d) in section 12(4) for the words “section 28 of the Mental Health Act 1959”, “Part V” and “the said Act of 1959” there shall be substituted respectively the words “section 12 of the Mental Health Act 1983”, “Part III” and “the said Act of 1983”;
 - (e) in paragraph 7(7) of Schedule 4 for the words from the beginning to “1959” there shall be substituted the words “A restriction direction which was given under section 49 of the Mental Health Act 1983”.

Textual Amendments

F137 Sch. 4 para. 26(a)–(c) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), Sch.15 (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, art. 3(2)

Marginal Citations

M80 1969 c. 54.

- 27 In Schedule 1 to the ^{M81}Local Authorities Social Services Act 1970—
- (a) in the entry relating to the Mental Health Act 1959, in the first column for the words “Parts II to VI and IX” there shall be substituted the words “sections 8 and 9” and for the entry in the second column there shall be substituted the words “Welfare and accommodation of mentally disordered persons.”;
 - (b) there shall be inserted at the end—

“Mental Health Act 1983 (c. 20)

Parts II, III and VI

Welfare of the mentally disordered; guardianship of persons suffering from mental disorder including such persons removed to England and Wales from Scotland or Northern Ireland; exercise of functions of nearest relative of person so suffering.

Sections 66, 67, 69(1)

Exercise of functions of nearest relative in relation to applications and references to Mental Health Review Tribunals.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.
Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Section 114	Appointment of approved social workers.
Section 115	Entry and inspection.
Section 116	Welfare of certain hospital patients.
Section 117	After-care of detained patients.
Section 130	Prosecutions.”;

(c) the entry relating to the ^{M82}Mental Health (Amendment) Act 1982 shall cease to have effect.

Marginal Citations
M81 1970 c. 42.
M82 1982 c. 51.

28 In section 57(1) of the ^{M83}Courts Act 1971 for the words “Part V of the Mental Health Act 1959” there shall be substituted the words “ Part III of the Mental Health Act 1983 ”.

Marginal Citations
M83 1971 c. 23.

^{F138}29

Textual Amendments
F138 Sch. 4 para. 29 repealed (1.10.1992) by Tribunals and Inquiries Act 1992 (c. 53), ss. 18(2), 19(2), Sch. 4 Pt.I.

30 In section 30(2) of the ^{M84}Immigration Act 1971 for the words from the beginning to “1960)” there shall be substituted the words “ Under section 82 of the Mental Health (Scotland) Act 1960 ” and the words from “and accordingly” onwards shall be omitted.

Marginal Citations
M84 1971 c. 77.

31 ^{F139}

Textual Amendments
F139 Sch. 4 para. 31 repealed by Parliamentary and other Pensions Act 1987 (c. 45, SIF 89), s. 6, Sch. 4

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 32 In section 118 of the ^{M85}Local Government Act 1972—
- (a) in subsection (1) for the words “the Mental Health Act 1959” there shall be substituted the words “ the Mental Health Act 1983 ”; and
 - (b) in subsection (4) for the words “Part VIII of the said Act of 1959” there shall be substituted the words “ Part VII of the said Act of 1983 ”.

Marginal Citations

M85 1972 c. 70.

- 33 In the ^{M86}Costs in Criminal Cases Act 1973—
- (a) in section 3(7) for the words from “under Part V” to “1982” there shall be substituted the words “ and an interim hospital order under Part III of the Mental Health Act 1983 ”; and
 - (b) in section 18(1)(c) for the words “Part V of the Mental Health Act 1959” there shall be substituted the words “ Part III of the Mental Health Act 1983 ”.

Marginal Citations

M86 1973 c. 14.

- 34 In section 12(d) of the ^{M87}Matrimonial Causes Act 1973 for the words “the Mental Health Act 1959” there shall be substituted the words “ the Mental Health Act 1983 ”.

Marginal Citations

M87 1973 c. 18.

^{F140}35

Textual Amendments

F140 Sch. 4 para. 35 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

- 36 In section 3 of the ^{M88}Powers of Criminal Courts Act 1973—
- (a) in subsection (1) for the words “section 28 of the Mental Health Act 1959” and “Part V of that Act” there shall be substituted respectively the words “ section 12 of the Mental Health Act 1983 ” and “ Part III of that Act ”;
 - (b) in subsection (2) for the words “hospital or mental nursing home within the meaning of the Mental Health Act 1959” and “that Act” there shall be substituted respectively the words “ hospital within the meaning of the Mental Health Act 1983 or mental nursing home within the meaning of the

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Nursing Homes Act 1975 ” and “ the National Health Service Act 1977 ”; and

- (c) in subsection (7) for the words “Subsections (2) and (3) of section 62 of the Mental Health Act 1959” and “section 60(1)(a)” there shall be substituted respectively the words “ Subsections (2) and (3) of section 54 of the Mental Health Act 1983 ” and “ section 37(2)(a) ”.

Marginal Citations

M88 1973 c. 62.

- 37 In Group D in Schedule 1 to the ^{M89}Juries Act 1974 for the words “section 33 of the Mental Health Act 1959”, “Part VIII of that Act” and “the said Act of 1959” there shall be substituted respectively the words “ section 7 of the Mental Health Act 1983 ”, “ Part VII of that Act ” and “ the said Act of 1983 ”.

Marginal Citations

M89 1974 c. 23.

- 38 In the ^{M90}Solicitors Act 1974—
- (a) in section 12(1)(j) for the words “section 101 of the Mental Health Act 1959” and “section 104 of that Act” there shall be substituted respectively the words “ section 94 of the Mental Health Act 1983 ” and “ section 104 of the Mental Health Act 1959 or section 98 of the said Act of 1983 ”;
- (b) in section 62(4)(c) for the words “under Part VIII of the Mental Health Act 1959” there shall be substituted the words “ appointed under Part VII of the Mental Health Act 1983 ”;
- (c) in paragraph 1(1)(f) of Schedule 1 for the words “section 104 (emergency powers) or 105 (appointment of receiver) of the Mental Health Act 1959” there shall be substituted the words “ section 104 of the Mental Health Act 1959 or section 98 of the Mental Health Act 1983 (emergency powers) or section 105 of the said Act of 1959 or section 99 of the said Act of 1983 (appointment of receiver) ”.

Marginal Citations

M90 1974 c. 47.

- 39 In section 5(7) of the ^{M91}Rehabilitation of Offenders Act 1974 for the words “Part V of the Mental Health Act 1959” there shall be substituted the words “ Part III of the Mental Health Act 1983 ”.

Marginal Citations

M91 1974 c. 53.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.
Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

40 F141

Textual Amendments

F141 Sch. 4 para. 40 repealed by Capital Transfer Tax Act 1984 (c. 51, SIF 65), ss. 274, 277, Schs. 7, 9

- 41 In the ^{M92}Criminal Procedure (Scotland) Act 1975—
- (a) in sections 13(1)(b) and 322(1)(b) for the words “section 40 or 140 of the Mental Health Act 1959, section 31(8) of the Mental Health (Amendment) Act 1982” there shall be substituted the words “ section 18, 38(7) or 138 of the Mental Health Act 1983 ”;
 - (b) in sections 13(3) and 322(3) for the words “Section 139 of the Mental Health Act 1959” and “the said Act of 1959” there shall be substituted respectively “ Section 137 of the Mental Health Act 1983 ” and “ the said Act of 1983 ”;
 - (c) in sections 13(4) and 322(4) for the words “Part V of the Mental Health Act 1959”, “section 31 of the Mental Health (Amendment) Act 1982” and “Part V of the said Act of 1959” there shall be substituted respectively the words “ Part III of the Mental Health Act 1983 ”, “ section 38 of the said Act of 1983 ” and “ Part III of the said Act of 1983 ”.

Marginal Citations

M92 1975 c. 21.

- 42 In Part II of Schedule 1 to the ^{M93}House of Commons Disqualification Act 1975 in the entry relating to Mental Health Review Tribunals for the words “constituted under the Mental Health Act 1959” there shall be substituted the words “ constituted or having effect as if constituted under the Mental Health Act 1983 ”.

Marginal Citations

M93 1975 c. 24.

43 F142

Textual Amendments

F142 Sch. 4 para. 43 repealed by Registered Homes Act 1984 (c. 23, SIF 113:3), s. 57, Sch. 3

^{F143}44

Textual Amendments

F143 Sch. 4 para. 44 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), Sch. 15 (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, art. 3(2)

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 45 In section 32(6)(c) of the ^{M94}Adoption Act 1976 for the words “the Mental Health Act 1959 or the Mental Health (Amendment) Act 1982” there shall be substituted the words “the Mental Health Act 1983”.

Marginal Citations

M94 1976 c. 36.

- 46 In section 3(6B) of the ^{M95}Bail Act 1976 for the words “section 28 of the Mental Health Act 1959” there shall be substituted the words “ section 12 of the Mental Health Act 1983 ”.

Marginal Citations

M95 1976 c. 63.

- 47 In the ^{M96}National Health Service Act 1977—
- (a) in section 4 for the words “the Mental Health Act 1959 or the Mental Health (Amendment) Act 1982” there shall be substituted the words “the Mental Health Act 1983”;
 - (b) in section 105(1) for the words “Part IV of the Mental Health Act 1959” there shall be substituted the words “Part II of the Mental Health Act 1983”;
 - (c) in section 105(3) the words “or the Mental Health Act 1959” shall be omitted;
 - (d) in section 128(1), in the definition of “illness”, for the words “the Mental Health Act 1959” there shall be substituted the words “the Mental Health Act 1983”;
 - (e) in paragraph 2 of Schedule 8—
 - (i) for sub-paragraph (1)(d) there shall be substituted—

“(d) for the exercise of the functions of the authority in respect of persons suffering from mental disorder who are received into guardianship under Part II or III of the Mental Health Act 1983 (whether the guardianship of the local social services authority or of other persons).”;

 - (ii) in sub-paragraph (2)(b)(i) for the words “the Mental Health Act 1959” there shall be substituted the words “the Mental Health Act 1983”; and
 - (iii) in sub-paragraph (3) for the words “that Act of 1959” there shall be substituted the words “that Act of 1983”;
 - (f) in paragraph 13(1)(b) of Schedule 14 for the words “80 to 83, 86 to 91, 93 and 96” there shall be substituted “80 to 82, 96”.

Marginal Citations

M96 1977 c. 49.

- 48 In section 16A(1)(b)(ii) of the ^{M97}National Health Service (Scotland) Act 1978 for the words “section 10 of the Mental Health Act 1959” there shall be substituted the words “ section 116 of the Mental Health Act 1983 ”.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M97 1978 c. 29.

^{F144}49

Textual Amendments

F144 Sch. 4 para. 49 repealed (6.3.1992 with effect as mentioned in s. 289(1)(2) of the repealing Act) by Taxation of Chargeable Gains Act 1992 (c. 12), ss. 289, 290, **Sch.12** (with s. 201(3), Sch. 11 paras. 20, 22, 26(2), 27)

^{F145}50

Textual Amendments

F145 Sch. 4 para. 50 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

^{F146}51

Textual Amendments

F146 Sch. 4 para. 51 repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(7), **Sch.15** (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, **art. 3(2)**

52 In the ^{M98}Residential Homes Act 1980—
(a) in section 1(3)(a) for the words “section 147(1) of the Mental Health Act 1959” there shall be substituted the words “ section 145(1) of the Mental Health Act 1983 ”; and
(b) in section 10(1) for the words “the Mental Health Act 1959” there shall be substituted the words “ the Mental Health Act 1983 ”.

Marginal Citations

M98 1980 c. 7.

53 In paragraph 2(a) of Schedule 2 to the ^{M99}Reserve Forces Act 1980 for the words “the Mental Health Act 1959” there shall be substituted the words “ the Mental Health Act 1983 ”.

Marginal Citations

M99 1980 c. 9.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 54 In section 31(2)(c) of the ^{M100}Transport Act 1980 for the words “Part VIII of the Mental Health Act 1959” there shall be substituted the words “ Part VII of the Mental Health Act 1983 ”.

Marginal Citations

[M100 1980 c. 34.](#)

- 55 In section 38 of the ^{M101}Limitation Act 1980—
- (a) in subsection (3) for the words “Mental Health Act 1959” there shall be substituted the words “ Mental Health Act 1983 ”; and
 - (b) in subsection (4)—
 - (i) in paragraph (a), for the words “the Mental Health Act 1959 or section 30 or 31 of the Mental Health (Amendment) Act 1982” there shall be substituted the words “ the Mental Health Act 1983 (otherwise than by virtue of section 35 or 89) ”; and
 - (ii) for paragraph (b) there shall be substituted—

“(b) while he is receiving treatment as an in-patient in any hospital within the meaning of the Mental Health Act 1983 or mental nursing home within the meaning of the ^{M102}Nursing Homes Act 1975 without being liable to be detained under the said Act of 1983 (otherwise than by virtue of section 35 or 89), being treatment which follows without any interval a period during which he was liable to be detained or subject to guardianship under the Mental Health Act 1959, or the said Act of 1983 (otherwise than by virtue of section 35 or 89) or by virtue of any enactment repealed or excluded by the Mental Health Act 1959”.

Marginal Citations

[M101 1980 c. 58.](#)

[M102 1975 c. 37.](#)

- 56 In section 57(2)(c) of the ^{M103}Public Passenger Vehicles Act 1981 for the words “Part VIII of the Mental Health Act 1959” there shall be substituted the words “ Part VII of the Mental Health Act 1983 ”.

Marginal Citations

[M103 1981 c. 14.](#)

- 57 In the ^{M104}Contempt of Court Act 1981—
- (a) in section 14(4) for the words “section 60 of the Mental Health Act 1959” and “section 31 of the Mental Health (Amendment) Act 1982” there shall be substituted respectively the words “ section 37 of the Mental Health Act 1983 ” and “ section 38 of that Act ”; and
 - (b) in section 14(4A) for the words “section 29 of the said Act of 1982” there shall be substituted the words “ section 35 of the said Act of 1983 ”.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) in paragraph 10(b) of Schedule 1 for the words “paragraph (b) of subsection (2) of section 76 of the Mental Health Act 1959” there shall be substituted the words “ section 51(5) of the Mental Health Act 1983 ”.

Marginal Citations

M104 1981 c. 49.

58 In the ^{M105}Supreme Court Act 1981—

- (a) in section 48(6)(a) for the words “Part V of the Mental Health Act 1959” and “the Mental Health (Amendment) Act 1982” there shall be substituted respectively the words “ Part III of the Mental Health Act 1983 ”; and “ that Act ”;
- (b) in section 48(7) for the words “the said Act of 1982” there shall be substituted the words “ the said Act of 1983 ”; and
- (c) in section 48(8)(b) for the words “section 31(8) of the said Act of 1982” there shall be substituted the words “ section 38(7) of the said Act of 1983 ”.

Marginal Citations

M105 1981 c. 54.

59 In section 13(9) of the ^{M106}Armed Forces Act 1981 or the words “the Mental Health Act 1959” there shall be substituted the words “ the Mental Health Act 1983 ”.

Marginal Citations

M106 1981 c. 55.

60 In paragraph 9 of Schedule 1 to the ^{M107}British Nationality Act 1981—

- (a) in sub-paragraph (1)(b) for the words “Part V of the Mental Health Act 1959” there shall be substituted the words “ Part III of the Mental Health Act 1983 ”; and
- (b) in sub-paragraph (2)(b) for the words “Part V of the Mental Health Act 1959” there shall be substituted the words “ Part III of the Mental Health Act 1983 ” . ”

Marginal Citations

M107 1981 c. 61.

61 In the ^{M108}Mental Health (Amendment) Act 1982—

- (a) ^{F147}
- (b) in section 70(3) for the words “Section 154(2) of the principal Act” there shall be substituted the words “ Section 149(4) of the Mental Health Act 1983 ” . ”.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F147 Sch. para. 61(a) repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), Sch. 1 Pt. XIII

Marginal Citations

M108 1982 c. 51.

SCHEDULE 5

Section 148.

TRANSITIONAL AND SAVING PROVISIONS

- 1 Where any period of time specified in an enactment repealed by this Act is current at the commencement of this Act, this Act shall have effect as if the corresponding provision of this Act had been in force when that period began to run.
- 2 Nothing in this Act shall affect the interpretation of any provision of the ^{M109}Mental Health Act 1959 which is not repealed by this Act and accordingly sections 1 and 145(1) of this Act shall apply to any such provision as if it were contained in this Act.

Marginal Citations

M109 1959 c. 72.

- 3 Where, apart from this paragraph, anything done under or for the purposes of any enactment which is repealed by this Act would cease to have effect by virtue of that repeal it shall have effect as if it had been done under or for the purposes of the corresponding provision of this Act.
- 4 (1) Until the expiration of the period of two years beginning with the day on which the Mental Health (Amendment) Act 1982 was passed this Act shall have effect as if—
 - (a) section 114 were omitted;
 - (b) in section 145(1) the definition of an approved social worker were omitted and there were inserted in the appropriate place the following definition:—

““mental welfare officer” means an officer of a local social services authority appointed to act as mental welfare officer for the purposes of the Mental Health Act 1959 or this Act”;
 - (c) for paragraph 16(e) of Schedule 4 there were substituted—

“(e) in section 83(3)(a) for the words “the Mental Health Act 1959” there were substituted the words “the Mental Health Act 1983”;
 - (d) for paragraph 47(e)(i) of Schedule 4 there were substituted—

“(i) in sub-paragraph (1)(d) for the words “the Mental Health Act 1959” and “Part IV or Part V” there were substituted respectively the words “the Mental Health Act 1983” and “Part II or III”;
 - (e) for any reference to an approved social worker there were substituted a reference to a mental welfare officer.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(2) Any appointment of a person as a mental welfare officer for the purposes of the Mental Health Act 1959 or this Act shall terminate at the expiration of the period mentioned in sub-paragraph (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.

5 If no order has been made under section 11 of the ^{M110}National Health Service Act 1977 before 30th September 1983 establishing the Mental Health Act Commission the following shall be substituted for subsection (1) of section 121 of this Act—

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

Marginal Citations

M110 1977 c. 49.

6 This Act shall apply in relation to any authority for the detention or guardianship of a person who was liable to be detained or subject to guardianship under the Mental Health Act 1959 immediately before 30th September 1983 as if the provisions of this Act which derive from provisions amended by section 1 or 2 of the ^{M111}Mental Health (Amendment) Act 1982 and the amendments in Schedule 3 to that Act which are consequential on those sections were included in this Act in the form the provisions from which they derive would take if those amendments were disregarded but this provision shall not apply to any renewal of that authority on or after that date.

Marginal Citations

M111 1982 c. 51.

7 This Act shall apply to any application made before 30th September 1983 as if the provisions of this Act which derive from provisions amended by sections 3 to 5 of the Mental Health (Amendment) Act 1982 and the amendments in Schedule 3 to that Act which are consequential on those sections were included in this Act in the form the provisions from which they derive would take if those amendments were disregarded.

8 (1) Where on 30th September 1983 a person who has not attained the age of sixteen years is subject to guardianship by virtue of a guardianship application the authority for his guardianship shall terminate on that day.

(2) Section 8(1) of this Act has effect (instead of section 34(1) of the ^{M112}Mental Health Act 1959) in relation to a guardianship application made before the coming into force of this Act as well as in relation to one made later.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M112 1959 c. 72.

- 9 (1) Section 20(1) of this Act shall have effect in relation to any application for admission for treatment and to any guardianship application made before 1st October 1983 with the substitution for the words “six months” of the words “one year”.
- (2) Section 20(2) of this Act shall have effect in relation to any authority renewed before 1st October 1983 with the substitution for the words “six months” of the words “one year”.
- (2) Section 20(2) of this Act shall have effect in relation to any authority renewed before 1st October 1983 with the substitution for the words “six months” of the words “one year” and for the words “one year” in both places they occur of the words “two years”.
- (3) Where an authority has been renewed on or before 30th September 1983 for a period of two years of which less than 16 months has expired on that date that period shall expire at the end of 18 months from the date on which it began.
- 10 Section 23(2)(a) of this Act shall have effect in relation to a patient liable to be detained in pursuance of an application under section 25 of the Mental Health Act 1959 made before 30th September 1983 as if the reference to the nearest relative of the patient were omitted.
- 11 Where at any time before 30th September 1983 an application to a Mental Health Review Tribunal has been made by a person who at that time was the patient’s nearest relative and the application has not then been determined and by reason of the coming into force of section 26 of this Act that person ceased to be the patient’s nearest relative on that date, that person shall nevertheless be treated for the purposes of the application as continuing to be his nearest relative.
- 12 A person—
- (a) who was admitted to hospital in pursuance of an application for admission for treatment; or
 - (b) in respect of whom a guardianship application was accepted; or
 - (c) in respect of whom a hospital order was made,
- before 30th September 1983 may make an application to a tribunal under section 66 of this Act in the cases mentioned in subsection (1)(b) and (c) of that section and under section 69(1)(b) of this Act within the period of six months beginning with the day on which he attains the age of 16 years if that period is later than that which would otherwise apply to an application in his case.
- 13 Subsection (1) of section 68 of this Act does not apply to any patient admitted or transferred to hospital more than six months before 30th September 1983; and

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

subsection (2) of that section applies only in relation to a renewal of authority for detention after that date.

14 Section 69(1)(b) of this Act shall have effect in relation to patients liable to be detained immediately before 30th September 1983 as if after the words “in respect of a patient” there were inserted the words “ admitted to a hospital in pursuance of a hospital order or ”.

15 The provisions of this Act which derive from sections 24 to 27 of the ^{M113}Mental Health (Amendment) Act 1982 shall have effect in relation to a transfer direction given before 30th September 1983 as well as in relation to one given later, but where, apart from this paragraph, a transfer direction given before 30th September 1983 would by virtue of the words in section 50(3) of this Act which are derived from section 24(3) of the Mental Health (Amendment) Act 1982 have ceased to have effect before that date it shall cease to have effect on that date.

Marginal Citations

[M113 1982 c. 51.](#)

16 The words in section 42(1) of this Act which derive from the amendment of section 66(1) of the ^{M114}Mental Health Act 1959 by section 28(1) of the Mental Health (Amendment) Act 1982 and the provisions of this Act which derive from section 28(3) of and Schedule 1 to that Act have effect in relation to a restriction order or, as the case may be, a restriction direction made or given before 30th September 1983 as well as in relation to one made or given later, but—

- (a) any reference to a tribunal under section 66(6) of the said Act of 1959 in respect of a patient shall be treated for the purposes of subsections (1) and (2) of section 77 of this Act in their application to sections 70 and 75(2) of this Act as an application made by him; and
- (b) sections 71(5) and 75(1)(a) of this Act do not apply where the period in question has expired before 30th September 1983.

Marginal Citations

[M114 1959 c. 72.](#)

17 Section 91(2) of this Act shall not apply in relation to a patient removed from England and Wales before 30th September 1983.

18 (1) Subsection (3) of section 58 of this Act shall not apply to any treatment given to a patient in the period of six months beginning with 30th September 1983 if—

- (a) the detention of the patient began before the beginning of that period; and
- (b) that subsection has not been complied with in respect of any treatment previously given to him in that period.

(2) The Secretary of State may by order reduce the length of the period mentioned in sub-paragraph (1) above.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 19 In the case of a patient who is detained at the time when section 132 of this Act comes into force, the steps required by that section shall be taken as soon as practicable after that time.
- 20 The repeal by the Mental Health (Amendment) Act 1982 of section 77 of the Mental Health Act 1959 does not affect subsection (4) of that section in its application to a transfer direction given before 30th September 1983, but after the coming into force of this Act that subsection shall have effect for that purpose as if for the references to subsection (6) of section 60, Part IV of that Act and the provisions of that Act there were substituted respectively references to section 37(8), Part II and the provisions of this Act.
- 21 Section 46(3) of this Act shall apply to any direction to which section 71(4) of the ^{M115}Mental Health Act 1959 applied immediately before the commencement of this Act.

Marginal Citations

M115 1959 c. 72.

- 22 Notwithstanding the repeal by this Act of section 53(5) of the Mental Health Act 1959, the discharge or variation under that section of an order made under section 52 of that Act shall not affect the validity of anything previously done in pursuance of the order.
- 23 For any reference in any enactment, instrument, deed or other document to a receiver under Part VIII of the Mental Health Act 1959 there shall be substituted a reference to a receiver under Part VII of this Act.
- 24 Nothing in this Act shall affect the operation of the proviso to section 107(5) of the Mental Health Act 1959 in relation to a charge created before the commencement of this Act under that section.
- 25 Nothing in this Act shall affect the operation of subsection (6) of section 112 of the Mental Health Act 1959 in relation to a charge created before the commencement of this Act by virtue of subsection (5) of that section.
- 26 If the person who is the Master of the Court of Protection at the commencement of this Act has before that time duly taken the oaths required by section 115(1) of the Mental Health Act 1959 he shall not be obliged to take those oaths again by virtue of section 93(3) of this Act.
- 27 Nothing in this Act shall affect the operation of section 116 of the Mental Health Act 1959 in relation to orders made, directions or authorities given or other instruments issued before the commencement of this Act.
- 28 References to applications, recommendations, reports and other documents in section 126 of this Act shall include those to which section 125 of the Mental Health Act 1959 applied immediately before the commencement of this Act and references in section 139 of this Act to the acts to which that section applies shall include those to which section 141 of the said Act of 1959 applied at that time.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 29 The repeal by the Mental Health Act 1959 of the ^{M116}Mental Treatment Act 1930 shall not affect any amendment effected by section 20 of that Act in any enactment not repealed by the said Act of 1959.

Marginal Citations

M116 1930 c. 23.

- 30 The repeal by the Mental Health Act 1959 of the provisions of the ^{M117}Lunacy Act 1890 and of the ^{M118}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 on 1st November 1960.

Marginal Citations

M117 1890 c. 5.

M118 1913 c. 28.

- 31 (1) Any patient who immediately before the commencement of this Act was liable to be detained in a hospital or subject to guardianship by virtue of paragraph 9 of Schedule 6 to the ^{M119}Mental Health Act 1959 shall unless previously discharged continue to be so liable for the remainder of the period of his treatment current on 1st November 1960.
- (2) The patient may before the expiration of the period of treatment referred to in subparagraph (1) above apply to a Mental Health Review Tribunal.

Marginal Citations

M119 1959 c. 72.

- 32 Any patient who immediately before the commencement of this Act was liable to be detained or subject to guardianship by virtue of an authority which had been renewed under paragraph 11 of Schedule 6 to the Mental Health Act 1959 shall unless previously discharged continue to be so liable during the period for which that authority was so renewed.
- 33 (1) This paragraph applies to patients who at the commencement of this Act are liable to be detained or subject to guardianship by virtue of paragraph 31 or 32 above.
- (2) Authority for the detention or guardianship of the patient may on the expiration of the relevant period, unless the patient has previously been discharged, be renewed for a further period of two years.
- (3) Sections 20(3) to (10) and 66(1)(f) of this Act shall apply in relation to the renewal of authority for the detention or guardianship of a patient under this paragraph as they apply in relation to the renewal of authority for the detention or guardianship of the patient under section 20(2).
- (4) In this paragraph “the relevant period” means—

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (a) in relation to a patient liable to be detained or subject to guardianship by virtue of the said paragraph 31, the period of his treatment referred to in that paragraph;
 - (b) in relation to a patient detained by virtue of the said paragraph 32, the period for which authority for the detention or guardianship of the patient has been renewed under paragraph 11 of Schedule 6 to the 1959 Act;
 - (c) in relation to a patient the authority for whose detention or guardianship has previously been renewed under this paragraph, the latest period for which it has been so renewed.
- 34 (1) Any patient who is liable to be detained in a hospital or subject to guardianship by virtue of paragraph 31 above shall (subject to the exceptions and modifications specified in the following provisions of this paragraph) be treated as if he had been admitted to the hospital in pursuance of an application for admission for treatment under Part II of this Act or had been received into guardianship in pursuance of a guardianship application under the said Part II and had been so admitted or received as a patient suffering from the form or forms of mental disorder recorded under paragraph 7 of Schedule 6 to the ^{M120}Mental Health Act 1959 or, if a different form or forms have been specified in a report under section 38 of that Act as applied by that paragraph, the form or forms so specified.
- (2) Section 20 of this Act shall not apply in relation to the patient, but the provisions of paragraph 33 above shall apply instead.
- (3) Any patient to whom paragraph 9(3) of Schedule 6 to the Mental Health Act 1959 applied at the commencement of this Act who fell within paragraph (b) of that paragraph shall cease to be liable to be detained on attaining the age of 25 years unless, during the period of two months ending on the date when he attains that age, the responsible medical officer records his opinion under the following provisions of this Schedule that the patient is unfit for discharge.
- (4) If the patient was immediately before 1st November 1960 liable to be detained by virtue of section 6, 8(1) or 9 of the ^{M121}Mental Deficiency Act 1913, the power of discharging him under section 23 of this Act shall not be exercisable by his nearest relative, but his nearest relative may make one application in respect of him to a Mental Health Review Tribunal in any period of 12 months.

Marginal Citations

M120 1959 c. 72.

M121 1913 c. 28.

- 35 (1) The responsible medical officer may record for the purposes of paragraph 34(3) above his opinion that a patient detained in a hospital is unfit for discharge if it appears to the responsible medical officer—
- (a) that if that patient were released from the hospital he would be likely to act in a manner dangerous to other persons or to himself, or would be likely to resort to criminal activities; or
 - (b) that that patient is incapable of caring for himself and that there is no suitable hospital or other establishment into which he can be admitted and where he would be likely to remain voluntarily;

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

and where the responsible medical officer records his opinion as aforesaid he shall also record the grounds for his opinion.

(2) Where the responsible medical officer records his opinion under this paragraph in respect of a patient, the managers of the hospital or other persons in charge of the establishment where he is for the time being detained or liable to be detained shall cause the patient to be informed, and the patient may, at any time before the expiration of the period of 28 days beginning with the date on which he is so informed, apply to a Mental Health Review Tribunal.

(3) On any application under sub-paragraph (2) above the tribunal shall, if satisfied that none of the conditions set out in paragraphs (a) and (b) of sub-paragraph (1) above are fulfilled, direct that the patient be discharged, and subsection (1) of section 72 of this Act shall have effect in relation to the application as if paragraph (b) of that subsection were omitted.

36 Any person who immediately before the commencement of this Act was deemed to have been named as the guardian of any patient under paragraph 14 of Schedule 6 to the Mental Health Act 1959 shall be deemed for the purposes of this Act to have been named as the guardian of the patient in an application for his reception into guardianship under Part II of this Act accepted on that person's behalf by the relevant local authority.

37 (1) This paragraph applies to patients who immediately before the commencement of this Act were transferred patients within the meaning of paragraph 15 of Schedule 6 to the ^{M122}Mental Health Act 1959.

(2) A transferred patient who immediately before the commencement of this Act was by virtue of sub-paragraph (2) of that paragraph treated for the purposes of that Act as if he were liable to be detained in a hospital in pursuance of a direction under section 71 of that Act shall be treated as if he were so liable in pursuance of a direction under section 46 of this Act.

(3) A transferred patient who immediately before the commencement of this Act was by virtue of sub-paragraph (3) of that paragraph treated for the purposes of that Act as if he were liable to be detained in a hospital by virtue of a transfer direction under section 72 of that Act and as if a direction restricting his discharge had been given under section 74 of that Act shall be treated as if he were so liable by virtue of a transfer direction under section 47 of this Act and as if a restriction direction had been given under section 49 of this Act.

(4) Section 84 of this Act shall apply to a transferred patient who was treated by virtue of sub-paragraph (5) of that paragraph immediately before the commencement of this Act as if he had been removed to a hospital under section 89 of that Act as if he had been so removed under the said section 84.

(5) Any person to whom sub-paragraph (6) of that paragraph applied immediately before the commencement of this Act shall be treated for the purposes of this Act as if he were liable to be detained in a hospital in pursuance of a transfer direction given under section 48 of this Act and as if a restriction direction had been given under section 49 of this Act, and he shall be so treated notwithstanding that he is not suffering from a form of mental disorder mentioned in the said section 48.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M122 1959 c. 72.

38 Any patient who immediately before the commencement of this Act was treated by virtue of sub-paragraph (1) of paragraph 16 of Schedule 6 to the Mental Health Act 1959 as if he had been conditionally discharged under section 66 of that Act shall be treated as if he had been conditionally discharged under section 42 of this Act and any such direction as is mentioned in paragraph (b) of that sub-paragraph shall be treated as if it had been given under the said section 42.

39 Upon a restriction direction in respect of a patient who immediately before the commencement of this Act was a transferred patient within the meaning of paragraph 15 of Schedule 6 to the Mental Health Act 1959 ceasing to have effect, the responsible medical officer shall record his opinion whether the patient is suffering from mental illness, severe mental impairment, psychopathic disorder or mental impairment, 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 recorded under this paragraph or under paragraph 17 of the said Schedule 6.

40 A person who immediately before the commencement of this Act was detained by virtue of paragraph 19 of Schedule 6 to the ^{M123}Mental Health Act 1959 may continue to be detained until the expiration of the period of his treatment current on 1st November 1960 or until he becomes liable to be detained or subject to guardianship under this Act, whichever occurs first, and may be so detained in any place in which he might have been detained under that paragraph.

Marginal Citations

M123 1959 c. 72.

41 Any opinion recorded by the responsible medical officer under the foregoing provisions of this Schedule shall be recorded in such form as may be prescribed by regulations made by the Secretary of State.

- 42 (1) In the foregoing provisions of this Schedule—
- (a) references to the period of treatment of a patient that was current on 1st November 1960 are to the period for which he would have been liable to be detained or subject to guardianship by virtue of any enactment repealed or excluded by the Mental Health Act 1959, or any enactment repealed or replaced by any such enactment as aforesaid, being a period which began but did not expire before that date; and
 - (b) “the responsible medical officer” means—
 - (i) in relation to a patient subject to guardianship, the medical officer authorised by the local social services authority to act (either generally or in any particular case or for any particular purpose) as the responsible medical officer;
 - (ii) in relation to any other class of patient, the registered medical practitioner in charge of the treatment of the patient.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Subsection (2) of section 34 of this Act shall apply for the purposes of the foregoing provisions of this Schedule as it applies for the purposes of Part II of this Act.
- (3) The sentence or other period of detention of a person who was liable to be detained or subject to guardianship immediately before 1st November 1960 by virtue of an order under section 9 of the ^{M124}Mental Deficiency Act 1913 shall be treated for the purposes of the foregoing provisions of this Schedule as expiring at the end of the period for which that person would have been liable to be detained in a prison or other institution if the order had not been made.
- (4) For the purposes of the foregoing provisions of this Schedule, an order sending a person to an institution or placing a person under guardianship made before 9th March 1956 on a petition presented under the Mental Deficiency Act 1913 shall be deemed to be valid if it was so deemed immediately before the commencement of this Act by virtue of section 148(2) of the ^{M125}Mental Health Act 1959.

Marginal Citations

M124 1913 c. 28.

M125 1959 c. 72.

- 43 (1) Any order or appointment made, direction or authority given, or thing done which by virtue of paragraph 25 of Schedule 6 to the Mental Health Act 1959 had effect immediately before the commencement of this Act as if made, given or done under any provision of Part VIII of that Act shall have effect as if made, given or done under Part VII of this Act.
 - (2) Where at the commencement of this Act Part VIII of the Mental Health Act 1959 applied in any person's case by virtue of paragraph 25 of Schedule 6 to that Act as if immediately after the commencement of that Act it had been determined that he was a patient within the meaning of the said Part VIII, Part VII of this Act shall apply in his case as if immediately after the commencement of this Act it had been determined that he was a patient within the meaning of the said Part VII.
- 44 Where a person who immediately before 1st November 1960 was the committee of the estate of a person of unsound mind so found by inquisition was immediately before the commencement of this Act deemed by virtue of paragraph 26 of Schedule 6 to the Mental Health Act 1959 to be a receiver appointed under section 105 of that Act for that person, he shall be deemed to be a receiver appointed under section 99 of this Act for that person and shall continue to have the same functions in relation to that person's property and affairs as were exercisable by him immediately before the commencement of that Act as committee of the estate and references in any document to the committee of the estate of that person shall be construed accordingly.
- 45 Section 101(1) of this Act shall apply in relation to any disposal of property (within the meaning of that section) of a person living on 1st November 1960, being a disposal effected under the ^{M126}Lunacy Act 1890 as it applies in relation to the disposal of property of a person effected under Part VII of this Act.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Marginal Citations

M126 1890 c. 5.

- 46 For the purposes of section 15 of the ^{M127}National Health Service Reorganisation Act 1973 (preservation of certain boards of governors) any provision of this Act which corresponds to a provision amended by that Act shall be treated as if it were such a provision and any reference in any order for the time being in force under that section to such a provision shall have effect as if it were a reference to the corresponding provision of this Act.

Marginal Citations

M127 1973 c. 32.

SCHEDULE 6

Section 134.

REPEALS

Chapter	Short title	Extent of repeal
7 & 8 Eliz. 2. c. 72.	The Mental Health Act 1959.	Sections 1 to 5. Section 10. Section 22. Sections 25 to 35. Sections 37 to 43. Sections 45 to 60. Sections 62 to 68. Sections 70 to 76. Sections 80 and 81. Section 85. Section 87. Sections 89 and 90. Sections 92 to 96. Sections 99 to 119. Sections 121 to 126. Sections 129 and 130. Sections 132 and 133. Section 135 to 141.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

		In section 144, in subsection (1), paragraph (b). Section 145(2). Sections 147 and 148. Section 149(3) to (5). In section 150, the words from “section ten” to “section one hundred and forty one” and from “section one hundred and forty six” to “Schedules”. In section 152, the words from “sections eighty-five” to “Northern Ireland by that section”, from “section one hundred and twenty-nine” to “Schedules” and the words “Part II of the Seventh Schedule; Part II of the Eighth Schedule”. Section 153. Schedule 1. Schedule 3. Schedule 5. Schedule 6, except paragraph 15(4). In Schedule 7, in Part I the entry relating to sections 48 and 49 of the Fines and Recoveries Act 1833 and in Part II the entries relating to the Polish Resettlement Act 1947 and the USA Veterans’ Pensions (Administration) Act 1949.
Chapter	Short title	Extent of repeal
1960 c. 61.	The Mental Health (Scotland) Act 1960.	Section 74. In Schedule 4, all the entries relating to the Mental Health Act 1959 except those relating to section 9 and Schedule 7.
1961 (N.I.) c. 15.	The Mental Health Act (Northern Ireland) 1961.	In Schedule 5, paragraphs 1 to 4.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1964 c. 84.	The Criminal Procedure (Insanity) Act 1964.	Section 4(7).
1965 c. 2.	The Administration of Justice Act 1965.	In Schedule 1, the entry relating to the Mental Health Act 1959.
1968 c. 20.	The Courts-Martial (Appeals) Act 1968.	In Schedule 4, the entry relating to the Mental Health Act 1959.
1968 c. 49.	The Social Work (Scotland) Act 1968.	In Schedule 8, paragraphs 48 and 49.
1969 c. 46.	The Family Law Reform Act 1969.	In Schedule 1 the entries relating to the Mental Health Act 1959.
1969 c. 54.	The Children and Young Persons Act 1969.	In Schedule 5, paragraphs 38 to 40.
1969 c. 58.	The Administration of Justice Act 1969.	Sections 17 to 19.
1970 c. 42.	The Local Authority Social Services Act 1970.	In Schedule 1, the entry relating to the Mental Health (Amendment) Act 1982.
1971 c. 23.	The Courts Act 1971.	In Schedule 8, paragraph 38. In Part I of Schedule 9, the entry relating to the Mental Health Act 1959.
1971 c. 77.	The Immigration Act 1971.	In section 30(2), the words from “and accordingly” onwards.
1972 c. 70.	The Local Government Act 1972.	In Schedule 23, in paragraph 9, in sub-paragraph (1) the words “35, 56(2)(c) and 56(3)”, in sub-paragraph (2) the words “10(1), 22, 27(2), 33, 34, 38(3), 40 to 43, 47(2), 52, 53, 59, 60” and “132”, sub-paragraphs (4), (5) and (6).
1973 c. 29.	The Guardianship Act 1973.	In section 1(8), the words from “and” to the end of the subsection.
1975 c. 37.	The Nursing Homes Act 1975.	In Schedule 1, paragraphs 1 to 4.
1977 c. 45.	The Criminal Law Act 1977.	In Schedule 6, the entry relating to section 130(3) of the Mental Health Act 1959.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

1977 c. 49.	The National Health Service Act 1977.	In section 105(3), the words “or the Mental Health Act 1959”. In Schedule 15, paragraphs 23, 26 to 28, 30, 31 and 33.
Chapter	Short title	Extent of repeal
1978 c. 29.	The National Health Service (Scotland) Act 1978.	In paragraph 10(b) of Schedule 15, the figure “102”.
1980 c. 5.	The Child Care Act 1980.	In Schedule 5, paragraphs 13 and 14.
1980 c. 43.	The Magistrates’ Courts Act 1980.	In Schedule 7, paragraphs 31 and 32.
1980 c. 53.	The Health Services Act 1980.	In Schedule 1, paragraph 13.
1981 c. 45.	The Forgery and Counterfeiting Act 1981.	Section 11(1).
1981 c. 54.	The Supreme Court Act 1981.	Section 144. In Schedule 5, paragraphs 2 and 3 of the entry relating to the Mental Health Act 1959. In Schedule 6, paragraph 4.
1981 c. 61.	The British Nationality Act 1981.	In section 39(7) the words “section 90 of the Mental Health Act 1959 and”.
1982 c. 51.	The Mental Health (Amendment) Act 1982.	Sections 1 to 33. Sections 35 to 61. In section 63, subsection (1) and in subsection (2) the words from the beginning to “Act and”. Section 64(1), (2), (3), (5) and (6). Section 66. Section 68(2) and (3). Section 69(2), (3), and (4). In section 70(2), the words “sections 35(1) and (2) and 64(6) above extend to Northern Ireland”.

Status: Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation: Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Schedule 1.

In Schedule 3, in Part I paragraphs 1 to 26, in paragraph 35 sub-paragraph (a), paragraphs 40, 42, 45 and 46, in paragraph 50 sub-paragraph (a), in paragraph 51 sub-paragraph (a), paragraphs 52 to 55, 57 and 58 and Part II.

In Schedule 5, paragraphs 2 to 15.

Status:

Point in time view as at 31/03/1995. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:

Mental Health Act 1983 is up to date with all changes known to be in force on or before 29 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.