



# Mental Health (Scotland) Act 1984

## 1984 CHAPTER 36

### PART V

#### ADMISSION TO AND DETENTION IN HOSPITAL AND GUARDIANSHIP

##### *Procedure for reception of patients: guardianship*

#### **37 Reception of patients into guardianship**

- (1) A patient who has attained the age of 16 years may be received into guardianship for the period allowed by this Part of this Act, in pursuance of an application in the prescribed form (in this Act referred to as " a guardianship application ") approved by the sheriff and made in accordance with the provisions of this Part of this Act.
- (2) The person named as guardian in a guardianship application may be—
  - (a) the local authority to whom the application is addressed ; or
  - (b) a person chosen by that authority; or
  - (c) any other person who has been accepted as a suitable person to act in that behalf by that authority,and any person chosen or accepted as aforesaid may be a local authority or any other person including the applicant.
- (3) A guardianship application shall be founded on and accompanied by 2 medical recommendations in the prescribed form and a recommendation by a mental health officer in such form; and
  - (a) each medical recommendation shall include—
    - (i) a statement of the form of mental disorder from which the patient is suffering being mental illness or mental handicap or both; and
    - (ii) a statement that the ground set out in section 36(a) of this Act applies in relation to the patient,being statements of opinion, together with the grounds on which those statements are based ;
  - (b) the recommendation by the mental health officer shall include—

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*Status: This is the original version (as it was originally enacted).*

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- (i) a statement, being a statement of opinion, that the ground set out in section 36(b) of this Act applies in relation to the patient, together with the grounds on which the statement is based ; and
  - (ii) a statement as to whether he is related to the patient and of any pecuniary interest that he may have in the reception of the patient into guardianship.
- (4) A guardianship application shall be of no effect unless the patient is described in each of the medical recommendations as suffering from the same form of mental disorder, whether or not he is described in either of those recommendations as suffering also from the other form.