



# Mental Health Act 1959

## 1959 CHAPTER 72

### PART IV

#### COMPULSORY ADMISSION TO HOSPITAL AND GUARDIANSHIP

##### *Supplemental*

#### **54 Duty of mental welfare officer to make application for admission or guardianship**

- (1) It shall be the duty of a mental welfare officer to make an application for admission to hospital or a guardianship application in respect of a patient within the area of the local authority by whom that officer is appointed in any case where he is satisfied that such an application ought to be made and is of opinion, having regard to any wishes expressed by relatives of the patient or any other relevant circumstances, that it is necessary or proper for the application to be made by him.
- (2) Nothing in this section shall be construed as authorising or requiring an application to be made by a mental welfare officer in contravention of the provisions of subsection (2) of section twenty-seven of this Act, or of that subsection as applied by section thirty-three of this Act, or as restricting the power of a mental welfare officer to make any application under this Act.

#### **55 Procedure on applications to county court**

County court rules which relate to applications authorised by this Part of this Act to be made to a county court may make provision—

- (a) for the hearing and determination of such applications otherwise than in open court;
- (b) for the admission on the hearing of such applications of evidence of such descriptions as may be specified in the rules notwithstanding anything to the contrary in any enactment or rule of law relating to the admissibility of evidence;

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- (c) for the visiting and interviewing of patients in private by or under the directions of the court.

## **56 Regulations for purposes of Part IV**

- (1) The Minister may make regulations for prescribing anything which, under this Part of this Act, is required or authorised to be prescribed, and otherwise for carrying this Part of this Act into full effect.
- (2) Regulations under this section may in particular make provision—
  - (a) for prescribing the form of any application, recommendation, report, order, notice or other document to be made or given under this Part of this Act;
  - (b) for prescribing the manner in which any such application, recommendation, report, order, notice or other document may be proved, and for regulating the service of any such application, report, order or notice;
  - (c) for requiring the managers of hospitals and local health authorities to keep such registers or other records as may be prescribed by the regulations in respect of patients liable to be detained or subject to guardianship under this Part of this Act, and to furnish or make available to those patients, and their relatives, such written statements of their rights and powers under this Act as may be so prescribed;
  - (d) for requiring local health authorities to consult such bodies or persons as may be prescribed by or determined under the regulations in connection with the approval of medical practitioners for the purposes of section twenty-eight of this Act, and for confining approval to such practitioners as may be agreed upon between those authorities and any bodies or persons required to be consulted by them respectively;
  - (e) for the determination in accordance with the regulations of the age of any person whose exact age cannot be ascertained by reference to the registers kept under the Births and Deaths Registration Act, 1953 ; and
  - (f) for enabling the functions under this Part of this Act of the nearest relative of a patient to be performed, in such circumstances and subject to such conditions (if any) as may be prescribed by the regulations, by any person authorised in that behalf by that relative;

and for the purposes of this Part of this Act any application, report or notice the service of which is regulated under paragraph (b) of this subsection shall be deemed to have been received by or furnished to the authority or person to whom it is authorised or required to be furnished, addressed or given if it is duly served in accordance with the regulations.

- (3) Without prejudice to the foregoing provisions of this section, but subject to subsection (4) of section forty-seven of this Act, regulations under this section may determine the manner in which functions under this Part of this Act of the managers of hospitals, local health authorities or regional hospital boards are to be exercised, and such regulations may in particular specify the circumstances in which, and the conditions subject to which, any such functions may be performed by officers of or other persons acting on behalf of those managers, authorities or boards.

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## **57 Power of Minister to refer to Tribunal**

The Minister 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 this Part of this Act.

## **58 Special provisions as to wards of court**

- (1) An application for the admission to hospital of an infant who is a ward of court may be made under this Part of this Act with the leave of the court; and subsection (2) of section twenty-seven of this Act shall not apply in relation to an application so made.
- (2) Where an infant being a ward of court is liable to be detained in a hospital by virtue of an application for admission under this Part of this Act, any power exercisable under this Part of this Act in relation to the patient by his nearest relative shall be exercisable by or with the leave of the court.
- (3) Nothing in this Part of this Act shall be construed as authorising the making of a guardianship application in respect of an infant who is a ward of court, or the transfer into guardianship of any such infant.

## **59 Interpretation of Part IV**

- (1) In this Part of this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—
  - " the managers " means—
    - (a) in relation to a hospital vested in the Minister under the National Health Service Act, 1946, and in relation to any accommodation provided by a local authority and used for hospital and specialist services under Part II of that Act, the hospital management committee or board of governors ;
    - (b) in relation to a special hospital, the Minister;
    - (c) in relation to a mental nursing home registered in pursuance of Part III of this Act, the person or persons registered in respect of the home;
  - " the nominated medical attendant ", in relation to a patient who is subject to the guardianship of a person other than a local health authority, means the person appointed in pursuance of regulations made under subsection (2) of section thirty-five of this Act to act as the medical attendant of the patient;
  - " the responsible medical officer " means—
    - (a) in relation to a patient liable to be detained by virtue of an application for admission for observation or an application for admission for treatment, the medical practitioner in charge of the treatment of the patient;
    - (b) in relation to a patient subject to guardianship, the medical officer of health of the responsible local health authority or any other medical officer authorised by that authority to act (either generally or in any particular case or for any particular purpose) as the responsible medical officer.
- (2) Except where otherwise expressly provided, this Part, of this Act applies in relation to a mental nursing home, being a home in respect of which the particulars of registration are for the time being entered in the separate part of the register kept for the purposes of subsection (1) of section fifteen of this Act, as it applies in relation to a hospital,

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and references in this Part of this Act to a hospital, and any reference in this Act to a hospital to which this Part of this Act applies, shall be construed accordingly.

- (3) For the purposes of this Part of this Act a patient who is liable to be detained or subject to guardianship by virtue of an application for admission for treatment or a guardianship application shall be treated as being so liable or subject as a psychopathic or subnormal patient if the form of disorder specified in the application, or in the application as amended under section thirty-eight of this Act, is psychopathic disorder or subnormality, or psychopathic disorder and subnormality, and no other form of mental disorder.
- (4) In relation to a patient who is subject to guardianship in pursuance of a guardianship application, any reference in this Part of this Act to the responsible local health authority is a reference—
- (a) where the patient is subject to the guardianship of a local health authority, to that authority ;
  - (b) where the patient is subject to the guardianship of a person other than a local health authority, to the local health authority for the area in which that person resides.